

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB3252

By: Osburn of the House and Thompson (Kristen) of the Senate

Title: State government; Oklahoma Department of Commerce; statement of needs; mission statement; reports; effective date; emergency.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

Thompson _____
(Kristen)
Coleman _____
Haste _____
Pugh _____
Seifried _____
Brooks _____

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 3252

By: Osburn, Bashore, Sims, and
Hill of the House

7 and

Thompson (Kristen) and
Woods of the Senate

8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to state government; amending 15 O.S.
12 2021, Section 681, which relates to definitions;
13 amending 62 O.S. 2021, Sections 2401 and 2403, which
14 relate to certain investment program; amending 68
15 O.S. 2021, Section 2358.110, which relates to certain
16 income tax deduction; amending 74 O.S. 2021, Sections
17 5028 and 5029 which relate to county jails; amending
18 74 O.S. 2021, Section 5040.4, which relates to
19 medically indigent persons; eliminating references to
20 the Oklahoma Department of Commerce; creating
21 references to various state governmental entities;
22 and declaring an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 15 O.S. 2021, Section 681, is
amended to read as follows:

Section 681. As used in the Invention Development Services Act:

1 1. "Contract for invention development services" includes a
2 contract by which an invention developer undertakes to develop or
3 promote an invention for a customer;

4 2. "Customer" means any natural person who is solicited by,
5 inquires about, seeks the services of or enters into a contract with
6 an invention developer for invention development services;

7 3. "Invention" includes a process, design, asexually reproduced
8 plant, machine, manufacture, composition of matter, improvement upon
9 the foregoing, or a concept;

10 4. "Invention developer" means any person, firm, corporation or
11 association and the agents, employees or representatives of the
12 person, firm, corporation or association which develops or promotes
13 or offers to develop or promote an invention of a customer in order
14 that the invention of the customer may be patented, licensed or sold
15 for manufacture or manufactured in large quantities. The term
16 "invention developer" does not include:

- 17 a. a partnership or corporation when all of its partners,
18 stockholders or members are licensed by a state or the
19 United States to render legal advice concerning
20 patents and trademarks, or a person so licensed,
- 21 b. a department or agency of the federal, state or local
22 government, including the inventor's assistance
23 program ~~established~~ administered by the Oklahoma
24

1 ~~Department of Commerce~~ Center for the Advancement of
2 Science and Technology,

- 3 c. a charitable, scientific, education, religious or
4 other organization registered pursuant to state law,
5 d. a person, firm, corporation, association or other
6 entity that does not charge a fee for invention
7 development services, or
8 e. any person, firm, corporation, association or other
9 entity whose gross receipts from contracts for
10 invention development services do not exceed ten
11 percent (10%) of its gross receipts from all sources
12 during the fiscal year preceding the year in which any
13 contract for invention development services is signed.

14 For the purposes of this paragraph, "fee" shall include any
15 payment made by the customer to the entity, including reimbursements
16 for expenditures made or costs incurred by such entity, but shall
17 not include a payment made from a portion of the income received by
18 a customer by virtue of invention development services performed by
19 the entity;

20 5. "Invention development services" includes any act required
21 or promised to be performed, or actually performed by an invention
22 developer for a customer.

23 SECTION 2. AMENDATORY 62 O.S. 2021, Section 2401, is
24 amended to read as follows:

1 Section 2401. A. ~~The Oklahoma Department of Commerce~~ Center
2 for the Advancement of Science and Technology (OCAST) shall create
3 an "Invest In Oklahoma" program to provide entities in this state
4 with funds for opportunities to invest in Oklahoma-based private
5 equity funds, venture capital funds and growth funds. Opportunities
6 for investment shall also include private equity funds, venture
7 capital funds and growth funds that make substantial investments in
8 this state.

9 B. ~~The Department~~ OCAST shall select venture capital and growth
10 funds to qualify for investments within the Invest In Oklahoma
11 Program based on factors including but not limited to:

- 12 1. Rate of return;
- 13 2. Years of operation;
- 14 3. Sufficiency of capitalization;
- 15 4. Investment performance track record;
- 16 5. Differentiation and sustainability of investment strategy;
- 17 6. Fee structure;
- 18 7. Background of limited partners; and
- 19 8. Ratio of capital invested in this state.

20 C. ~~The Department~~ OCAST shall exercise judgement and care,
21 under circumstances then prevailing, which persons of prudence,
22 discretion and intelligence exercise in the management of their own
23 affairs, for investment, considering the probable safety of their
24 capital as well as the probable income to be derived when

1 determining qualifying venture capital and growth funds to ensure
2 the funds are being appropriately managed and invested.

3 D. ~~The Department~~ OCAST shall develop a request for proposal
4 that includes the factors provided in subsection B of this section.

5 ~~The Department~~ OCAST shall maintain a list of available venture
6 capital and growth funds which are participating in the Invest ~~in~~ In
7 Oklahoma Program in which public entities are encouraged to invest.

8 SECTION 3. AMENDATORY 62 O.S. 2021, Section 2403, is
9 amended to read as follows:

10 Section 2403. The Oklahoma ~~Department of Commerce~~ Center for
11 the Advancement of Science and Technology shall promulgate rules to
12 enforce the provisions of the Invest In Oklahoma Act.

13 SECTION 4. AMENDATORY 68 O.S. 2021, Section 2358.110, is
14 amended to read as follows:

15 Section 2358.110 A. As used in this section:

16 1. "Accredited investor" means a person or entity as defined
17 pursuant to Section 230.501 of Title 17 of the Code of Federal
18 Regulations;

19 2. "Eligible Oklahoma business venture" means a lawful business
20 entity that is determined by the Oklahoma ~~Department of Commerce~~
21 Center for the Advancement of Science and Technology (OCAST) for
22 receipt of an equity investment by an eligible Oklahoma venture
23 capital company. In determining whether an investment is a
24 qualified equity investment, ~~the Department~~ OCAST shall consider the

1 potential impact the investment would have on the local and state
2 economy and shall consider the following factors:

- 3 a. the primary location of the entity,
- 4 b. the number of employees located or to be located in
5 this state,
- 6 c. state and local revenues generated from the
7 investment,
- 8 d. the economic benefits to the state,
- 9 e. the type and amount of the investment,
- 10 f. the current capitalization level and strategy, and
- 11 g. the industry classification of the entity;

12 3. "Eligible Oklahoma venture capital company" means a lawfully
13 recognized business entity the primary business purpose of which is
14 to accumulate funds for making investments in lawful for profit
15 business entities and which is organized in any of the following
16 forms:

- 17 a. general partnership,
- 18 b. limited partnership,
- 19 c. limited liability partnership,
- 20 d. limited liability company,
- 21 e. corporation, or
- 22 f. other lawfully recognized business entity;

23 4. "Lawful business entity" means the following:

- 24 a. a person,

- b. a general partnership,
- c. a limited partnership,
- d. a limited liability partnership,
- e. a limited liability company, or
- f. a corporation; and

5. "Qualified equity investment" means a transfer of cash or its equivalent by an accredited investor to an eligible Oklahoma venture capital company and for purposes of the deduction authorized by this section in an amount not in excess of Twenty-five Million Dollars (\$25,000,000.00) by an accredited investor during a taxable year.

B. For tax years 2022 through 2026, there shall be allowed a deduction from Oklahoma taxable income or Oklahoma adjusted gross income as determined pursuant to Section 2358 of ~~Title 68 of the Oklahoma Statutes~~ this title equal to the amount of qualified equity investment in an eligible Oklahoma venture capital entity made by an accredited investor.

C. The maximum amount of qualified equity investment made by an accredited investor for purposes of the deduction authorized by this section shall not exceed Twenty-five Million Dollars (\$25,000,000.00) for any taxable year of the investor.

D. Any qualified equity investment made for purposes of the deduction authorized by this section shall be documented by the issuance of shares of stock, membership interest or other evidence

1 of the equity interest acquired by the accredited investor. Such
2 evidence may take the form of physical shares or the electronic
3 equivalent of physical shares.

4 E. Records of the equity interest acquired by an accredited
5 investor shall be maintained by the accredited investor and the
6 eligible Oklahoma venture capital company for a period of at least
7 five (5) years from the date the equity investment is made by an
8 accredited investor.

9 F. A qualified equity investment made by an accredited investor
10 for purposes of the deduction authorized by this section shall not
11 be returned by the eligible Oklahoma venture capital company to the
12 accredited investor, if the accredited investor is a natural person,
13 or to any person related to such natural person within the third
14 degree of consanguinity or affinity, for a period of three (3) years
15 from the date of the qualified equity investment unless the return
16 is in the form of a dividend or other payment agreed to prior to or
17 simultaneously with the equity investment transfer from the
18 accredited investor to the eligible Oklahoma venture capital company
19 and only if the return of some part of the qualified equity
20 investment is based on the financial performance of either the
21 eligible Oklahoma venture capital company or the financial
22 performance of one or more for profit business entities in which the
23 accumulated equity funds of the eligible Oklahoma venture capital
24

1 company are further invested or both such measures of financial
2 performance.

3 G. A qualified equity investment made by an accredited investor
4 for purposes of the deduction authorized by this section shall not
5 be returned by the eligible Oklahoma venture capital company to the
6 accredited investor if the accredited investor is a lawful business
7 entity, or to any entity which owns fifty-one percent (51%) or more
8 of the voting equity interest of the accredited investor or to any
9 lawful business entity with respect to which the accredited investor
10 owns fifty-one percent (51%) or more of the voting equity interest,
11 within a period of five (5) years from the date of the equity
12 investment unless the return is in the form of a dividend or other
13 payment agreed to prior to or simultaneously with the equity
14 investment transfer from the accredited investor to the eligible
15 Oklahoma venture capital company and only if the return of some part
16 of the qualified equity investment is based on the financial
17 performance of either the eligible Oklahoma venture capital company
18 or the financial performance of one or more for profit business
19 entities in which the accumulated equity funds of the eligible
20 Oklahoma venture capital company are further invested or both such
21 measures of financial performance.

22 H. The deduction authorized by the provisions of this section
23 shall not be used to reduce the Oklahoma taxable income amount or
24 the Oklahoma adjusted gross income amount to less than zero (0).

1 There shall not be any carryover with respect to a deduction
2 authorized by the provisions of this section.

3 I. If the Oklahoma Tax Commission determines, either from
4 information accompanying any applicable income tax return or
5 schedule, form or supporting documentation filed in order to claim
6 the deduction authorized by this section, that the requirements of
7 this section were not fulfilled, the Oklahoma Tax Commission shall
8 notify the taxpayer claiming the deduction that the deduction has
9 been disallowed and the income tax ~~liability~~ liability for the
10 taxpayer shall be recalculated. The taxpayer shall retain all
11 rights authorized pursuant to the provisions of the Uniform Tax
12 Procedure Code and the Oklahoma Income Tax Code in order to contest
13 the disallowance of part or all of such deductions.

14 J. ~~The Department~~ OCAST may promulgate rules to enforce the
15 provisions of this act. ~~The Department~~ OCAST shall annually publish
16 a report on the program created in this section.

17 SECTION 5. AMENDATORY 74 O.S. 2021, Section 5028, is
18 amended to read as follows:

19 Section 5028. ~~A.~~ There is hereby created in the State Treasury
20 a special fund for the ~~Oklahoma~~ State Department of ~~Commerce~~ Health
21 to be designated the "County Jail Improvement Fund". The fund shall
22 be a continuing fund, not subject to fiscal year limitations. All
23 monies appropriated to the fund may be budgeted and expended by the
24 ~~Oklahoma~~ State Department of ~~Commerce~~ Health for the purpose of

1 providing matching funds to counties to renovate existing or to
2 construct new jail facilities in accordance with state-approved jail
3 standards. Expenditures from said fund shall be made upon warrants
4 issued by the State Treasurer against claims filed as prescribed by
5 law with the Director of the Office of Management and Enterprise
6 Services for approval and payment.

7 ~~B. On July 1, 1986, any unallotted cash balance in the County~~
8 ~~Jail Improvement Fund created in Section 66 of Title 57 of the~~
9 ~~Oklahoma Statutes shall be transferred to the County Jail~~
10 ~~Improvement Fund created in this section. All outstanding financial~~
11 ~~obligations and encumbrances of the County Jail Improvement Fund~~
12 ~~created in Section 66 of Title 57 of the Oklahoma Statutes are~~
13 ~~hereby transferred to the Oklahoma Department of Commerce. After~~
14 ~~November 15, 1986, any unexpended balance in the County Jail~~
15 ~~Improvement Fund created in Section 66 of Title 57 of the Oklahoma~~
16 ~~Statutes shall be transferred to the County Jail Improvement Fund~~
17 ~~created in this section.~~

18 SECTION 6. AMENDATORY 74 O.S. 2021, Section 5029, is
19 amended to read as follows:

20 Section 5029. The ~~Oklahoma~~ State Department of ~~Commerce~~ Health
21 shall approve only those applications for funds to renovate an
22 existing county jail facility or to construct a new county jail
23 facility which contain proposed plans that are in compliance with
24 state-approved jail standards as determined by the Jail Inspection

1 Division, ~~Oklahoma~~ State Department of Health. Any jail facility
2 which serves as a combined city and county jail facility shall be
3 eligible to apply for a grant under the provisions of this act.

4 For each grant of funds by the ~~Oklahoma~~ State Department of
5 ~~Commerce~~ Health to a county, the requesting county must legally bind
6 itself to expend on said property funds equal to the amount of funds
7 being applied for from the County Jail Improvement Fund.

8 No application for funds available under the provisions of this
9 act may be filed where the construction of new facilities or the
10 renovation of existing facilities has begun by July 1, 1981.

11 No applicant may receive more than a total of Two Hundred
12 Thousand Dollars (\$200,000.00) from the "County Jail Improvement
13 Fund" in any one fiscal year.

14 SECTION 7. AMENDATORY 74 O.S. 2021, Section 5040.4, is
15 amended to read as follows:

16 Section 5040.4 A. ~~Beginning November 1, 2005, the Oklahoma~~ The
17 State Department of ~~Commerce~~ Health shall establish, through a
18 competitive bid process, a statewide program to assist medically
19 indigent residents of Oklahoma to receive prescriptions from drug
20 manufacturer assistance programs.

21 B. Agencies including, but not limited to, the following shall
22 be encouraged by the Department to submit bids:

- 23 1. County offices of the Department of Human Services;
- 24 2. County health departments;

1 3. Community action agencies designated by the Oklahoma
2 Department of Commerce pursuant to Section 5038 of ~~Title 74 of the~~
3 ~~Oklahoma Statutes~~ this title;

4 4. Community mental health centers;

5 5. Private nonprofit agencies; and

6 6. Public entities engaged in the delivery of social services.

7 C. Agencies selected by the Department to provide services
8 pursuant to the Rx for Oklahoma Act shall, at a minimum, demonstrate
9 their ability to:

10 1. Deliver services in a community or geographic area of the
11 state that is not currently receiving services pursuant to the Rx
12 for Oklahoma Act;

13 2. Maintain a dedicated telephone line and computer with
14 Internet access with appropriate software during normal business
15 hours; and

16 3. Have staff or volunteers available who can:

17 a. develop and implement community awareness initiatives
18 about the prescription assistance services offered by
19 the agency,

20 b. determine whether a pharmaceutical program is offered
21 for the drug or drugs a person needs,

22 c. determine whether a person is eligible for assistance
23 through a pharmaceutical program,

- 1 d. assist a person to make application to and enroll in a
2 pharmaceutical assistance program,
3 e. keep accurate records of the number of clients served,
4 f. maintain the confidentiality of all client information
5 including, but not limited to, the client's identity,
6 application information and other records, and
7 g. estimate the value of prescriptions provided to
8 clients under the program.

9 D. Eligibility for the Rx for Oklahoma Act shall be residents
10 of Oklahoma who:

- 11 1. Are medically indigent; or
12 2. Are not medically indigent but cannot reasonably afford to
13 pay for prescription medications.

14 E. The ~~Oklahoma~~ State Department of ~~Commerce~~ Health shall
15 promulgate rules or establish procedures necessary to implement the
16 program established by the Rx for Oklahoma Act and shall submit an
17 annual report to the Legislature and the Governor no later than
18 January 1 of each year. The report shall include, but not be
19 limited to, the following:

- 20 1. A listing of entities awarded grants and the amount of each
21 award;
22 2. The number of residents served who were eligible for a drug
23 manufacturer assistance program and the average amount of savings
24 per resident;

1 3. The number of residents who sought assistance pursuant to
2 the Rx for Oklahoma Act, but were determined not to be eligible for
3 a drug manufacturer assistance program; and

4 4. A report by the Department of total expenditures. Included
5 within the report shall be a summary of each grantee's
6 administrative, personnel, and direct services expenditures by
7 category relative to the grantee's administration of the program.

8 SECTION 8. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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