

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1768

By: Howard and Jech of the
Senate

3

and

4

Wallace of the House

5

6

7

8 [revenue and taxation - Oklahoma Rural Jobs Act -
9 tax credit - sunset date - codification - effective
date]

10

11 AMENDMENT NO. 1. Strike the stricken title, enacting clause, and
12 entire bill and insert:

13

14

"[revenue and taxation - Oklahoma Rural Jobs Act -
15 tax credit - sunset date - tax information -
16 confidentiality - codification - effective date]

17

18

19 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3930 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Oklahoma Rural
24 Jobs Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3931 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Affiliate" means an entity that directly, or indirectly
6 through one or more intermediaries, controls, or is controlled by,
7 or is under the common control with another entity. An entity is
8 controlled by another entity if the controlling entity holds,
9 directly or indirectly, the majority of voting or ownership interest
10 in the controlled entity or has control over day-to-day operations
11 of the controlled entity by contract or by law;

12 2. "Applicable percentage" means zero percent (0%) for the
13 first two credit allowance dates, and fifteen percent (15%) for the
14 next four credit allowance dates;

15 3. "Capital investment" means any equity investment in a rural
16 fund by a rural investor which:

- 17 a. is acquired after the effective date of this act at
18 its original issuance solely in exchange for cash,
19 b. has one hundred percent (100%) of its cash purchase
20 price used by the rural fund to make qualified
21 investments in eligible businesses located in this
22 state by the third anniversary of the initial credit
23 allowance date, and
24

1 c. is designated by the rural fund as a capital
2 investment under this act and is certified by the
3 Department under the provisions of Section 3 of this
4 act. This shall include any capital investment that
5 does not meet the provisions of paragraph 1 of
6 subsection A of Section 3 of this act, if such
7 investment was a capital investment in the hands of a
8 prior holder;

9 4. "Credit allowance date" means the date on which the
10 Department certifies a rural fund's capital investment and each of
11 the five anniversary dates of such date thereafter;

12 5. "Department" means the Oklahoma Department of Commerce;

13 6. "Eligible business" means a business that, at the time of
14 the initial qualified investment in the business:

15 a. has fewer than two hundred fifty employees, and

16 b. has its principal business operations in the state.

17 Any business which is classified as an eligible business at the
18 time of the initial investment in such business by a rural fund
19 shall remain classified as an eligible business and may receive
20 follow-on investments from any rural fund, and such follow-on
21 investments shall be qualified investments even though such business
22 may not meet the definition of an eligible business at the time of
23 such follow-on investment;

1 7. "Principal business operations" means the location where at
2 least sixty percent (60%) of a business's employees work or where
3 employees who are paid at least sixty percent (60%) of such
4 business's payroll work. A business that has agreed to relocate
5 employees using the proceeds of a qualified investment to establish
6 its principal business operations in a new location shall be deemed
7 to have its principal business operations in such new location if it
8 satisfied the requirements of this paragraph no later than one
9 hundred eighty (180) days after receiving a qualified investment;

10 8. "Purchase price" means the amount paid to the rural fund
11 that issues a capital investment which shall not exceed the amount
12 of capital investment authority certified under the provisions of
13 Section 3 of this act;

14 9. "Qualified investment" means any investment in an eligible
15 business or any loan to an eligible business with a stated maturity
16 date of at least one (1) year after the date of issuance, excluding
17 revolving lines of credit and senior-secured debt unless the chief
18 executive or similar officer of the eligible business certifies that
19 the eligible business sought and was denied similar financing from a
20 depository institution, by a rural fund; provided that, with respect
21 to any one eligible business, the maximum amount of investments made
22 in such business by one or more rural funds, on a collective basis
23 with all of the businesses' affiliates, with the proceeds of the
24 capital investments, shall be the greater of twenty percent (20%) of

1 the rural fund's capital investment authority or Six Million Five
2 Hundred Thousand Dollars (\$6,500,000.00), exclusive of investments
3 made with repaid or redeemed investments or interest or profits
4 realized thereon;

5 10. "Rural area" means any county of this state that has a
6 population of less than seventy-five thousand (75,000) or any city
7 or town of this state that has a population not to exceed seven
8 thousand (7,000) according to the 2020 Federal Decennial Census of
9 the United States;

10 11. "Rural fund" means an entity certified by the Department
11 under the provisions of Section 3 of this act;

12 12. "Rural investor" means an entity that makes a capital
13 investment in a rural fund;

14 13. "Senior-secured debt" means any loan that is secured by a
15 first mortgage on real estate with a loan-to-value ratio of less
16 than eighty percent (80%); and

17 14. "State tax liability" means the tax imposed under Section
18 2355, 2355.1P-4, or 2370 of Title 68 of the Oklahoma Statutes or
19 Section 624 or 628 of Title 36 of the Oklahoma Statutes.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3932 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 A. A rural fund that seeks to have an equity investment
24 certified as a capital investment eligible for credits authorized

1 under the provisions of this act shall apply to the Department. The
2 Department shall begin accepting applications within ninety (90)
3 days of the effective date of this act. The application shall
4 include:

- 5 1. The amount of capital investment requested;
- 6 2. A copy of the applicant's or an affiliate of the applicant's
7 licenses as a rural business investment company under 7 U.S.C.,
8 Section 2009cc or as a small business investment company under 15
9 U.S.C., Section 681, and a certificate executed by an executive
10 officer of the applicant attesting that such license remains in
11 effect and has not been revoked;
- 12 3. Evidence that, as of the date the application is submitted,
13 the applicant or affiliates of the applicant have invested at least
14 One Hundred Million Dollars (\$100,000,000.00) in nonpublic companies
15 located in counties within the United States with a population of
16 less than seventy-five thousand (75,000) according to the 2010
17 Federal Decennial Census of the United States;
- 18 4. A business plan that includes a revenue-impact assessment
19 projecting state and local tax revenue to be generated by the
20 applicant's proposed qualified investments, prepared by a nationally
21 recognized, third-party, independent economic forecasting firm using
22 a dynamic economic forecasting model that analyzes the applicant's
23 business plan over the ten (10) years following the date the
24 application is submitted to the Department. Such plan shall include

1 an estimate of the number of jobs created and jobs retained in this
2 state as a result of the applicant's qualified investments; and

3 5. A nonrefundable application fee of Five Thousand Dollars
4 (\$5,000.00) payable to the Department.

5 B. Within thirty (30) days after the receipt of a completed
6 application, the Department shall grant or deny the application in
7 full or in part. The Department shall deny the application if:

8 1. The applicant does not satisfy all the criteria provided
9 under subsection A of this section;

10 2. The revenue-impact assessment submitted with the application
11 does not demonstrate that the applicant's business plan will result
12 in a positive fiscal impact on the state over a ten-year period that
13 exceeds the cumulative amount of tax credits that would be issued to
14 the applicant if the application was approved; or

15 3. The Department has already approved the maximum amount of
16 capital investment authority under Section 4 of this act.

17 C. If the Department denies any part of the application, it
18 shall inform the applicant of the grounds for such denial. If the
19 applicant provides any additional information required by the
20 Department or otherwise completes its application within fifteen
21 (15) days of the notice of denial, the application shall be
22 considered complete as of the original date of submission. If the
23 applicant fails to provide the information or fails to complete its
24 application within the fifteen-day period, the application shall

1 remain denied and must be resubmitted with a new submission date and
2 a new application fee.

3 D. Upon approval of an application, the Department shall
4 certify the proposed equity investment as a capital investment
5 eligible for credits under this act, subject to limitations laid out
6 in Section 4 of this act. The Department shall provide written
7 notice of the certification to the applicant which shall include the
8 amount of the applicant's capital investment authority. The
9 Department shall certify capital investments in the order that the
10 application is received by the Department. Applications received on
11 the same day shall be deemed to have been received simultaneously.
12 For applications that are complete and received on the same day, the
13 Department shall certify applications in proportionate percentages
14 based upon the ratio of the amount of capital investment authority
15 requested in all applications.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3933 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. The Department shall certify capital investment authority
20 under the provisions of this act in amounts that would not authorize
21 more than Fifteen Million Dollars (\$15,000,000.00) in state tax
22 credits to be claimed against state tax liability in any calendar
23 year, excluding any credit amounts carried forward as provided under
24 subsection A of Section 5 of this act. Within ninety (90) days of

1 the applicant receiving notice of certification, the rural fund
2 shall issue the capital investment to and receive cash in the amount
3 of the certified amount from a rural investor. At least ten percent
4 (10%) of the rural investor's capital investment shall be composed
5 of capital raised by the rural investor directly or indirectly from
6 sources including directors, members, employees, officers, and
7 affiliates of the rural investor, other than the amount invested by
8 the allocatee claiming the tax credits in exchange for such
9 allocation of tax credits. The rural fund shall provide the
10 Department with evidence of the receipt of the cash investment
11 within ninety-five (95) days of the applicant receiving notice of
12 certification.

13 B. If the rural fund does not receive the cash investment and
14 issue the capital investment within such time period following
15 receipt of the certificate notice, the certification shall lapse and
16 the rural fund shall not issue the capital investment without
17 reapplying to the Department for certification. Lapsed
18 certifications shall revert to the Department and shall be reissued
19 pro rata to applicants whose capital investment allocations were
20 reduced in accordance with the application process provided under
21 subsection D of Section 3 of this act.

22 C. A rural fund, before making a qualified investment, may
23 request from the Department a written opinion as to whether the
24 business in which it proposes to invest is an eligible business.

1 The Department, no later than fifteen (15) business days after the
2 date of receipt of such request, shall notify the rural fund of its
3 determination. If the Department fails to notify the rural fund of
4 its determination by the twentieth business day, the business in
5 which the rural fund proposes to invest shall be deemed an eligible
6 business.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3934 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Upon making a capital investment in a rural fund, a rural
11 investor shall have a right to a credit against such entity's state
12 tax liability that may be utilized on each credit allowance date of
13 such capital investment in an amount equal to the applicable
14 percentage for such credit allowance date multiplied by the purchase
15 price paid to the rural fund for the capital investment. The amount
16 of the credit claimed by a rural investor shall not exceed the
17 amount of such entity's state tax liability for the tax year for
18 which the credit is claimed. Any amount of credit that a rural
19 investor is prohibited from claiming in a tax year as a result of
20 this section may be carried forward for use in any of the five (5)
21 subsequent tax years, but shall not be carried back to prior tax
22 years. It is the intent of this act that a rural investor claiming
23 a credit under this act is not required to pay any additional tax
24 that may arise as a result of claiming such credit.

1 B. No credit claimed under the provisions of this act shall be
2 refundable or saleable on the open market. Credits earned by or
3 allocated to a partnership, limited liability company, or S
4 corporation may be allocated to the partners, members, or
5 shareholders of such entity for their direct use in accordance with
6 the provisions of any agreement among such partners, members, or
7 shareholders, and a rural fund shall notify the Department of the
8 names of the entities that are eligible to utilize transfer of a
9 capital investment upon such allocation, change, or transfer. Such
10 allocation shall not be considered a sale for the purpose of this
11 section.

12 C. The Department may recapture credits from a taxpayer that
13 claimed a credit authorized under this section if:

14 1. The rural fund does not invest sixty percent (60%) of its
15 capital investment authority in qualified investments in this state
16 within two (2) years of the credit allowance date, and one hundred
17 percent (100%) of its capital investment authority in qualified
18 investments in this state within three (3) years of the credit
19 allowance date; provided, that at least seventy percent (70%) of
20 these initial qualified investments must be made in eligible
21 businesses located in rural areas;

22 2. The rural fund fails to maintain qualified investments equal
23 to ninety percent (90%) of its capital investment authority from the
24 third anniversary until the sixth anniversary of the credit

1 allowance date, with seventy percent (70%) of such investments
2 maintained in eligible businesses located in rural areas. For each
3 year the rural fund fails to maintain such investments, the
4 Department may recapture an amount of such year's allowed credits
5 equal to the percentage difference between ninety percent (90%) of a
6 rural fund's capital investment authority and the actual amount of
7 qualified investments maintained for such year. For the purposes of
8 this subsection, a qualified investment is considered even if the
9 qualified investment was sold or repaid so long as the rural fund
10 reinvests an amount equal to the capital returned or recovered or
11 repaid by the rural fund from the original investment, exclusive of
12 any profits realized, in other qualified investments in this state
13 within twelve (12) months of receipt of such capital. Amounts
14 received periodically by a rural fund shall be treated as
15 continually invested in qualified investments if the amounts are
16 reinvested in one or more qualified investments by the end of the
17 following calendar year. A rural fund shall not be required to
18 reinvest capital returned from qualified investments after the fifth
19 anniversary of the credit allowance date, and such qualified
20 investments shall be considered held continuously by the rural fund
21 through the sixth anniversary of the credit allowance date;

22 3. Prior to the earlier of exiting the program in accordance
23 with this act or thirty (30) days after the sixth anniversary of the
24 credit allowance date, the rural fund makes a distribution or

1 payment that results in the rural fund having less than one hundred
2 percent (100%) of its capital investment authority invested in
3 qualified investments in the state or held in cash or other
4 marketable securities; or

5 4. The rural fund violates the provisions of Section 6 of this
6 act, in which case the Department may recapture an amount equal to
7 the amount of the rural fund's capital investment authority found to
8 be in violation of such provisions.

9 For the purposes of meeting and maintaining the objectives
10 established for investment in paragraphs 1 and 2 of this subsection,
11 a rural fund's qualified investments shall be multiplied by a factor
12 of one and one-quarter (1 1/4) in counties with less than thirty
13 thousand (30,000) in population and more than thirteen thousand
14 (13,000) in population and shall be multiplied by a factor of one
15 and one-half (1 1/2) in counties with a population of thirteen
16 thousand (13,000) or less.

17 D. Recaptured credits and related capital investment authority
18 shall revert to the Department and shall be reissued pro rata to
19 applicants whose capital investment allocations were reduced in
20 accordance with the application process provided under subsection D
21 of Section 3 of this act.

22 E. No recapture shall occur until the rural fund has been given
23 notice of noncompliance and afforded six (6) months from the date of
24 such notice to cure the noncompliance.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3935 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 No eligible business that receives a qualified investment under
5 the provisions of this act, or any affiliates of such eligible
6 business, shall directly or indirectly:

7 1. Own or have the right to acquire an ownership interest in a
8 rural fund or member or affiliate of a rural fund including, but not
9 limited to, a holder of a capital investment issued by a rural fund;
10 or

11 2. Loan to or invest in a rural fund or any member or affiliate
12 of a rural fund including, but not limited to, a holder of capital
13 investment issued by a rural fund, where the proceeds of such loan
14 or investment are directly or indirectly used to fund or refinance
15 the purchase of capital investments under this act.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3936 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Rural funds shall submit a report to the Department within
20 the first fifteen (15) business days after the second and third
21 anniversary of the initial credit allowance date. The report
22 following the second anniversary shall provide documentation as to
23 the investment of sixty percent (60%) of the purchase price of such
24 capital investment in qualified investments. The report following

1 the third anniversary shall provide documentation as to the
2 investment of one hundred percent (100%) of the purchase price of
3 such capital investment in qualified investments. Unless previously
4 reported pursuant to this subsection, such reports shall also
5 include:

6 1. The name and location of each eligible business receiving a
7 qualified investment;

8 2. Bank statements of such rural fund evidencing each qualified
9 investment;

10 3. A copy of the written opinion of the Department, as provided
11 in subsection C of Section 4 of this act, or evidence that such
12 business was an eligible business at the time of such qualified
13 investment, as applicable;

14 4. The number of jobs created and jobs retained as a result of
15 each qualified investment;

16 5. The average salary of positions described in paragraph 4 of
17 this subsection; and

18 6. Such other information as required by the Department.

19 B. For all subsequent years, rural funds shall submit an annual
20 report to the Department within ninety (90) days of the beginning of
21 the calendar year during the compliance period. The report shall
22 include, but is not limited to, the following:

23 1. The number of jobs created and jobs retained as a result of
24 qualified investments;

1 2. The average annual salary of positions described in
2 paragraph 1 of this subsection; and

3 3. Such other information as required by the Department.

4 C. On or after the sixth anniversary of the credit allowance
5 date, a rural fund may apply to the Department to exit the program
6 and no longer be subject to the regulation hereunder. The
7 Department shall respond to the exit application within fifteen (15)
8 days of receipt. In evaluating the exit application, the fact that
9 no credits have been recaptured and that the rural fund has not
10 received a notice of recapture that has not been cured pursuant to
11 subsection E of Section 5 of this act shall be sufficient evidence
12 to prove that the rural fund is eligible for exit. The Department
13 shall not unreasonably deny an exit application submitted under this
14 section. If an exit application is denied, the notice shall include
15 the reasons for the determination.

16 SECTION 8. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3937 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 The Department shall accept no new applications for tax credits
20 authorized under this act after December 1, 2032.

21 SECTION 9. AMENDATORY 68 O.S. 2021, Section 205, is
22 amended to read as follows:

23 Section 205. A. The records and files of the Oklahoma Tax
24 Commission concerning the administration of the Uniform Tax

1 Procedure Code or of any state tax law shall be considered
2 confidential and privileged, except as otherwise provided for by
3 law, and neither the Tax Commission nor any employee engaged in the
4 administration of the Tax Commission or charged with the custody of
5 any such records or files nor any person who may have secured
6 information from the Tax Commission shall disclose any information
7 obtained from the records or files or from any examination or
8 inspection of the premises or property of any person.

9 B. Except as provided in paragraph 26 of subsection C of this
10 section, neither the Tax Commission nor any employee engaged in the
11 administration of the Tax Commission or charged with the custody of
12 any such records or files shall be required by any court of this
13 state to produce any of the records or files for the inspection of
14 any person or for use in any action or proceeding, except when the
15 records or files or the facts shown thereby are directly involved in
16 an action or proceeding pursuant to the provisions of the Uniform
17 Tax Procedure Code or of the state tax law, or when the
18 determination of the action or proceeding will affect the validity
19 or the amount of the claim of the state pursuant to any state tax
20 law, or when the information contained in the records or files
21 constitutes evidence of violation of the provisions of the Uniform
22 Tax Procedure Code or of any state tax law.

23 C. The provisions of this section shall not prevent the Tax
24 Commission, or with respect to the Oklahoma Department of Commerce

1 in administration of the Oklahoma Rural Jobs Act as provided by
2 paragraph 22 of this subsection, from disclosing the following
3 information and no liability whatsoever, civil or criminal, shall
4 attach to any member of the Tax Commission, or the Oklahoma
5 Department of Commerce as applicable, or any employee thereof for
6 any error or omission in the disclosure of such information:

7 1. The delivery to a taxpayer or a duly authorized
8 representative of the taxpayer of a copy of any report or any other
9 paper filed by the taxpayer pursuant to the provisions of the
10 Uniform Tax Procedure Code or of any state tax law;

11 2. The exchange of information that is not protected by the
12 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
13 pursuant to reciprocal agreements entered into by the Tax Commission
14 and other state agencies or agencies of the federal government;

15 3. The publication of statistics so classified as to prevent
16 the identification of a particular report and the items thereof;

17 4. The examination of records and files by the State Auditor
18 and Inspector or the duly authorized agents of the State Auditor and
19 Inspector;

20 5. The disclosing of information or evidence to the Oklahoma
21 State Bureau of Investigation, Attorney General, Oklahoma State
22 Bureau of Narcotics and Dangerous Drugs Control, any district
23 attorney or agent of any federal law enforcement agency when the
24 information or evidence is to be used by such officials to

1 investigate or prosecute violations of the criminal provisions of
2 the Uniform Tax Procedure Code or of any state tax law or of any
3 federal crime committed against this state. Any information
4 disclosed to the Oklahoma State Bureau of Investigation, Attorney
5 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control, any district attorney or agent of any federal law
7 enforcement agency shall be kept confidential by such person and not
8 be disclosed except when presented to a court in a prosecution for
9 violation of the tax laws of this state or except as specifically
10 authorized by law, and a violation by the Oklahoma State Bureau of
11 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
12 and Dangerous Drugs Control, district attorney or agent of any
13 federal law enforcement agency by otherwise releasing the
14 information shall be a felony;

15 6. The use by any division of the Tax Commission of any
16 information or evidence in the possession of or contained in any
17 report or return filed with any other division of the Tax
18 Commission;

19 7. The furnishing, at the discretion of the Tax Commission, of
20 any information disclosed by its records or files to any official
21 person or body of this state, any other state, the United States or
22 foreign country who is concerned with the administration or
23 assessment of any similar tax in this state, any other state or the
24 United States. The provisions of this paragraph shall include the

1 furnishing of information by the Tax Commission to a county assessor
2 to determine the amount of gross household income pursuant to the
3 provisions of Section 8C of Article X of the Oklahoma Constitution
4 or Section 2890 of this title. The Tax Commission shall promulgate
5 rules to give guidance to the county assessors regarding the type of
6 information which may be used by the county assessors in determining
7 the amount of gross household income pursuant to Section 8C of
8 Article X of the Oklahoma Constitution or Section 2890 of this
9 title. The provisions of this paragraph shall also include the
10 furnishing of information to the State Treasurer for the purpose of
11 administration of the Uniform Unclaimed Property Act;

12 8. The furnishing of information to other state agencies for
13 the limited purpose of aiding in the collection of debts owed by
14 individuals to such requesting agencies;

15 9. The furnishing of information requested by any member of the
16 general public and stated in the sworn lists or schedules of taxable
17 property of public service corporations organized, existing, or
18 doing business in this state which are submitted to and certified by
19 the State Board of Equalization pursuant to the provisions of
20 Section 2858 of this title and Section 21 of Article X of the
21 Oklahoma Constitution, provided such information would be a public
22 record if filed pursuant to Sections 2838 and 2839 of this title on
23 behalf of a corporation other than a public service corporation;

24

1 10. The furnishing of information requested by any member of
2 the general public and stated in the findings of the Tax Commission
3 as to the adjustment and equalization of the valuation of real and
4 personal property of the counties of the state, which are submitted
5 to and certified by the State Board of Equalization pursuant to the
6 provisions of Section 2865 of this title and Section 21 of Article X
7 of the Oklahoma Constitution;

8 11. The furnishing of information as to the issuance or
9 revocation of any tax permit, license or exemption by the Tax
10 Commission as provided for by law. Such information shall be
11 limited to the name of the person issued the permit, license or
12 exemption, the name of the business entity authorized to engage in
13 business pursuant to the permit, license or exemption, the address
14 of the business entity and the grounds for revocation;

15 12. The posting of notice of revocation of any tax permit or
16 license upon the premises of the place of business of any business
17 entity which has had any tax permit or license revoked by the Tax
18 Commission as provided for by law. Such notice shall be limited to
19 the name of the person issued the permit or license, the name of the
20 business entity authorized to engage in business pursuant to the
21 permit or license, the address of the business entity and the
22 grounds for revocation;

23 13. The furnishing of information upon written request by any
24 member of the general public as to the outstanding and unpaid amount

1 due and owing by any taxpayer of this state for any delinquent tax,
2 together with penalty and interest, for which a tax warrant or a
3 certificate of indebtedness has been filed pursuant to law;

4 14. After the filing of a tax warrant pursuant to law, the
5 furnishing of information upon written request by any member of the
6 general public as to any agreement entered into by the Tax
7 Commission concerning a compromise of tax liability for an amount
8 less than the amount of tax liability stated on such warrant;

9 15. The disclosure of information necessary to complete the
10 performance of any contract authorized by this title to any person
11 with whom the Tax Commission has contracted;

12 16. The disclosure of information to any person for a purpose
13 as authorized by the taxpayer pursuant to a waiver of
14 confidentiality. The waiver shall be in writing and shall be made
15 upon such form as the Tax Commission may prescribe;

16 17. The disclosure of information required in order to comply
17 with the provisions of Section 2369 of this title;

18 18. The disclosure to an employer, as defined in Sections
19 2385.1 and 2385.3 of this title, of information required in order to
20 collect the tax imposed by Section 2385.2 of this title;

21 19. The disclosure to a plaintiff of a corporation's last-known
22 address shown on the records of the Franchise Tax Division of the
23 Tax Commission in order for such plaintiff to comply with the
24 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

1 20. The disclosure of information directly involved in the
2 resolution of the protest by a taxpayer to an assessment of tax or
3 additional tax or the resolution of a claim for refund filed by a
4 taxpayer, including the disclosure of the pendency of an
5 administrative proceeding involving such protest or claim, to a
6 person called by the Tax Commission as an expert witness or as a
7 witness whose area of knowledge or expertise specifically addresses
8 the issue addressed in the protest or claim for refund. Such
9 disclosure to a witness shall be limited to information pertaining
10 to the specific knowledge of that witness as to the transaction or
11 relationship between taxpayer and witness;

12 21. The disclosure of information necessary to implement an
13 agreement authorized by Section 2702 of this title when such
14 information is directly involved in the resolution of issues arising
15 out of the enforcement of a municipal sales tax ordinance. Such
16 disclosure shall be to the governing body or to the municipal
17 attorney, if so designated by the governing body;

18 22. The furnishing of information regarding incentive payments
19 made pursuant to the provisions of Sections 3601 through 3609 of
20 this title or incentive payments made pursuant to the provisions of
21 Sections 3501 through 3508 of this title or tax credits authorized
22 pursuant to the provisions of the Oklahoma Rural Jobs Act as
23 provided by Sections 1 through 8 of this act;
24

1 23. The furnishing to a prospective purchaser of any business,
2 or his or her authorized representative, of information relating to
3 any liabilities, delinquencies, assessments or warrants of the
4 prospective seller of the business which have not been filed of
5 record, established or become final and which relate solely to the
6 seller's business. Any disclosure under this paragraph shall only
7 be allowed upon the presentment by the prospective buyer, or the
8 buyer's authorized representative, of the purchase contract and a
9 written authorization between the parties;

10 24. The furnishing of information as to the amount of state
11 revenue affected by the issuance or granting of any tax permit,
12 license, exemption, deduction, credit or other tax preference by the
13 Tax Commission as provided for by law. Such information shall be
14 limited to the type of permit, license, exemption, deduction, credit
15 or other tax preference issued or granted, the date and duration of
16 such permit, license, exemption, deduction, credit or other tax
17 preference and the amount of such revenue. The provisions of this
18 paragraph shall not authorize the disclosure of the name of the
19 person issued such permit, license, exemption, deduction, credit or
20 other tax preference, or the name of the business entity authorized
21 to engage in business pursuant to the permit, license, exemption,
22 deduction, credit or other tax preference;

23 25. The examination of records and files of a person or entity
24 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs

1 Control pursuant to a court order by a magistrate in whose
2 territorial jurisdiction the person or entity resides, or where the
3 Tax Commission records and files are physically located. Such an
4 order may only be issued upon a sworn application by an agent of the
5 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
6 certifying that the person or entity whose records and files are to
7 be examined is the target of an ongoing investigation of a felony
8 violation of the Uniform Controlled Dangerous Substances Act and
9 that information resulting from such an examination would likely be
10 relevant to that investigation. Any records or information obtained
11 pursuant to such an order may only be used by the Oklahoma State
12 Bureau of Narcotics and Dangerous Drugs Control in the investigation
13 and prosecution of a felony violation of the Uniform Controlled
14 Dangerous Substances Act. Any such order issued pursuant to this
15 paragraph, along with the underlying application, shall be sealed
16 and not disclosed to the person or entity whose records were
17 examined, for a period of ninety (90) days. The issuing magistrate
18 may grant extensions of such period upon a showing of good cause in
19 furtherance of the investigation. Upon the expiration of ninety
20 (90) days and any extensions granted by the magistrate, a copy of
21 the application and order shall be served upon the person or entity
22 whose records were examined, along with a copy of the records or
23 information actually provided by the Tax Commission;

24

1 26. The disclosure of information, as prescribed by this
2 paragraph, which is related to the proposed or actual usage of tax
3 credits pursuant to Section 2357.7 of this title, the Small Business
4 Capital Formation Incentive Act or the Rural Venture Capital
5 Formation Incentive Act. Unless the context clearly requires
6 otherwise, the terms used in this paragraph shall have the same
7 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
8 title. The disclosure of information authorized by this paragraph
9 shall include:

- 10 a. the legal name of any qualified venture capital
11 company, qualified small business capital company or
12 qualified rural small business capital company,
13 b. the identity or legal name of any person or entity
14 that is a shareholder or partner of a qualified
15 venture capital company, qualified small business
16 capital company or qualified rural small business
17 capital company,
18 c. the identity or legal name of any Oklahoma business
19 venture, Oklahoma small business venture or Oklahoma
20 rural small business venture in which a qualified
21 investment has been made by a capital company, or
22 d. the amount of funds invested in a qualified venture
23 capital company, the amount of qualified investments
24 in a qualified small business capital company or

1 qualified rural small business capital company and the
2 amount of investments made by a qualified venture
3 capital company, qualified small business capital
4 company, or qualified rural small business capital
5 company;

6 27. The disclosure of specific information as required by
7 Section 46 of Title 62 of the Oklahoma Statutes;

8 28. The disclosure of specific information as required by
9 Section 205.5 of this title;

10 29. The disclosure of specific information as required by
11 Section 205.6 of this title;

12 30. The disclosure of information to the State Treasurer
13 necessary to implement Section 2368.27 of this title;

14 31. The disclosure of specific information to the Oklahoma
15 Health Care Authority for purposes of determining eligibility for
16 current or potential recipients of assistance from the Oklahoma
17 Medicaid Program; or

18 32. The disclosure of information to the Oklahoma Department of
19 Veterans Affairs including but not limited to the name and basis for
20 eligibility of each individual who qualifies for the sales tax
21 exemption authorized in paragraph 34 of Section 1357 of this title.

22 D. The Tax Commission shall cause to be prepared and made
23 available for public inspection in the office of the Tax Commission
24 in such manner as it may determine an annual list containing the

1 name and post office address of each person, whether individual,
2 corporate or otherwise, making and filing an income tax return with
3 the Tax Commission.

4 It is specifically provided that no liability whatsoever, civil
5 or criminal, shall attach to any member of the Tax Commission or any
6 employee thereof for any error or omission of any name or address in
7 the preparation and publication of the list.

8 E. The Tax Commission shall prepare or cause to be prepared a
9 report on all provisions of state tax law that reduce state revenue
10 through exclusions, deductions, credits, exemptions, deferrals or
11 other preferential tax treatments. The report shall be prepared not
12 later than October 1 of each even-numbered year and shall be
13 submitted to the Governor, the President Pro Tempore of the Senate
14 and the Speaker of the House of Representatives. The Tax Commission
15 may prepare and submit supplements to the report at other times of
16 the year if additional or updated information relevant to the report
17 becomes available. The report shall include, for the previous
18 fiscal year, the Tax Commission's best estimate of the amount of
19 state revenue that would have been collected but for the existence
20 of each such exclusion, deduction, credit, exemption, deferral or
21 other preferential tax treatment allowed by law. The Tax Commission
22 may request the assistance of other state agencies as may be needed
23 to prepare the report. The Tax Commission is authorized to require
24 any recipient of a tax incentive or tax expenditure to report to the

1 Tax Commission such information as requested so that the Tax
2 Commission may fulfill its obligations as required by this
3 subsection. The Tax Commission may require this information to be
4 submitted in an electronic format. The Tax Commission may disallow
5 any claim of a person for a tax incentive due to its failure to file
6 a report as required under the authority of this subsection.

7 F. It is further provided that the provisions of this section
8 shall be strictly interpreted and shall not be construed as
9 permitting the disclosure of any other information contained in the
10 records and files of the Tax Commission relating to income tax or to
11 any other taxes.

12 G. Unless otherwise provided for in this section, any violation
13 of the provisions of this section shall constitute a misdemeanor and
14 shall be punishable by the imposition of a fine not exceeding One
15 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
16 for a term not exceeding one (1) year, or by both such fine and
17 imprisonment, and the offender shall be removed or dismissed from
18 office.

19 H. Offenses described in Section 2376 of this title shall be
20 reported to the appropriate district attorney of this state by the
21 Tax Commission as soon as the offenses are discovered by the Tax
22 Commission or its agents or employees. The Tax Commission shall
23 make available to the appropriate district attorney or to the
24 authorized agent of the district attorney its records and files

1 pertinent to prosecutions, and such records and files shall be fully
2 admissible as evidence for the purpose of such prosecutions.

3 SECTION 10. This act shall become effective November 1, 2022."

4 Passed the House of Representatives the 27th day of April, 2022.

5

6

7

Presiding Officer of the House of
Representatives

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9 Passed the Senate the ____ day of _____, 2022.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 1768

By: Howard and Jech of the
Senate

3 and

4 Wallace of the House

5
6 [revenue and taxation - Oklahoma Rural Jobs Act -
7 tax credit - sunset date - codification - effective
8 date]

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

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3930 of Title 68, unless there
12 is created a duplication in numbering, reads as follows:

13 This act shall be known and may be cited as the "Oklahoma Rural
14 Jobs Act".

15 SECTION 12. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3931 of Title 68, unless there
17 is created a duplication in numbering, reads as follows:

18 As used in this act:

19 1. "Affiliate" means an entity that directly, or indirectly
20 through one or more intermediaries, controls, or is controlled by,
21 or is under the common control with another entity. An entity is
22 controlled by another entity if the controlling entity holds,
23 directly or indirectly, the majority of voting or ownership interest

24

1 in the controlled entity or has control over day-to-day operations
2 of the controlled entity by contract or by law;

3 2. "Applicable percentage" means zero percent (0%) for the
4 first two credit allowance dates, and fifteen percent (15%) for the
5 next four credit allowance dates;

6 3. "Capital investment" means any equity investment in a rural
7 fund by a rural investor which:

8 a. is acquired after the effective date of this act at
9 its original issuance solely in exchange for cash,

10 b. has one hundred percent (100%) of its cash purchase
11 price used by the rural fund to make qualified
12 investments in eligible businesses located in this
13 state by the third anniversary of the initial credit
14 allowance date, and

15 c. is designated by the rural fund as a capital
16 investment under this act and is certified by the
17 Department under the provisions of Section 3 of this
18 act. This shall include any capital investment that
19 does not meet the provisions of paragraph 1 of
20 subsection A of Section 3 of this act, if such
21 investment was a capital investment in the hands of a
22 prior holder;

23

24

1 4. "Credit allowance date" means the date on which the
2 Department certifies a rural fund's capital investment and each of
3 the five anniversary dates of such date thereafter;

4 5. "Department" means the Oklahoma Department of Commerce;

5 6. "Eligible business" means a business that, at the time of
6 the initial qualified investment in the business:

7 a. has fewer than two hundred fifty employees, and

8 b. has its principal business operations in the state.

9 Any business which is classified as an eligible business at the
10 time of the initial investment in such business by a rural fund
11 shall remain classified as an eligible business and may receive
12 follow-on investments from any rural fund, and such follow-on
13 investments shall be qualified investments even though such business
14 may not meet the definition of an eligible business at the time of
15 such follow-on investment;

16 7. "Principal business operations" means the location where at
17 least sixty percent (60%) of a business's employees work or where
18 employees who are paid at least sixty percent (60%) of such
19 business's payroll work. A business that has agreed to relocate
20 employees using the proceeds of a qualified investment to establish
21 its principal business operations in a new location shall be deemed
22 to have its principal business operations in such new location if it
23 satisfied the requirements of this paragraph no later than one
24 hundred eighty (180) days after receiving a qualified investment;

1 8. "Purchase price" means the amount paid to the rural fund
2 that issues a capital investment which shall not exceed the amount
3 of capital investment authority certified under the provisions of
4 Section 3 of this act;

5 9. "Qualified investment" means any investment in an eligible
6 business or any loan to an eligible business with a stated maturity
7 date of at least one (1) year after the date of issuance, excluding
8 revolving lines of credit and senior-secured debt unless the chief
9 executive or similar officer of the eligible business certifies that
10 the eligible business sought and was denied similar financing from a
11 depository institution, by a rural fund; provided that, with respect
12 to any one eligible business, the maximum amount of investments made
13 in such business by one or more rural funds, on a collective basis
14 with all of the businesses' affiliates, with the proceeds of the
15 capital investments, shall be the greater of twenty percent (20%) of
16 the rural fund's capital investment authority or Six Million Five
17 Hundred Thousand Dollars (\$6,500,000.00), exclusive of investments
18 made with repaid or redeemed investments or interest or profits
19 realized thereon;

20 10. "Rural area" means any county of this state that has a
21 population of less than seventy-five thousand (75,000) or any city
22 or town of this state that has a population not to exceed seven
23 thousand (7,000) according to the 2020 Federal Decennial Census of
24 the United States;

1 11. "Rural fund" means an entity certified by the Department
2 under the provisions of Section 3 of this act;

3 12. "Rural investor" means an entity that makes a capital
4 investment in a rural fund;

5 13. "Senior-secured debt" means any loan that is secured by a
6 first mortgage on real estate with a loan-to-value ratio of less
7 than eighty percent (80%); and

8 14. "State tax liability" means any liability incurred by any
9 entity subject to the state income tax imposed under Title 68 of the
10 Oklahoma Statutes or an insurance company paying an annual tax on
11 its gross premium receipts including retaliatory tax, or other
12 financial institution paying taxes to the state or any political
13 subdivision of the state under provisions of Title 68 or Title 19 of
14 the Oklahoma Statutes or an express company which pays an annual tax
15 on its gross receipts in the state.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3932 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A rural fund that seeks to have an equity investment
20 certified as a capital investment eligible for credits authorized
21 under the provisions of this act shall apply to the Department. The
22 Department shall begin accepting applications within ninety (90)
23 days of the effective date of this act. The application shall
24 include:

- 1 1. The amount of capital investment requested;
- 2 2. A copy of the applicant's or an affiliate of the applicant's
3 licenses as a rural business investment company under 7 U.S.C.,
4 Section 2009cc or as a small business investment company under 15
5 U.S.C., Section 681, and a certificate executed by an executive
6 officer of the applicant attesting that such license remains in
7 effect and has not been revoked;
- 8 3. Evidence that, as of the date the application is submitted,
9 the applicant or affiliates of the applicant have invested at least
10 One Hundred Million Dollars (\$100,000,000.00) in nonpublic companies
11 located in counties within the United States with a population of
12 less than seventy-five thousand (75,000) according to the 2010
13 Federal Decennial Census of the United States;
- 14 4. A business plan that includes a revenue-impact assessment
15 projecting state and local tax revenue to be generated by the
16 applicant's proposed qualified investments, prepared by a nationally
17 recognized, third-party, independent economic forecasting firm using
18 a dynamic economic forecasting model that analyzes the applicant's
19 business plan over the ten (10) years following the date the
20 application is submitted to the Department. Such plan shall include
21 an estimate of the number of jobs created and jobs retained in this
22 state as a result of the applicant's qualified investments; and
- 23 5. A nonrefundable application fee of Five Thousand Dollars
24 (\$5,000.00) payable to the Department.

1 B. Within thirty (30) days after the receipt of a completed
2 application, the Department shall grant or deny the application in
3 full or in part. The Department shall deny the application if:

4 1. The applicant does not satisfy all the criteria provided
5 under subsection A of this section;

6 2. The revenue-impact assessment submitted with the application
7 does not demonstrate that the applicant's business plan will result
8 in a positive fiscal impact on the state over a ten-year period that
9 exceeds the cumulative amount of tax credits that would be issued to
10 the applicant if the application was approved; or

11 3. The Department has already approved the maximum amount of
12 capital investment authority under Section 4 of this act.

13 C. If the Department denies any part of the application, it
14 shall inform the applicant of the grounds for such denial. If the
15 applicant provides any additional information required by the
16 Department or otherwise completes its application within fifteen
17 (15) days of the notice of denial, the application shall be
18 considered complete as of the original date of submission. If the
19 applicant fails to provide the information or fails to complete its
20 application within the fifteen-day period, the application shall
21 remain denied and must be resubmitted with a new submission date and
22 a new application fee.

23 D. Upon approval of an application, the Department shall
24 certify the proposed equity investment as a capital investment

1 eligible for credits under this act, subject to limitations laid out
2 in Section 4 of this act. The Department shall provide written
3 notice of the certification to the applicant which shall include the
4 amount of the applicant's capital investment authority. The
5 Department shall certify capital investments in the order that the
6 application is received by the Department. Applications received on
7 the same day shall be deemed to have been received simultaneously.
8 For applications that are complete and received on the same day, the
9 Department shall certify applications in proportionate percentages
10 based upon the ratio of the amount of capital investment authority
11 requested in all applications.

12 SECTION 14. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3933 of Title 68, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The Department shall certify capital investment authority
16 under the provisions of this act in amounts that would not authorize
17 more than Fifteen Million Dollars (\$15,000,000.00) in state tax
18 credits to be claimed against state tax liability in any calendar
19 year, excluding any credit amounts carried forward as provided under
20 subsection A of Section 5 of this act. Within ninety (90) days of
21 the applicant receiving notice of certification, the rural fund
22 shall issue the capital investment to, and receive cash in the
23 amount of the certified amount from a rural investor. At least ten
24 percent (10%) of the rural investor's capital investment shall be

1 composed of capital raised by the rural investor directly or
2 indirectly from sources including directors, members, employees,
3 officers, and affiliates of the rural investor, other than the
4 amount invested by the allocatee claiming the tax credits in
5 exchange for such allocation of tax credits. The rural fund shall
6 provide the Department with evidence of the receipt of the cash
7 investment within ninety-five (95) days of the applicant receiving
8 notice of certification.

9 B. If the rural fund does not receive the cash investment and
10 issue the capital investment within such time period following
11 receipt of the certificate notice, the certification shall lapse and
12 the rural fund shall not issue the capital investment without
13 reapplying to the Department for certification. Lapsed
14 certifications shall revert to the Department and shall be reissued
15 pro rata to applicants whose capital investment allocations were
16 reduced in accordance with the application process provided under
17 subsection D of Section 3 of this act.

18 C. A rural fund, before making a qualified investment, may
19 request from the Department a written opinion as to whether the
20 business in which it proposes to invest is an eligible business.
21 The Department, no later than fifteen (15) business day after the
22 date of receipt of such request, shall notify the rural fund of its
23 determination. If the Department fails to notify the rural fund of
24 its determination by the twentieth business day, the business in

1 which the rural fund proposes to invest shall be deemed an eligible
2 business.

3 SECTION 15. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3934 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Upon making a capital investment in a rural fund, a rural
7 investor shall have a vested right to a credit against such entity's
8 state tax liability that may be utilized on each credit allowance
9 date of such capital investment in an amount equal to the applicable
10 percentage for such credit allowance date multiplied by the purchase
11 price paid to the rural fund for the capital investment. The amount
12 of the credit claimed by a rural investor shall not exceed the
13 amount of such entity's state tax liability for the tax year for
14 which the credit is claimed. Any amount of credit that a rural
15 investor is prohibited from claiming in a tax year as a result of
16 this section may be carried forward for use in any of the five (5)
17 subsequent tax years, but shall not be carried back to prior tax
18 years. It is the intent of this act that a rural investor claiming
19 a credit under this act is not required to pay any additional tax
20 that may arise as a result of claiming such credit.

21 B. No credit claimed under the provisions of this act shall be
22 refundable or saleable on the open market. Credits earned by or
23 allocated to a partnership, limited liability company, or S-
24 corporation may be allocated to the partners, members, or

1 shareholders of such entity for their direct use in accordance with
2 the provisions of any agreement among such partners, members, or
3 shareholders, and a rural fund shall notify the Department of the
4 names of the entities that are eligible to utilize transfer of a
5 capital investment upon such allocation, change, or transfer. Such
6 allocation shall not be considered a sale for the purpose of this
7 section.

8 C. The Department may recapture credits from a taxpayer that
9 claimed a credit authorized under this section if:

10 1. The rural fund does not invest sixty percent (60%) of its
11 capital investment authority in qualified investments in this state
12 within two (2) years of the credit allowance date, and one hundred
13 percent (100%) of its capital investment authority in qualified
14 investments in this state within three (3) years of the credit
15 allowance date; provided, that at least seventy percent (70%) of
16 these initial qualified investments must be made in eligible
17 businesses located in rural areas;

18 2. The rural fund fails to maintain qualified investments equal
19 to ninety percent (90%) of its capital investment authority from the
20 third anniversary until the sixth anniversary of the credit
21 allowance date, with seventy percent (70%) of such investments
22 maintained in eligible businesses located in rural areas. For each
23 year the rural fund fails to maintain such investments, the
24 Department may recapture an amount of such year's allowed credits

1 equal to the percentage difference between ninety percent (90%) of a
2 rural fund's capital investment authority and the actual amount of
3 qualified investments maintained for such year. For the purposes of
4 this subsection, a qualified investment is considered even if the
5 qualified investment was sold or repaid so long as the rural fund
6 reinvests an amount equal to the capital returned or recovered or
7 repaid by the rural fund from the original investment, exclusive of
8 any profits realized, in other qualified investments in this state
9 within twelve (12) months of receipt of such capital. Amounts
10 received periodically by a rural fund shall be treated as
11 continually invested in qualified investments if the amounts are
12 reinvested in one or more qualified investments by the end of the
13 following calendar year. A rural fund shall not be required to
14 reinvest capital returned from qualified investments after the fifth
15 anniversary of the credit allowance date, and such qualified
16 investments shall be considered held continuously by the rural fund
17 through the sixth anniversary of the credit allowance date;

18 3. Prior to the earlier of exiting the program in accordance
19 with this act or thirty (30) days after the sixth anniversary of the
20 credit allowance date, the rural fund makes a distribution or
21 payment that results in the rural fund having less than one hundred
22 percent (100%) of its capital investment authority invested in
23 qualified investments in the state or held in cash or other
24 marketable securities; or

1 4. The rural fund violates the provisions of Section 6 of this
2 act, in which case the Department may recapture an amount equal to
3 the amount of the rural fund's capital investment authority found to
4 be in violation of such provisions.

5 For the purposes of meeting and maintaining the objectives
6 established for investment in paragraphs 1 and 2 of this subsection,
7 a rural fund's qualified investments shall be multiplied by a factor
8 of one and one-quarter (1 1/4) in counties with less than thirty
9 thousand (30,000) in population and more than thirteen thousand
10 (13,000) in population and shall be multiplied by a factor of one
11 and one-half (1 1/2) in counties with a population of thirteen
12 thousand (13,000) or less.

13 D. Recaptured credits and related capital investment authority
14 shall revert to the Department and shall be reissued pro rata to
15 applicants whose capital investment allocations were reduced in
16 accordance with the application process provided under subsection D
17 of Section 3 of this act.

18 E. No recapture shall occur until the rural fund has been given
19 notice of noncompliance and afforded six (6) months from the date of
20 such notice to cure the noncompliance.

21 SECTION 16. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3935 of Title 68, unless there
23 is created a duplication in numbering, reads as follows:

1 No eligible business that receives a qualified investment under
2 the provisions of this act, or any affiliates or such eligible
3 business, shall directly or indirectly:

4 1. Own or have the right to acquire an ownership interest in a
5 rural fund or member or affiliate of a rural fund including, but not
6 limited to, a holder of a capital investment issued by a rural fund;
7 or

8 2. Loan to or invest in a rural fund or any member or affiliate
9 of a rural fund including, but not limited to, a holder of capital
10 investment issued by a rural fund, where the proceeds of such loan
11 or investment are directly or indirectly used to fund or refinance
12 the purchase of capital investments under this act.

13 SECTION 17. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3936 of Title 68, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Rural funds shall submit a report to the Department within
17 the first fifteen (15) business days after the second and third
18 anniversary of the initial credit allowance date. The report
19 following the second anniversary shall provide documentation as to
20 the investment of sixty percent (60%) of the purchase price of such
21 capital investment in qualified investments. The report following
22 the third anniversary shall provide documentation as to the
23 investment of one hundred percent (100%) of the purchase price of
24 such capital investment in qualified investments. Unless previously

1 reported pursuant to this subsection, such reports shall also
2 include:

3 1. The name and location of each eligible business receiving a
4 qualified investment;

5 2. Bank statements of such rural fund evidencing each qualified
6 investment;

7 3. A copy of the written opinion of the Department, as provided
8 in subsection C of Section 4 of this act, or evidence that such
9 business was an eligible business at the time of such qualified
10 investment, as applicable;

11 4. The number of jobs created and jobs retained as a result of
12 each qualified investment;

13 5. The average salary of positions described in paragraph 4 of
14 this paragraph; and

15 6. Such other information as required by the Department.

16 B. For all subsequent years, rural funds shall submit an annual
17 report to the Department within ninety (90) days of the beginning of
18 the calendar year during the compliance period. The report shall
19 include, but is not limited to the following:

20 1. The number of jobs created and jobs retained as a result of
21 qualified investments;

22 2. The average annual salary of positions described in
23 paragraph 1 of this subsection; and

24 3. Such other information as required by the Department.

1 C. On or after the sixth anniversary of the credit allowance
2 date, a rural fund may apply to the Department to exit the program
3 and no longer be subject to the regulation hereunder. The
4 Department shall respond to the exit application within fifteen (15)
5 days of receipt. In evaluating the exit application, the fact that
6 no credits have been recaptured and that the rural fund has not
7 received a notice of recapture that has not been cured pursuant to
8 subsection E of Section 5 of this act shall be sufficient evidence
9 to prove that the rural fund is eligible for exit. The Department
10 shall not unreasonably deny an exit application submitted under this
11 section. If an exit application is denied, the notice shall include
12 the reasons for the determination.

13 SECTION 18. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3937 of Title 68, unless there
15 is created a duplication in numbering, reads as follows:

16 The Department shall accept no new applications for tax credits
17 authorized under this act after December 1, 2032.

18 SECTION 19. This act shall become effective November 1, 2022.

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