

1 **SENATE FLOOR VERSION**

2 March 3, 2021

3 **AS AMENDED**

4 SENATE BILL NO. 900

5 By: Leewright

6 **[ income tax deduction - specified tax deduction for**  
7 **equity investment - eligibility determination of a**  
8 **business - codification - effective date ]**

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

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2358.8 of Title 68, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. It is the intent of the Legislature that:

15 1. The state support the growth of technology-based industries  
16 to further diversify the state's economy;

17 2. In order to support and encourage these technology-based  
18 industries and to further diversify the state's economy, Oklahoma  
19 taxpayers should receive an incentive for investing in the growth of  
20 these industries in this state;

21 3. The Oklahoma Department of Commerce and the Oklahoma Tax  
22 Commission implement the provisions of this act and exercise all  
23 powers as authorized in this act. The exercise of powers conferred  
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1 by this act shall be deemed and held to be the performance of  
2 essential public purposes; and

3 4. Nothing herein shall be construed to constitute a guarantee  
4 or assumption by this state of any debt of any individual, company,  
5 corporation or association nor to authorize the credit of the State  
6 of Oklahoma to be given, pledged or loaned to any individual,  
7 company, corporation or association.

8 B. As used in this section:

9 1. "Eligible business" means a business establishment of any  
10 legal form including, but not limited to, a sole proprietorship,  
11 partnership, limited liability company, corporation or any other  
12 legal form that meets at least one of the following requirements:

- 13 a. operates in a technology-based industry in this state,
- 14 b. is supported by federal small business innovation  
15 research grants in this state, or
- 16 c. is supported by technology development or seed capital  
17 investments made by the Oklahoma Center for the  
18 Advancement of Science and Technology;

19 2. "Equity investment" means an investment in common stock or  
20 preferred stock or its equivalent in a corporation, limited  
21 liability company or partnership. Equity investment shall not  
22 include:

- 23 a. new equity investments in business establishments  
24 owned, or partially owned, by an investor or an

1 investor's family members. For the purposes of this  
2 section, family members mean parents, grandparents,  
3 children, grandchildren or siblings of the investor,  
4 or

5 b. any fees or commissions paid by the investor or the  
6 eligible business; and

7 3. "Technology-based industry" means:

8 a. those manufacturing activities that are defined or  
9 classified in the NAICS Manual under Industry Sector  
10 Nos. 31, 32 and 33 and for which the applicable  
11 industry is included among the top one-third of  
12 manufacturing industries in at least two (2) of the  
13 following categories:

14 (1) the amount of capital expenditures in computers  
15 and technology equipment, as identified by the  
16 Oklahoma Department of Commerce utilizing  
17 information from the United States Census Bureau,

18 (2) the proportion of highly-paid production  
19 occupations defined as Standard Occupational  
20 Classification SOC-51, as identified by the  
21 Oklahoma Department of Commerce utilizing  
22 information derived from the United States Bureau  
23 of Labor Statistics, or

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1 (3) the proportion of engineers relative to  
2 production occupations, as identified by the  
3 Oklahoma Department of Commerce utilizing  
4 information derived from the Bureau of Labor  
5 Statistics,

6 b. those information technology and other computer-  
7 related service activities defined or classified in  
8 the NAICS Manual under Industry Group Nos. 5112, 5182,  
9 5191 and 5415,

10 c. those sound recording and film production activities  
11 defined or classified in the NAICS Manual under  
12 Industry Group Nos. 52111 and 5122,

13 d. those scientific, research and development services  
14 defined or classified in the NAICS Manual under  
15 Industry Group No. 5417,

16 e. those professional scientific, consulting, laboratory  
17 and technical services defined or classified in the  
18 NAICS Manual under Industry Group Nos. 5416, 5419 and  
19 6215,

20 f. those engineering and design services defined or  
21 classified in the NAICS Manual under Industry Group  
22 Nos. 5413 and 5414, or

23 g. those entertainment districts defined pursuant to  
24 Section 2393 of Title 68 of the Oklahoma Statutes.

1 C. 1. For tax years 2021 through 2029, there shall be allowed  
2 a deduction for up to sixty percent (60%) of an equity investment in  
3 an eligible business by an investor.

4 2. The deduction provided by paragraph 1 of this subsection  
5 shall be subject to the following:

6 a. the deduction allowed in any taxable tax year shall  
7 not exceed fifty percent (50%) of the net Oklahoma  
8 income tax liability of the investor after all other  
9 credits and deductions have been calculated, and

10 b. any deduction not used in any taxable year may be  
11 carried forward for a total of five (5) additional  
12 years.

13 D. 1. A business that seeks eligibility for the purposes of an  
14 equity investment incentive tax deduction for an investor shall  
15 submit an application to the Oklahoma Department of Commerce. The  
16 application shall include:

17 a. a business plan describing the proposed business for  
18 which eligibility is sought,

19 b. a projection of the amount of capital being sought for  
20 the proposed business, and

21 c. other information requested by the Oklahoma Department  
22 of Commerce.

23 2. The Oklahoma Department of Commerce shall gather information  
24 necessary to determine if the business is eligible pursuant to the

1 definition in subsection B of this section and if the tax deduction  
2 is revenue neutral to the State of Oklahoma based on information  
3 submitted in the application.

4 3. The Oklahoma Department of Commerce shall decide if an  
5 equity investment incentive shall be offered to the business.

6 4. If a business is notified of approval of an application as  
7 an eligible business, the business shall sign an equity investment  
8 incentive agreement with the Oklahoma Department of Commerce.

9 5. The Oklahoma Department of Commerce shall send the signed  
10 agreement to the Oklahoma Tax Commission and the investor shall  
11 attach the signed agreement to their tax return.

12 6. Information received during the application process by the  
13 Oklahoma Department of Commerce shall be considered confidential  
14 information and shall not be subject to the provisions of the  
15 Oklahoma Open Records Act.

16 E. The Oklahoma Department of Commerce shall promulgate rules  
17 for the purpose of administering the provisions of this act.

18 F. The total cumulative amount of tax deductions available in  
19 any calendar year shall not exceed Seven Million Five Hundred  
20 Thousand Dollars (\$7,500,000.00). In the event the total reduction  
21 in tax liability authorized by this paragraph exceeds Seven Million  
22 Five Hundred Thousand Dollars (\$7,500,000.00) in any calendar year,  
23 the Tax Commission shall permit any excess over Seven Million Five  
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1 Hundred Thousand Dollars (\$7,500,000.00) but shall factor such  
2 excess into the percentage for the following year.

3 SECTION 2. This act shall become effective November 1, 2021.

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
5 March 3, 2021 - DO PASS AS AMENDED  
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