

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 900

By: Leewright of the Senate

and

6 Boatman of the House

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10 COMMITTEE SUBSTITUTE

11 [revenue and taxation - tax credit - equity

12 investments - Oklahoma Department of Commerce -

13 effective date -

14 emergency]

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

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

21 A. As used in this section:

22 1. "Eligible business" means a business establishment of any
23 legal form including, but not limited to, a partnership, limited
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1 liability company, corporation or any other legal form that meets at
2 least one of the following requirements:

- 3 a. operates in a technology-based industry in this state,
- 4 b. is supported by federal small business innovation
5 research grants in this state, or
- 6 c. is supported by technology development or seed capital
7 investments made by the Oklahoma Center for the
8 Advancement of Science and Technology;

9 2. "Equity investment" means an investment in common stock or
10 preferred stock or its equivalent in a partnership, limited
11 liability company or corporation. Equity investment shall not
12 include:

- 13 a. new equity investments in an otherwise eligible
14 business owned, or partially owned, by an investor or
15 an investor's family members. For the purposes of
16 this section, family members mean parents,
17 grandparents, children, grandchildren or siblings of
18 the investor, or
- 19 b. any fees or commissions paid by the investor or the
20 eligible business; and

21 3. "Technology-based industry" means:

- 22 a. those manufacturing activities that are defined or
23 classified in the NAICS Manual under Industry Sector
24 Nos. 31, 32 and 33 and for which the applicable

1 industry is included among the top one-third of
2 manufacturing industries in at least two of the
3 following categories:

- 4 (1) the amount of capital expenditures in computers
5 and technology equipment, as identified by the
6 Oklahoma Department of Commerce utilizing
7 information from the United States Census Bureau,
8 (2) the proportion of highly paid production
9 occupations defined as Standard Occupational
10 Classification SOC-51, as identified by the
11 Oklahoma Department of Commerce utilizing
12 information derived from the United States Bureau
13 of Labor Statistics, or
14 (3) the proportion of engineers relative to
15 production occupations, as identified by the
16 Oklahoma Department of Commerce utilizing
17 information derived from the United States Bureau
18 of Labor Statistics,

- 19 b. those information technology and other computer-
20 related service activities defined or classified in
21 the NAICS Manual under Industry Group Nos. 5112, 5182,
22 5191 and 5415,
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- 1 c. those sound recording and film production activities
2 defined or classified in the NAICS Manual under
3 Industry Group Nos. 512110 and 5122,
4 d. those scientific, research and development services
5 defined or classified in the NAICS Manual under
6 Industry Group No. 5417,
7 e. those professional scientific, consulting, laboratory
8 and technical services defined or classified in the
9 NAICS Manual under Industry Group Nos. 5416, 5419 and
10 6215,
11 f. those engineering and design services defined or
12 classified in the NAICS Manual under Industry Group
13 Nos. 5413 and 5414, or
14 g. a business which otherwise qualifies pursuant to the
15 provisions of this act for purposes of making an
16 equity investment which either has its principal place
17 of business located within an entertainment district
18 as defined by Section 2393 of Title 68 of the Oklahoma
19 Statutes or which derives a significant amount of its
20 gross revenues from business activity conducted within
21 the geographical area of an entertainment district as
22 defined by Section 2393 of Title 68 of the Oklahoma
23 Statutes.
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1 B. For tax years beginning on or after January 1, 2021, but not
2 later than December 31, 2029, there shall be allowed a credit
3 against the tax imposed pursuant to Section 2355 of Title 68 of the
4 Oklahoma Statutes equal to fifty percent (50%) of the investment in
5 the equity securities issued by an eligible business. No credit
6 shall be authorized for any equity investment occurring prior to the
7 effective date of this act.

8 C. 1. A prospective equity investor that seeks eligibility for
9 the purposes of the tax credit authorized by this section shall
10 submit an application to the Oklahoma Department of Commerce at
11 least ninety (90) days prior to the date upon which the equity
12 investment is made. The application shall include:

- 13 a. a business plan describing the proposed business for
14 which eligibility is sought or a description of the
15 primary business activity of an existing business with
16 an operating history of at least six (6) months,
- 17 b. a projection of the amount of capital being sought for
18 the proposed business or existing business, and
- 19 c. other information requested by the Oklahoma Department
20 of Commerce.

21 2. The Oklahoma Department of Commerce shall gather information
22 necessary to determine if the business qualifies as a technology-
23 based industry pursuant to the definition in subsection A of this
24 section.

1 3. Prior to the time an investor makes an equity investment in
2 an eligible business enterprise for which the tax credit authorized
3 by this section will be claimed as a result of the investment, the
4 investor shall obtain a preinvestment clearance document from the
5 Oklahoma Department of Commerce on such form as may be prescribed
6 for such purpose by the Department. The Department of Commerce
7 shall identify the business entity in which the equity investment is
8 proposed to be made and if the business qualifies pursuant to the
9 provisions of this section, and all other requirements prescribed by
10 this section are met, the Department shall issue the document to the
11 person or business entity making application.

12 4. After the equity investment has been completed, the holder
13 of the clearance document shall complete a final application
14 document on such form as may be prescribed by the Department for
15 such purpose to identify the business entity in which the investment
16 was made, the amount of the equity investment, and such other
17 information as the Department may require.

18 5. The Department shall maintain a record of finalized equity
19 investments made during each fiscal year by persons or business
20 entities as provided by this section and shall maintain a system so
21 that prospective equity investors seeking preinvestment clearances
22 will be able to determine the amount of the tax credit cap remaining
23 during each fiscal year as required by subsection E of this section.

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1 6. If the Department receives an application regarding a
2 prospective equity investment amount which would cause the fiscal
3 year cap amount to be exceeded, the Department shall notify the
4 applicant and no tax credits may be allocated in excess of the
5 applicable tax credit cap total.

6 7. The Oklahoma Department of Commerce shall send a copy of the
7 final agreement regarding the equity investment to the Oklahoma Tax
8 Commission and the investor shall attach the original or a copy of
9 the signed agreement to the tax return for the applicable tax year
10 with respect to which such tax credits will be claimed.

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

15 D. The Oklahoma Department of Commerce shall promulgate rules
16 for the purpose of administering the provisions of this act
17 including, but not limited to, allocation of the tax credit cap
18 amount.

19 E. For the fiscal year beginning July 1, 2021, and each
20 applicable fiscal year thereafter, the total amount of tax credits
21 allowed for each fiscal year shall not exceed Seven Million Five
22 Hundred Thousand Dollars (\$7,500,000.00).

1 F. The tax credit authorized pursuant to the provisions of this
2 section shall not be used to reduce an income tax liability to less
3 than zero (0).

4 G. To the extent not used, the credit authorized by the
5 provisions of this section may be carried over, in order, to each of
6 the succeeding ten (10) taxable years.

7 SECTION 2. This act shall become effective July 1, 2021.

8 SECTION 3. 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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13 58-1-8160 JM 04/15/21

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