

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	HB 4085
Version:	CS
Request Number:	10956
Author:	Chairman Wallace
Date:	3/7/2022
Impact:	Tax Commission:

Unknown Revenue Decrease

Stated Annual Credit Cap of \$15,000,000

Research Analysis

The proposed committee substitute creates the Oklahoma Rural Jobs Act, which provides a tax credit to investors who make capital investments into a eligible rural fund certified by the Oklahoma Tax Commission (OTC). The tax credit is equal to a percentage of the capital investment and may be claimed for a period of 6 years. The percentage is 0 percent for the first two years, and 15 percent for the subsequent four years. Credits awarded under the act are nonrefundable, but may be carried forwarded for up to five subsequent tax years. Credits are capped at \$15 million per year and can be claimed beginning tax year 2023. The measure also outlines application, reporting, and investment requirements for rural funds.

To become a certified rural fund, applicants must pay a \$5000 nonrefundable application fee and submit the following information to the OTC:

- the amount of capital investment requested;
- a copy of the applicant's license as a rural business or small business investment company;
- evidence that the applicant has made at least \$100 million in investments in nonpublic companies located in counties throughout the United States with a population less than 75,000; and
- a business plan that includes a revenue-impact assessment that estimates the amount of state and local revenue to be generated and the number of jobs that will be created and retained by the proposed qualified investments.

Reporting requirements include submitting an annual report to the OTC that lists the name and location of each eligible business receiving a qualified investment, the number of jobs created and jobs retained as a result of qualified investments, the average salary of such jobs, and any other information requested by the OTC.

The measure also directs the OTC to recapture awarded credits if the rural fund does not invest sixty percent of its capital investment authority in qualified investments within two years of the date of the capital investment, and one hundred percent of its capital investment authority within three years. Furthermore, at least 70 percent of the initial qualified investment must be made in businesses located in rural areas. A *rural area* is defined as any county in the state with a population of less than 75,000 or a city or town with a population less than 7,000. Click [here](#) to view an interactive map of the cities/towns or counties that meet the definition.

Prepared By: Quyen Do, Interactive Map Courtesy of Tricia Hines
Fiscal Analysis

Information provided by the Tax Commission:

The Proposed Committee Substitute (Req. No. 10657) for HB 4085 proposes to enact the *Oklahoma Rural Jobs Act* which authorizes the Tax Commission to certify certain capital investments in a rural fund eligible for tax credits.¹

This measure proposes to enact a new non-refundable, non-saleable² Oklahoma tax credit. The Tax Commission is required to authorize capital investments eligible for no more than \$15,000,000 in tax credits in any fiscal year.³ Upon making a capital investment in a rural fund, a rural investor earns a vested right to a credit against such entity's state tax liability that may be utilized on each credit allowance date of such capital investment in an amount equal to the applicable percentage⁴ for such credit allowance date multiplied by the purchase price paid to the rural fund for the capital investment.

This measure would result in an unknown decrease to tax collections. Further, there are numerous taxes under Title 68 of the Oklahoma Statutes and the ability to claim the credit against any tax under Title 68 is administratively cumbersome.

¹ State tax liability is any liability incurred by any entity subject to the state income tax imposed under Title 68 of the Oklahoma Statutes or an insurance company paying an annual tax on its gross premium receipts, including retaliatory tax, or other financial institution paying taxes to the state or any political subdivision of the state under provisions of Title 68 or Title 19 of the Oklahoma Statutes or an express company which pays an annual tax on its gross receipts in the state

² Credits earned by or allocated to a partnership, limited liability company, or S-corporation may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders, and a rural fund shall notify the Tax Commission of the names of the entities that are eligible to utilize transfer of a capital investment upon such allocation, change or transfer. Such allocation shall not be considered a sale of the credits.

³ Commerce may not accept any applications for this credit after December 31, 2032.

⁴ Applicable percentage is 0% of the first 2 credit allowance dates and 15% for the next credit allowance dates.

Prepared By: Mark Tygret

Other Considerations

None.