

ENROLLED SENATE  
BILL NO. 719

By: Capps of the Senate

and

Bonny, Braddock, Beutler,  
Covey, Gilbert and Glover  
of the House

An Act relating to revenue and taxation; amending Section 7, Chapter 275, O.S.L. 1993, as last amended by Section 3, Chapter 258, O.S.L. 1997 (68 O.S. Supp. 1998, Section 3607), which relates to certain incentive payments; allowing income tax credit for investments in certain projects to encourage the development of commercial space industries in this state; defining terms; specifying amount thereof; providing limitations thereon; providing that unused portion of credit may be carried forward for certain period; limiting eligibility to receive tax credit if receiving certain other incentive payments; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.13 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 1999, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for investments in qualifying projects, the purpose of which is to encourage the development of commercial space industries in this state.

B. As used in this section:

1. "Commencement of operations" means the beginning of active operations by a qualifying business of the principal function for which a qualifying project was constructed;

2. "Cumulative capital investment" means the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations;

3. "Eligible capital costs" means all expenses incurred by a qualifying business in connection with the acquisition, construction, installation, and equipping of a qualifying project

during the period from the beginning of construction of the project to the commencement of operations, including, but not limited to:

- a. costs of acquiring, constructing, installing, equipping, and financing a qualifying project, including all obligations incurred for labor and obligations to contractors, subcontractors, builders, and materialmen,
- b. costs of acquiring land or rights to land and any cost incidental thereto,
- c. costs of architectural and engineering services, including, but not limited to, test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation, and supervision of construction, as well as the performance of all duties required by or consequent to the acquisition, construction, installation, and equipping of a qualifying project, and
- d. costs associated with the installation of fixtures and equipment, surveys, site tests and inspections, subsurface site work and excavation, removal of structures, roadways, and other surface obstructions, filling, grading, paving, and providing for drainage, storm water retention, and installation of utilities, and offsite construction of utility extensions to the boundaries of the property.

"Eligible capital costs" shall not include the cost of any property previously owned or leased by the qualifying business;

4. "Jobs" means full-time-equivalent positions, as such term is consistent with terms used by Oklahoma Employment Security Commission and the United States Department of Labor for purposes of unemployment tax administration and employment estimation, resulting directly from a project in this state. Such term does not include temporary construction jobs involved in the construction of the project facility;

5. "Qualifying business" means a business which establishes a qualifying project in this state and which is certified by the Oklahoma Tax Commission to receive tax credits pursuant to the provisions of this section; and

6. "Qualifying project" means a new or expanding facility in this state or a combination of two new or expanding facilities in this state which facility or combination of facilities creates at least one hundred (100) new jobs in this state and is engaged in an industry which the Oklahoma Space Industry Development Authority is authorized to promote.

C. The credit provided for in this section shall be in the amount of five percent (5%) of the eligible capital costs generated by a qualifying project. In order to qualify to receive the credit, application shall be made to the Oklahoma Tax Commission, which

shall certify the amount of eligible capital costs generated by a qualifying project and the maximum amount of the tax credit to which the taxpayer will be entitled. The credit shall be granted only against the tax liability upon income generated by or arising out of the qualifying project and shall not exceed the following percentages of the corporate income tax liability upon income generated by or arising out of a qualifying project for any tax year in which a credit may be claimed:

1. One hundred percent (100%) for a qualifying project which results in a cumulative capital investment of more than One Hundred Million Dollars (\$100,000,000.00);

2. Seventy-five percent (75%) for a qualifying project which results in a cumulative capital investment of more than Fifty Million Dollars (\$50,000,000.00), but not exceeding One Hundred Million Dollars (\$100,000,000.00); and

3. Fifty percent (50%) for a qualifying project which results in a cumulative capital investment of Twenty-five Million Dollars (\$25,000,000.00) or more, but not exceeding Fifty Million Dollars (\$50,000,000.00).

A qualifying project which results in a cumulative capital investment of less than Twenty-five Million Dollars (\$25,000,000.00) shall not be eligible for the credit. No credit may be claimed for investments made prior to July 1, 1999.

The amount of any credit allowed but not used in any tax year may be carried over in order to each of the four (4) years following the year of qualification subject to the limitations provided in this subsection. In no event shall any credit granted pursuant to the provisions of this section be transferable or refundable.

SECTION 2. AMENDATORY Section 7, Chapter 275, O.S.L. 1993, as last amended by Section 3, Chapter 258, O.S.L. 1997 (68 O.S. Supp. 1998, Section 3607), is amended to read as follows:

Section 3607. Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of ~~this act~~ Section 3601 et seq. of this title, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 14 and 15 of Section 1357 of this title;
2. Paragraph 8 of Section 1359 of this title;
3. Section 2357.4 of this title;
4. Section 2357.7 of this title;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;

6. Section 2357.22 of this title;
7. Section 2357.31 of this title;
8. Section 54003 of this title;
9. Section 54006 of this title;
10. Section 625.1 of Title 36 of the Oklahoma Statutes; ~~or~~
11. Subsections C and D of Section 2357.59 of this title; or
12. Section 1 of this act.

SECTION 3. This act shall become effective July 1, 1999.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 13th day of May, 1999.

\_\_\_\_\_  
President of the Senate

Passed the House of Representatives the 18th day of May, 1999.

\_\_\_\_\_  
Speaker of the House of  
Representatives

