

HOUSE OF REPRESENTATIVES

Thursday, March 18, 1999

ENGROSSED

Senate Bill No. 719

As Amended

ENGROSSED SENATE BILL NO. 719 -- By CAPPS of the Senate and BONNY of the House.

AN ACT RELATING TO REVENUE AND TAXATION; ALLOWING INCOME TAX CREDIT FOR INVESTMENTS IN CERTAIN PROJECTS TO ENCOURAGE THE DEVELOPMENT OF COMMERCIAL SPACE INDUSTRIES IN THIS STATE; DEFINING TERMS; SPECIFYING AMOUNT OF CREDIT; SETTING FORTH CERTAIN LIMITATIONS; PERMITTING CERTAIN UNUSED PORTION OF CREDIT TO BE CARRIED FORWARD FOR A CERTAIN NUMBER OF YEARS; PROHIBITING THE CREDIT FROM BEING TRANSFERRED OR REFUNDED; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

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 which 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 at least 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 at least 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 at least Twenty-five Million Dollars (\$25,000,000.00), 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 November 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. This act shall become effective November 1, 1999.