

1 ENGROSSED HOUSE  
2 BILL NO. 3287

By: McNiell of the House

and

Newberry of the Senate

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4  
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6  
7 ( revenue and taxation - amending Sections 2357.301,  
8 2357.302, 2357.303 and 2357.304 - definitions -  
9 engineering services -  
10 effective date )

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

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SECTION 1. AMENDATORY Section 1, Chapter 417, O.S.L.

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2008 (68 O.S. Supp. 2009, Section 2357.301), is amended to read as

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follows:

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Section 2357.301 As used in Sections ~~4~~ 2357.301 through 4

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2357.304 of this ~~act~~ title:

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1. ~~"Aerospace sector" means a private or public organization~~

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~~engaged in the manufacture of aerospace or defense hardware or~~

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~~software, aerospace maintenance, aerospace repair and overhaul,~~

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~~supply of parts to the aerospace industry, provision of services and~~

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~~support relating to the aerospace industry, research and development~~

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1 ~~of aerospace technology and systems, and the education and training~~  
2 ~~of aerospace personnel;~~

3       ~~2.~~ "Compensation" means payments in the form of contract labor  
4 for which the payor is required to provide a Form 1099 to the person  
5 paid, wages subject to withholding tax paid to a part-time employee  
6 or full-time employee, or salary or other remuneration.

7 Compensation shall not include employer-provided retirement, medical  
8 or health-care benefits, reimbursement for travel, meals, lodging or  
9 any other expense;

10       ~~3.~~ 2. "Eligible Oklahoma company" means any lawfully recognized  
11 business entity organized pursuant to the laws of this state and  
12 with respect to the date upon which the company first begins to do  
13 business within the state:

14           a. has not:

15                   (1) owned any real property within the state used to  
16                   conduct substantial business activity with the  
17                   expectation of profit,

18                   (2) been the lessee of any real property within the  
19                   state used to conduct substantial business  
20                   activity with the expectation of profit,

21                   (3) owned any tangible personal property with a  
22                   taxable situs within the state used to conduct  
23                   substantial business activity with the  
24                   expectation of profit,

1           (4) been the lessee of any tangible personal property  
2           located within the state used to conduct  
3           substantial business activity with the  
4           expectation of profit,

5           (5) remitted or been required to remit any  
6           withholding tax imposed pursuant to the  
7           provisions of Section 2385.1 of Title 68 of the  
8           Oklahoma Statutes with respect to wages paid to  
9           any employee of the business entity,

10          (6) filed or been required to file an Oklahoma income  
11          tax return with respect to any income subject to  
12          the tax imposed pursuant to Section 2355 of Title  
13          68 of the Oklahoma Statutes,

14          (7) remitted or been required to remit any sales tax  
15          required to be collected pursuant to the Oklahoma  
16          Sales Tax Code,

17          (8) remitted or been required to remit any excise or  
18          similar tax imposed pursuant to any provision of  
19          state tax law, and

20          b. conducts substantial business activity within the  
21          state:

22          (1) in its own name and without participating in such  
23          business activity as a general or limited partner  
24

1           or joint venturer with any other lawfully  
2           recognized business entity, or

3           (2) as a general or limited partner with one or more  
4           lawfully recognized business entities if any tax  
5           credit authorized pursuant to the provisions of  
6           Section 2357.302 or 2357.303 of this title is  
7           allocated to the Oklahoma business entity based  
8           upon wages or compensation paid to its direct  
9           employees or if any such tax credit is allocated  
10           to the Oklahoma business entity in compliance  
11           with the test for "substantial economic effect"  
12           as prescribed by the Internal Revenue Code of  
13           1986, as amended, for purposes of determining the  
14           validity of any special allocation pursuant to  
15           which partnership assets are or may be  
16           disproportionately allocated;

17           3. "Eligible out-of-state company" means any lawfully  
18           recognized business entity organized pursuant to the laws of another  
19           state or foreign country and with respect to the date upon which the  
20           company first begins to do business within the state:

21           a. has not:

22           (1) owned any real property within the state used to  
23           conduct substantial business activity with the  
24           expectation of profit,

1           (2) been the lessee of any real property within the  
2           state used to conduct substantial business  
3           activity with the expectation of profit,

4           (3) owned any tangible personal property with a  
5           taxable situs within the state used to conduct  
6           substantial business activity with the  
7           expectation of profit,

8           (4) been the lessee of any tangible personal property  
9           located within the state used to conduct  
10           substantial business activity with the  
11           expectation of profit,

12           (5) remitted or been required to remit any  
13           withholding tax imposed pursuant to the  
14           provisions of Section 2385.1 of Title 68 of the  
15           Oklahoma Statutes with respect to wages paid to  
16           any employee of the business entity,

17           (6) filed or been required to file an Oklahoma income  
18           tax return with respect to any income subject to  
19           the tax imposed pursuant to Section 2355 of Title  
20           68 of the Oklahoma Statutes,

21           (7) remitted or been required to remit any sales tax  
22           required to be collected pursuant to the Oklahoma  
23           Sales Tax Code,

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1           (8) remitted or been required to remit any excise or  
2           similar tax imposed pursuant to any provision of  
3           state tax law,

4       b. has:

5           (1) conducted substantial business activity with the  
6           expectation of profit within some other state or  
7           foreign jurisdiction for a period of at least one  
8           (1) year,

9           (2) filed at least one income tax or similar tax  
10           return with the taxing authority of another state  
11           or foreign jurisdiction,

12           (3) owned real property in another state or foreign  
13           jurisdiction at which some substantial business  
14           activity was conducted with an expectation of  
15           profit for a period of at least one (1) year or  
16           was the lessee of real property in another state  
17           or foreign jurisdiction at which some substantial  
18           business activity was conducted with an  
19           expectation of profit for a period of at least  
20           one (1) year,

21           (4) owned tangible personal property located in  
22           another state or foreign jurisdiction and which  
23           was used in some substantial business activity  
24           with an expectation of profit for a period of at

1           least one (1) year or was the lessee of tangible  
2           personal property located in another state or  
3           foreign jurisdiction and which was used in some  
4           substantial business activity with an expectation  
5           of profit for a period of at least one (1) year,  
6           (5) paid or was obligated to pay wages or other  
7           compensation to employees or independent  
8           contractors none of whom were residents of the  
9           State of Oklahoma during the period the wages or  
10           other compensation was paid for a period of at  
11           least one (1) year, and

12           c. conducts substantial business activity within the  
13           state:

14           (1) in its own name and without participating in such  
15           business activity as a general or limited partner  
16           or joint venturer with any other lawfully  
17           recognized business entity, or

18           (2) as a general or limited partner with one or more  
19           lawfully recognized business entities if any tax  
20           credit authorized pursuant to the provisions of  
21           Section 2357.302 or 2357.303 of this title is  
22           allocated to the out-of-state business entity  
23           based upon wages or compensation paid to its  
24           direct employees or if any such tax credit is

1 allocated to the out-of-state business entity in  
2 compliance with the test for "substantial  
3 economic effect" as prescribed by the Internal  
4 Revenue Code of 1986, as amended, for purposes of  
5 determining the validity of any special  
6 allocation pursuant to which partnership assets  
7 are or may be disproportionately allocated;

8 4. "Institution" means an institution within The Oklahoma State  
9 System of Higher Education or any other public or private college or  
10 university that is accredited by a national accrediting body;

11 ~~4.~~ 5. "Qualified employer" means a sole proprietor, general  
12 partnership, limited partnership, limited liability company,  
13 corporation, other legally recognized business entity that is an  
14 eligible Oklahoma company or an eligible out-of-state company, or  
15 public entity whose principal business activity involves ~~the~~  
16 ~~aerospace sector~~ one or more of the following:

- 17 a. agriculture,
- 18 b. aerospace/aviation,
- 19 c. biology/biotechnology,
- 20 d. genomics,
- 21 e. weather science and technology,
- 22 f. telecommunications, and
- 23 g. sensors;

1       ~~5-~~ 6. "Qualified employee" means any person employed by or  
2       contracting with a qualified employer on or after January 1, ~~2009~~  
3       2011, who has been awarded an undergraduate or graduate degree from  
4       a qualified program by an institution in a recognized engineering  
5       field of study, and who was not employed ~~in the aerospace sector as~~  
6       an engineer in this state ~~immediately preceding~~ at any time prior to  
7       employment or contracting with a qualified employer;

8       ~~6-~~ 7. "Qualified program" means a program that has been  
9       accredited by the Engineering Accreditation Commission of the  
10       Accreditation Board for Engineering and Technology (ABET) and that  
11       awards an undergraduate or graduate degree; and

12       ~~7-~~ 8. "Tuition" means the average annual amount paid by a  
13       qualified employee for enrollment and instruction in a qualified  
14       program. Tuition shall not include the cost of books, fees or room  
15       and board.

16       SECTION 2.        AMENDATORY        Section 2, Chapter 417, O.S.L.  
17       2008 (68 O.S. Supp. 2009, Section 2357.302), is amended to read as  
18       follows:

19       Section 2357.302 A. For taxable years beginning after December  
20       31, ~~2008~~ 2010, a qualified employer shall be allowed a credit  
21       against the tax imposed pursuant to Section 2355 of Title 68 of the  
22       Oklahoma Statutes for tuition reimbursed to a qualified employee.

23       B. The credit authorized by subsection A of this section may be  
24       claimed only if the qualified employee has been awarded an

1 undergraduate or graduate degree in a recognized engineering field  
2 of study within one (1) year of commencing employment with the  
3 qualified employer.

4 C. The credit authorized by subsection A of this section shall  
5 be in the amount of fifty percent (50%) of the tuition reimbursed to  
6 a qualified employee for the first through fourth years of  
7 employment. In no event shall this credit exceed fifty percent  
8 (50%) of the average annual amount paid by a qualified employee for  
9 enrollment and instruction in a qualified program at a public  
10 institution in Oklahoma.

11 D. The credit authorized by subsection A of this section shall  
12 not be used to reduce the tax liability of the qualified employer to  
13 less than zero (0).

14 E. No credit authorized by this section shall be claimed after  
15 the fourth year of employment.

16 SECTION 3. AMENDATORY Section 3, Chapter 417, O.S.L.  
17 2008 (68 O.S. Supp. 2009, Section 2357.303), is amended to read as  
18 follows:

19 Section 2357.303 A. For taxable years beginning after December  
20 31, ~~2008~~ 2010, a qualified employer shall be allowed a credit  
21 against the tax imposed pursuant to Section 2355 of Title 68 of the  
22 Oklahoma Statutes for compensation paid to a qualified employee.

23 B. The credit authorized by subsection A of this section shall  
24 be in the amount of:

1 1. Ten percent (10%) of the compensation paid for the first  
2 through fifth years of employment ~~in the aerospace sector~~ if the  
3 qualified employee graduated from an institution located in this  
4 state; or

5 2. Five percent (5%) of the compensation paid for the first  
6 through fifth years of employment ~~in the aerospace sector~~ if the  
7 qualified employee graduated from an institution located outside  
8 this state.

9 C. The credit authorized by this section shall not exceed  
10 Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified  
11 employee annually.

12 D. The credit authorized by this section shall not be used to  
13 reduce the tax liability of the qualified employer to less than zero  
14 (0).

15 E. No credit authorized pursuant to this section shall be  
16 claimed after the fifth year of employment.

17 SECTION 4. AMENDATORY Section 4, Chapter 417, O.S.L.  
18 2008 (68 O.S. Supp. 2009, Section 2357.304), is amended to read as  
19 follows:

20 Section 2357.304 A. For taxable years beginning after December  
21 31, ~~2008~~ 2010, a qualified employee shall be allowed a credit  
22 against the tax imposed pursuant to Section 2355 of Title 68 of the  
23 Oklahoma Statutes of up to Five Thousand Dollars (\$5,000.00) per  
24

1 year for compensation paid by a qualified employer for a period of  
2 time not to exceed five (5) years.

3 B. The credit authorized by this section shall not be used to  
4 reduce the tax liability of the taxpayer to less than zero (0).

5 C. Any credit claimed, but not used, may be carried over, in  
6 order, to each of the five (5) subsequent taxable years.

7 SECTION 5. This act shall become effective January 1, 2011.

8 Passed the House of Representatives the 10th day of March, 2010.

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Presiding Officer of the House of  
Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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Presiding Officer of the Senate

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