

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1093

By: Sparks

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; defining
8 terms; authorizing issuance of certain tax credits to
9 qualified payload rocket enterprise; imposing
10 limitations with respect to issuance of tax credits;
11 prescribing procedures related to tax credit
12 allocation process; providing for reduction of credit
13 allocations based upon deficiency in qualifying
14 matching income; prescribing requirements related to
15 gross payroll; providing for reduction of credit
16 allocations based upon deficiency in gross payroll
17 amount; providing for final allocation of tax
18 credits; providing for allocation of credits based
19 upon prior year reductions; prescribing taxes against
20 which credit claimable; prohibiting reduction of tax
21 liability to less than designated amount; providing
22 for carryover period; requiring reimbursement for
23 certain expense related to credit allocation process;
24 providing for codification; 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 2357.901 of Title 68, unless
there is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Equity" means money or any other thing of value exchanged
2 for a share or shares in a corporation or a membership interest or
3 its equivalent in a limited liability company or an interest in a
4 general or limited partnership or any document or account pursuant
5 to which an investment in a qualified payload rocket enterprise is
6 recorded;

7 2. "Payload rocket system" means a device launched from the
8 surface of the earth by means of chemical reactions using solid or
9 liquid propellant to an altitude of at least two hundred thousand
10 (200,000) feet bearing a payload weight of at least one thousand
11 (1,000) pounds and capable of returning to the surface of the earth
12 intact. In order for any credits to be issued pursuant to the
13 authority of this section, the Oklahoma Tax Commission shall obtain
14 a certification from a qualified aerospace engineer not employed or
15 compensated by any entity to which credits are to be issued pursuant
16 to this section that the payload rocket system meets the
17 requirements of this paragraph;

18 3. "Qualifying matching income sources" means:
19 a. equity invested in a qualified payload rocket
20 enterprise,
21 b. proceeds from loans made to a qualified payload rocket
22 enterprise which the business is legally obligated to
23 repay,
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- 1 c. enforceable contracts requiring payment to a qualified
2 payload rocket enterprise for the launch of a payload
3 rocket system containing tangible personal property
4 owned or controlled by a third party for propulsion
5 into a suborbital or orbital trajectory, or
6 d. payments actually received by a qualified payload
7 rocket enterprise pursuant to a contract conforming to
8 the description in subparagraph c of this paragraph;
9 and

10 4. "Qualified payload rocket enterprise" means a lawfully
11 organized business entity:

- 12 a. whose principal business activity is described by
13 Industry No. 336414 of the North American Industry
14 Classification System, latest edition,
15 b. has maintained, at the time of the first allocation of
16 any credits authorized to be issued to such entity, an
17 average of at least One Million Dollars
18 (\$1,000,000.00) in payroll paid directly to persons
19 whose wages are subject to the withholding tax imposed
20 pursuant to Section 2385.2 of Title 68 of the Oklahoma
21 Statutes for a period of at least three (3) years
22 preceding the date of credit issuance, and
23 c. has had, between June 2002, and June 2007, a
24 certification from the United States Small Business

1 Administration as an SBA 8(a) minority or
2 disadvantaged business enterprise,

3 B. Subject to the requirements of this section, the Tax
4 Commission shall issue and transfer the sum of Twenty Million
5 Dollars (\$20,000,000.00) in tax credits to a qualified payload
6 rocket enterprise. The credits issued pursuant to the authority of
7 this section shall be freely transferable.

8 C. The Tax Commission shall not allocate more than Four Million
9 Dollars (\$4,000,000.00) in credits authorized by subsection A of
10 this section per fiscal year. The Tax Commission shall be
11 authorized to issue the first increment of tax credits to a
12 qualified payload rocket enterprise on or after July 1, 2009.

13 D. All allocations of tax credits shall be subject to the
14 further limitations imposed pursuant to subsections E, F, G and H of
15 this section.

16 E. After the initial allocation of Four Million Dollars
17 (\$4,000,000.00), at the end of the second fiscal year following the
18 initial allocation, the qualified payload rocket enterprise shall
19 determine the total amount of qualifying matching income received by
20 the enterprise from qualifying matching income sources. If the
21 amount of qualifying matching income is equal to two times the
22 amount of tax credits issued for the applicable fiscal year, the Tax
23 Commission shall issue an additional increment of Four Million
24 Dollars (\$4,000,000.00) in tax credits to the qualified payload

1 rocket enterprise for each fiscal year. For each subsequent fiscal
2 year, the qualified payload rocket enterprise shall determine the
3 total amount of qualifying matching income received by the
4 enterprise from qualifying matching income sources for the one (1)
5 fiscal year concluding as of June 30 following the credit
6 allocation.

7 F. If the amount of qualifying matching income is less than two
8 times the amount of tax credits issued for the applicable fiscal
9 year, the Tax Commission shall reduce the amount of credits issued
10 for the ensuing fiscal year by an amount equal to the difference
11 between the actual qualifying matching income amount for the
12 applicable period and two times the amount of tax credits issued for
13 the applicable fiscal year.

14 G. In addition to all other requirements imposed pursuant to
15 this section, the Tax Commission shall determine the total gross
16 payroll of the qualified rocket payload enterprise for the preceding
17 fiscal year. If the total gross payroll for the applicable period
18 equals or exceeds Two Million Five Hundred Thousand Dollars
19 (\$2,500,000.00), the qualified payload rocket enterprise shall be
20 eligible for the further issuance and transfer of credits as
21 otherwise prescribed by this section. If the total gross payroll
22 for the applicable period is less than Two Million Five Hundred
23 Thousand Dollars (\$2,500,000.00), the Tax Commission shall reduce
24 the amount of credits that would otherwise be issued in an amount

1 equal to the difference between the actual total gross payroll for
2 the applicable period and Two Million Five Hundred Thousand Dollars
3 (\$2,500,000.00).

4 H. Except as otherwise provided by this subsection, the final
5 allocation of tax credits authorized by this section shall be made
6 for the fiscal year ending June 30, 2014, if all other requirements
7 imposed by this section have been fulfilled by the qualified payload
8 rocket enterprise. If a qualified payload rocket enterprise
9 receives less than full amount of tax credits for any fiscal year
10 because of a reduction attributable to failure to maintain a
11 required payroll level or failure to meet qualifying matching income
12 requirements, or both, the tax credits authorized pursuant to this
13 section may be issued for fiscal years ending after June 30, 2014,
14 but in no event shall any tax credits be originally issued to a
15 qualified payload rocket enterprise for a fiscal year ending after
16 June 30, 2019. The provisions of this section shall not affect the
17 ability of a taxpayer to claim a credit acquired through transfer
18 from a qualified payload rocket enterprise.

19 I. For taxable years beginning after December 31, 2009, any
20 credits issued originally to a qualified payload rocket enterprise
21 may be utilized against a tax liability imposed by:

22 1. The income tax levied by Section 2355 of Title 68 of the
23 Oklahoma Statutes;

1 2. The in lieu tax for financial institutions levied by Section
2 2370 of Title 68 of the Oklahoma Statutes;

3 3. The gross production tax levied by Section 1001 of Title 68
4 of the Oklahoma Statutes; and

5 4. The insurance premium tax levied by Section 624 of Title 36
6 of the Oklahoma Statutes.

7 J. The tax credits authorized pursuant to the provisions of
8 this section shall not be used to reduce the liability of a taxpayer
9 to less than zero (0).

10 K. To the extent not used, tax credits issued pursuant to the
11 authority of this section may be carried over, in order, for a
12 period of five (5) taxable years.

13 L. The qualified receiving entity shall reimburse the Tax
14 Commission for reasonable expenses incurred in the certification
15 required by paragraph 2 of subsection A of this section.

16 SECTION 2. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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