

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 323

By: Sparks

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5
6 AS INTRODUCED

7 An Act relating to income tax; defining terms;
8 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, as certified to the satisfaction of the Tax Commission by a
13 qualified aerospace engineer not employed or compensated by any
14 entity to which credits are to be issued pursuant to this section;

15 3. "Qualifying matching income sources" means:
16 a. equity invested in a qualified payload rocket
17 enterprise,
18 b. proceeds from loans made to a qualified payload rocket
19 enterprise which the business is legally obligated to
20 repay,
21 c. enforceable contracts requiring payment to a qualified
22 payload rocket enterprise for the launch of a payload
23 rocket system containing tangible personal property
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1 owned or controlled by a third party for propulsion
2 into a suborbital or orbital trajectory, or

- 3 d. payments actually received by a qualified payload
4 rocket enterprise pursuant to a contract conforming to
5 the description in subparagraph c of this paragraph;
6 and

7 4. "Qualified payload rocket enterprise" means a lawfully
8 organized business entity:

- 9 a. whose principal business activity is described by
10 Industry No. 336414 of the North American Industry
11 Classification System, latest edition,
12 b. has maintained, at the time of the first allocation of
13 any credits authorized to be issued to such entity, an
14 average of at least One Million Dollars
15 (\$1,000,000.00) in payroll paid directly to persons
16 whose wages are subject to the withholding tax imposed
17 pursuant to Section 2385.2 of Title 68 of the Oklahoma
18 Statutes for a period of at least three (3) years
19 preceding the date of credit issuance, and
20 c. has had, between June 2002, and June 2007, a
21 certification from the United States Small Business
22 Administration as an SBA 8(a) minority or
23 disadvantaged business enterprise,
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1 B. Subject to the requirements of this section, the Tax
2 Commission shall issue and transfer the sum of Twenty Million
3 Dollars (\$20,000,000.00) in tax credits to a qualified payload
4 rocket enterprise. The credits issued pursuant to the authority of
5 this section shall be freely transferable.

6 C. The Tax Commission shall not allocate more than Four Million
7 Dollars (\$4,000,000.00) in credits authorized by subsection A of
8 this section per fiscal year. The Tax Commission shall be
9 authorized to issue the first increment of tax credits to a
10 qualified payload rocket enterprise on or after July 1, 2011.

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

14 E. After the initial allocation of Four Million Dollars
15 (\$4,000,000.00), at the end of the second fiscal year following the
16 initial allocation, the qualified payload rocket enterprise shall
17 determine the total amount of qualifying matching income received by
18 the enterprise from qualifying matching income sources. If the
19 amount of qualifying matching income is equal to two times the
20 amount of tax credits issued for the applicable fiscal year, the Tax
21 Commission shall issue an additional increment of Four Million
22 Dollars (\$4,000,000.00) in tax credits to the qualified payload
23 rocket enterprise for each fiscal year. For each subsequent fiscal
24 year, the qualified payload rocket enterprise shall determine the

1 total amount of qualifying matching income received by the
2 enterprise from qualifying matching income sources for the one (1)
3 fiscal year concluding as of June 30 following the credit
4 allocation.

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

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

3 H. Except as otherwise provided by this subsection, the final
4 allocation of tax credits authorized by this section shall be made
5 for the fiscal year ending June 30, 2016, if all other requirements
6 imposed by this section have been fulfilled by the qualified payload
7 rocket enterprise. If a qualified payload rocket enterprise
8 receives less than full amount of tax credits for any fiscal year
9 because of a reduction attributable to failure to maintain a
10 required payroll level or failure to meet qualifying matching income
11 requirements, or both, the tax credits authorized pursuant to this
12 section may be issued for fiscal years ending after June 30, 2016,
13 but in no event shall any tax credits be originally issued to a
14 qualified payload rocket enterprise for a fiscal year ending after
15 June 30, 2021. The provisions of this section shall not affect the
16 ability of a taxpayer to claim a credit acquired through transfer
17 from a qualified payload rocket enterprise.

18 I. For taxable years beginning after December 31, 2011, any
19 credits issued originally to a qualified payload rocket enterprise
20 may be utilized against a tax liability imposed by:

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

23 2. The in lieu tax for financial institutions levied by Section
24 2370 of Title 68 of the Oklahoma Statutes;

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

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

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

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

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

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

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