

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3115

By: Hill

AS INTRODUCED

An Act relating to revenue and taxation; amending Section 1, Chapter 317, O.S.L. 2018, as amended by Section 1, Chapter 388, O.S.L. 2019 (68 O.S. Supp. 2019, Section 2357.404), which relates to income tax credits for certain manufacturers; modifying definitions; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 317, O.S.L. 2018, as amended by Section 1, Chapter 388, O.S.L. 2019 (68 O.S. Supp. 2019, Section 2357.404), is amended to read as follows:

Section 2357.404 A. As used in this section:

1. "Vehicle manufacturing" and "automotive parts manufacturing" mean a private or public company ~~first placed in operation in this state after November 1, 2019,~~ operating in the State of Oklahoma which is engaged in the research, development, design and manufacture of motor vehicles or automotive parts manufacturing which may be driven on the avenues of public access. For purposes of this section, "motor vehicle" does not include low-speed electric

1 vehicles or motor vehicles manufactured primarily for off-road use,
2 such as primarily for use on a golf course;

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

13 4. "Qualified employer" means a sole proprietor, general
14 partnership, limited partnership, limited liability company,
15 corporation, other legally recognized business entity, or public
16 entity whose principal business activity involves the vehicle
17 manufacturing and is undergoing business expansion or engaged in the
18 hiring of new engineering positions as defined in this section;

19 5. "Qualified employee" means any person, regardless of the
20 date of hire, employed in this state by or contracting in this state
21 with a qualified employer on or after January 1, 2018, who has been
22 awarded an undergraduate or graduate degree from a qualified program
23 by an institution, and who was not employed in vehicle manufacturing
24 in this state immediately preceding employment or contracting with a

1 qualified employer. Provided, the definition shall not be
2 interpreted to exclude any person who was employed in vehicle
3 manufacturing, but not as a full-time engineer, prior to being
4 awarded an undergraduate or graduate degree from a qualified program
5 by an institution or any person who has been awarded an
6 undergraduate or graduate degree from a qualified program by an
7 institution and is employed by a professional staffing company and
8 assigned to work in vehicle manufacturing in this state;

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

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

17 B. 1. Except as otherwise provided in subsection E of this
18 section, for taxable years beginning after December 31, 2018, and
19 ending before January 1, 2026, a qualified employer shall be allowed
20 a credit against the tax imposed pursuant to Section 2355 of ~~Title~~
21 ~~68 of the Oklahoma Statutes~~ this title for tuition reimbursed to a
22 qualified employee.

23 2. The credit authorized by this subsection may be claimed only
24 if the qualified employee has been awarded an undergraduate or

graduate degree within one (1) year of commencing employment with the qualified employer.

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

4. The credit authorized by this subsection shall not be used to reduce the tax liability of the qualified employer to less than zero (0).

5. No credit authorized by this subsection shall be claimed after the fourth year of employment.

C. 1. Except as otherwise provided in subsection E of this section, for taxable years beginning after December 31, 2018, and ending before January 1, 2026, a qualified employer shall be allowed a credit against the tax imposed pursuant to Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for compensation paid to a qualified employee.

2. The credit authorized by this subsection shall be in the amount of:

- a. ten percent (10%) of the compensation paid for the first through fifth years of employment in vehicle

1 manufacturing if the qualified employee graduated from
2 an institution located in this state, or

3 b. five percent (5%) of the compensation paid for the
4 first through fifth years of employment in vehicle
5 manufacturing if the qualified employee graduated from
6 an institution located outside this state.

7 3. The credit authorized by this subsection shall not exceed
8 Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified
9 employee annually.

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

13 5. No credit authorized pursuant to this subsection shall be
14 claimed after the fifth year of employment.

15 D. 1. Except as otherwise provided in subsection F of this
16 section, for taxable years beginning after December 31, 2018, and
17 ending before January 1, 2026, a qualified employee shall be allowed
18 a credit against the tax imposed pursuant to Section 2355 of ~~Title~~
19 ~~68 of the Oklahoma Statutes~~ this title of up to Five Thousand
20 Dollars (\$5,000.00) per year for a period of time not to exceed five
21 (5) years.

22 2. The credit authorized by this subsection shall not be used
23 to reduce the tax liability of the taxpayer to less than zero (0).
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1 3. Any credit claimed, but not used, may be carried over, in
2 order, to each of the five (5) subsequent taxable years.

3 E. 1. For any tax year during which the credit is allowed, the
4 total amount of credits authorized by subsections B and C of this
5 section used to offset tax shall be adjusted annually to limit the
6 annual amount of credits to Three Million Dollars (\$3,000,000.00).
7 The Tax Commission shall annually calculate and publish a percentage
8 by which the credits authorized by subsections B and C of this
9 section shall be reduced so the total amount of credits used to
10 offset tax does not exceed Three Million Dollars (\$3,000,000.00) per
11 year. The formula to be used for the percentage adjustment shall be
12 Three Million Dollars (\$3,000,000.00) divided by the credits claimed
13 in the second preceding year.

14 2. Pursuant to paragraph 1 of this subsection, in the event the
15 total tax credits authorized by subsections B and C of this section
16 exceed Three Million Dollars (\$3,000,000.00) in any tax year, the
17 Tax Commission shall permit any excess over Three Million Dollars
18 (\$3,000,000.00), but shall factor such excess into the percentage
19 adjustment formula for subsequent years.

20 F. 1. For any tax year during which the credit is allowed, the
21 total amount of credits authorized by subsection D of this section
22 used to offset tax shall be adjusted annually to limit the annual
23 amount of credits to Two Million Dollars (\$2,000,000.00). The Tax
24 Commission shall annually calculate and publish a percentage by

1 which the credits authorized by subsection D of this section shall
2 be reduced so the total amount of credits used to offset tax does
3 not exceed Two Million Dollars (\$2,000,000.00) per year. The
4 formula to be used for the percentage adjustment shall be Two
5 Million Dollars (\$2,000,000.00) divided by the credits claimed in
6 the second preceding year.

7 2. Pursuant to paragraph 1 of this subsection, in the event the
8 total tax credits authorized by subsection D of this section exceed
9 Two Million Dollars (\$2,000,000.00) in any tax year, the Tax
10 Commission shall permit any excess over Two Million Dollars
11 (\$2,000,000.00), but shall factor such excess into the percentage
12 adjustment formula for subsequent years.

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

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