

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1069

By: Bergstrom

4
5
6 AS INTRODUCED

7 An Act relating to tax preference limitations;
8 amending 68 O.S. 2011, Sections 2357.4, as last
9 amended by Section 1, Chapter 329, O.S.L. 2016,
10 2357.22, as last amended by Section 12, Chapter 328,
11 O.S.L. 2014, 2357.32A, as last amended by Section 1,
12 Chapter 44, O.S.L. 2017, 2357.41, 2357.302, as last
13 amended by Section 1, Chapter 153, O.S.L. 2017,
14 2357.303, as last amended by Section 2, Chapter 153,
15 O.S.L. 2017, 2357.304, as last amended by Section 3,
16 Chapter 153, O.S.L. 2017, Section 1, Chapter 421,
17 O.S.L. 2014, 2370.1, as last amended by Section 1,
18 Chapter 110, O.S.L. 2016, 3624, as amended by Section
19 1, Chapter 121, O.S.L. 2017 (68 O.S. Supp. 2017,
20 Sections 2357.4, 2357.22, 2357.32A, 2357.302,
21 2357.303, 2357.304, 2357.403, 2370.1 and 3624), which
22 relate to the business credit for investment or
23 increase in full-time employees, credit for
24 investments in qualified clean-burning motor fuel
vehicle property or qualified electric motor vehicle
property, tax credits for electricity generated by
zero-emission facilities, tax credit for qualified
rehabilitation expenditures, tax credit for tuition
reimbursement for qualified employer, tax credit for
qualified employer in aerospace sector, tax credit
for qualified employee, tax credit for affordable
housing, tax credit for guaranty fee, the Oklahoma
Film Enhancement Rebate Program; reducing credit
amount for certain tax years; extending credit cap;
reducing credit rate for certain tax years; modifying
credit formula for certain tax years; reducing cap on
credit amount for certain tax years; reducing rebate
rate for certain fiscal years; reducing rebate cap
for certain fiscal years; updating statutory
references; and providing an effective date.

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

2 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.4, as
3 last amended by Section 1, Chapter 329, O.S.L. 2016 (68 O.S. Supp.
4 2017, Section 2357.4), is amended to read as follows:

5 Section 2357.4. A. Except as otherwise provided in subsection
6 F of Section 3658 of this title and in subsections J and K of this
7 section, for taxable years beginning after December 31, 1987, there
8 shall be allowed a credit against the tax imposed by Section 2355 of
9 this title for:

10 1. Investment in qualified depreciable property placed in
11 service during those years for use in a manufacturing operation, as
12 defined in Section 1352 of this title, which has received a
13 manufacturer exemption permit pursuant to the provisions of Section
14 1359.2 of this title or a qualified aircraft maintenance or
15 manufacturing facility as defined in Section 1357 of this title in
16 this state or a qualified web search portal as defined in Section
17 1357 of this title; or

18 2. A net increase in the number of full-time-equivalent
19 employees in a manufacturing operation, as defined in Section 1352
20 of this title, which has received a manufacturer exemption permit
21 pursuant to the provisions of Section 1359.2 of this title or a
22 qualified aircraft maintenance or manufacturing facility defined in
23 Section 1357 of this title in this state or in a qualified web
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1 search portal as defined in Section 1357 of this title including
2 employees engaged in support services.

3 B. Except as otherwise provided in subsection F of Section 3658
4 of this title and in subsections J and K of this section, for
5 taxable years beginning after December 31, 1998, there shall be
6 allowed a credit against the tax imposed by Section 2355 of this
7 title for:

8 1. Investment in qualified depreciable property with a total
9 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
10 within three (3) years from the date of initial qualifying
11 expenditure and placed in service in this state during those years
12 for use in the manufacture of products described by any Industry
13 Number contained in Division D of Part I of the Standard Industrial
14 Classification (SIC) Manual, latest revision; or

15 2. A net increase in the number of full-time-equivalent
16 employees in this state engaged in the manufacture of any goods
17 identified by any Industry Number contained in Division D of Part I
18 of the Standard Industrial Classification (SIC) Manual, latest
19 revision, if the total cost of qualified depreciable property placed
20 in service by the business entity within the state equals or exceeds
21 Forty Million Dollars (\$40,000,000.00) within three (3) years from
22 the date of initial qualifying expenditure.

23 C. The business entity may claim the credit authorized by
24 subsection B of this section for expenditures incurred or for a net

1 increase in the number of full-time-equivalent employees after the
2 business entity provides proof satisfactory to the Oklahoma Tax
3 Commission that the conditions imposed pursuant to paragraph 1 or
4 paragraph 2 of subsection B of this section have been satisfied.

5 D. If a business entity fails to expend the amount required by
6 paragraph 1 or paragraph 2 of subsection B of this section within
7 the time required, the business entity may not claim the credit
8 authorized by subsection B of this section but shall be allowed to
9 claim a credit pursuant to subsection A of this section if the
10 requirements of subsection A of this section are met with respect to
11 the investment in qualified depreciable property or net increase in
12 the number of full-time-equivalent employees.

13 E. The credit provided for in subsection A of this section, if
14 based upon investment in qualified depreciable property, shall not
15 be allowed unless the investment in qualified depreciable property
16 is at least Fifty Thousand Dollars (\$50,000.00). The credit
17 provided for in subsection A or B of this section shall not be
18 allowed if the applicable investment is the direct cause of a
19 decrease in the number of full-time-equivalent employees. Qualified
20 property shall be limited to machinery, fixtures, equipment,
21 buildings or substantial improvements thereto, placed in service in
22 this state during the taxable year. The taxable years for which the
23 credit may be allowed if based upon investment in qualified
24 depreciable property shall be measured from the year in which the

1 qualified property is placed in service. If the credit provided for
2 in subsection A or B of this section is calculated on the basis of
3 the cost of the qualified property, the credit shall be allowed in
4 each of the four (4) subsequent years. If the qualified property on
5 which a credit has previously been allowed is acquired from a
6 related party, the date such property is placed in service by the
7 transferor shall be considered to be the date such property is
8 placed in service by the transferee, for purposes of determining the
9 aggregate number of years for which credit may be allowed.

10 F. The credit provided for in subsection A or B of this
11 section, if based upon an increase in the number of full-time-
12 equivalent employees, shall be allowed in each of the four (4)
13 subsequent years only if the level of new employees is maintained in
14 the subsequent year. In calculating the credit by the number of new
15 employees, only those employees whose paid wages or salary were at
16 least Seven Thousand Dollars (\$7,000.00) during each year the credit
17 is claimed shall be included in the calculation. Provided, that the
18 first year a credit is claimed for a new employee, such employee may
19 be included in the calculation notwithstanding paid wages of less
20 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
21 the last three quarters of the tax year, has wages or salary which
22 will result in annual paid wages in excess of Seven Thousand Dollars
23 (\$7,000.00) and the taxpayer submits an affidavit stating that the
24 employee's position will be retained in the following tax year and

1 will result in the payment of wages in excess of Seven Thousand
2 Dollars (\$7,000.00). The number of new employees shall be
3 determined by comparing the monthly average number of full-time
4 employees subject to Oklahoma income tax withholding for the final
5 quarter of the taxable year with the corresponding period of the
6 prior taxable year, as substantiated by such reports as may be
7 required by the Tax Commission.

8 G. The credit allowed by subsection A of this section shall be
9 the greater amount of either:

10 1. One percent (1%) of the cost of the qualified property in
11 the year the property is placed in service; or

12 2. Five Hundred Dollars (\$500.00) for each new employee. No
13 credit shall be allowed in any taxable year for a net increase in
14 the number of full-time-equivalent employees if such increase is a
15 result of an investment in qualified depreciable property for which
16 an income tax credit has been allowed as authorized by this section.

17 H. The credit allowed by subsection B of this section shall be
18 the greater amount of either:

19 1. Two percent (2%) of the cost of the qualified property in
20 the year the property is placed in service; or

21 2. One Thousand Dollars (\$1,000.00) for each new employee.

22 No credit shall be allowed in any taxable year for a net
23 increase in the number of full-time-equivalent employees if such
24 increase is a result of an investment in qualified depreciable

1 property for which an income tax credit has been allowed as
2 authorized by this section.

3 I. Except as provided by subsection G of Section 3658 of this
4 title, any credits allowed but not used in any taxable year may be
5 carried over in order as follows:

6 1. To each of the four (4) years following the year of
7 qualification;

8 2. To the extent not used in those years in order to each of
9 the fifteen (15) years following the initial five-year period;

10 3. If a C corporation that otherwise qualified for the credits
11 under subsection A of this section subsequently changes its
12 operating status to that of a pass-through entity which is being
13 treated as the same entity for federal tax purposes, the credits
14 will continue to be available as if the pass-through entity had
15 originally qualified for the credits subject to the limitations of
16 this section;

17 4. To the extent not used in paragraphs 1 and 2 of this
18 subsection, such credits from qualified depreciable property placed
19 in service on or after January 1, 2000, may be utilized in any
20 subsequent tax years after the initial twenty-year period; and

21 5. Provided, for tax years beginning on or after January 1,
22 2016, and ending on or before December 31, 2018, the amount of
23 credits available as an offset in a taxable year shall be limited to
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1 the percentage calculated by the Tax Commission pursuant to the
2 provisions of subsection L of this section.

3 J. No credit otherwise authorized by the provisions of this
4 section may be claimed for any event, transaction, investment,
5 expenditure or other act occurring on or after July 1, 2010, for
6 which the credit would otherwise be allowable until the provisions
7 of this subsection shall cease to be operative on July 1, 2012.
8 Beginning July 1, 2012, the credit authorized by this section may be
9 claimed for any event, transaction, investment, expenditure or other
10 act occurring on or after July 1, 2010, according to the provisions
11 of this section; provided, credits accrued during the period from
12 July 1, 2010, through June 30, 2012, shall be limited to a period of
13 two (2) taxable years. The credit shall be limited in each taxable
14 year to fifty percent (50%) of the total amount of the accrued
15 credit. Any tax credits which accrue during the period of July 1,
16 2010, through June 30, 2012, may not be claimed for any period prior
17 to the taxable year beginning January 1, 2012. No credits which
18 accrue during the period of July 1, 2010, through June 30, 2012, may
19 be used to file an amended tax return for any taxable year prior to
20 the taxable year beginning January 1, 2012.

21 K. Beginning January 1, 2017, except with respect to tax
22 credits allowed from investment or job creation occurring prior to
23 January 1, 2017, the credits authorized by this section shall not be
24 allowed for investment or job creation in electric power generation

1 by means of wind as described by the North American Industry
2 Classification System, No. 221119.

3 L. For tax years beginning on or after January 1, 2018, and
4 ending on or before December 31, 2019, the total amount of credits
5 authorized by this section used to offset tax shall be adjusted
6 annually to limit the annual amount of credits to Eighteen Million
7 Seven Hundred Fifty Thousand Dollars (\$18,750,000.00). The Tax
8 Commission shall annually calculate and publish a percentage by
9 which the credits authorized by this section shall be reduced so the
10 total amount of credits used to offset tax does not exceed Eighteen
11 Million Seven Hundred Fifty Thousand Dollars (\$18,750,000.00) per
12 year. The formula to be used for the percentage adjustment shall be
13 Eighteen Million Seven Hundred Fifty Thousand Dollars
14 (\$18,750,000.00) divided by the credits used to offset tax in the
15 second preceding year.

16 M. For tax years beginning on or after January 1, 2016, and
17 ending on or before December 31, 2018 2020, the total amount of
18 credits authorized by this section used to offset tax shall be
19 adjusted annually to limit the annual amount of credits to Twenty-
20 five Million Dollars (\$25,000,000.00). The Tax Commission shall
21 annually calculate and publish a percentage by which the credits
22 authorized by this section shall be reduced so the total amount of
23 credits used to offset tax does not exceed Twenty-five Million
24 Dollars (\$25,000,000.00) per year. The formula to be used for the

1 percentage adjustment shall be Twenty-five Million Dollars
2 (\$25,000,000.00) divided by the credits used to offset tax in the
3 second preceding year.

4 ~~M.~~ N. Pursuant to ~~subsection~~ subsections L and M of this
5 section, in the event the total tax credits authorized by this
6 section exceed ~~Twenty-five Million Dollars (\$25,000,000.00)~~ the
7 annual limit in any calendar year, the Tax Commission shall permit
8 any excess over ~~Twenty-five Million Dollars (\$25,000,000.00)~~ the
9 annual limit but shall factor such excess into the percentage
10 adjustment formula for subsequent years.

11 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.22, as
12 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
13 2017, Section 2357.22), is amended to read as follows:

14 Section 2357.22. A. For tax years beginning before January 1,
15 2020, there shall be allowed a one-time credit against the income
16 tax imposed by Section 2355 of this title for investments in
17 qualified clean-burning motor vehicle fuel property placed in
18 service after December 31, 1990.

19 B. As used in this section, "qualified clean-burning motor
20 vehicle fuel property" means:

- 21 1. Equipment installed to modify a motor vehicle which is
22 propelled by gasoline or diesel fuel so that the vehicle may be
23 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
24 natural gas or liquefied petroleum gas; provided, equipment

1 installed on a vehicle propelled by a hydrogen fuel cell shall only
2 be eligible for tax year 2010. The equipment covered by this
3 paragraph must:

- 4 a. be new, not previously used to modify or retrofit any
5 vehicle propelled by gasoline or diesel fuel and be
6 installed by an alternative fuels equipment technician
7 who is certified in accordance with the Alternative
8 Fuels Technician Certification Act,
- 9 b. meet all Federal Motor Vehicle Safety Standards set
10 forth in 49 CFR 571, or
- 11 c. for any commercial motor vehicle (CMV), follow the
12 Federal Motor Carrier Safety Regulations or Oklahoma
13 Intrastate Motor Carrier Regulations;

14 2. A motor vehicle originally equipped so that the vehicle may
15 be propelled by a hydrogen fuel cell, compressed natural gas,
16 liquefied natural gas or liquefied petroleum gas but only to the
17 extent of the portion of the basis of such motor vehicle which is
18 attributable to the storage of such fuel, the delivery to the engine
19 of such motor vehicle of such fuel, and the exhaust of gases from
20 combustion of such fuel. A motor vehicle originally equipped so
21 that the vehicle may be propelled by a hydrogen fuel cell shall only
22 be eligible for tax year 2010;

23 3. Property, not including a building and its structural
24 components, which is:

1 a. directly related to the delivery of compressed natural
2 gas, liquefied natural gas or liquefied petroleum gas,
3 or hydrogen, for commercial purposes or for a fee or
4 charge, into the fuel tank of a motor vehicle
5 propelled by such fuel including compression equipment
6 and storage tanks for such fuel at the point where
7 such fuel is so delivered but only if such property is
8 not used to deliver such fuel into any other type of
9 storage tank or receptacle and such fuel is not used
10 for any purpose other than to propel a motor vehicle,
11 or

12 b. a metered-for-fee, public access recharging system for
13 motor vehicles propelled in whole or in part by
14 electricity. The property covered by this paragraph
15 must be new, and must not have been previously
16 installed or used to refuel vehicles powered by
17 compressed natural gas, liquefied natural gas or
18 liquefied petroleum gas, hydrogen or electricity.

19 Any property covered by this paragraph which is related to the
20 delivery of hydrogen into the fuel tank of a motor vehicle shall
21 only be eligible for tax year 2010; or

22 4. Property which is directly related to the compression and
23 delivery of natural gas from a private home or residence, for
24 noncommercial purposes, into the fuel tank of a motor vehicle

1 propelled by compressed natural gas. The property covered by this
2 paragraph must be new and must not have been previously installed or
3 used to refuel vehicles powered by natural gas.

4 C. As used in this section, "motor vehicle" means a motor
5 vehicle originally designed by the manufacturer to operate lawfully
6 and principally on streets and highways.

7 D. ~~The~~ Except as provided for in subsection J of this section,
8 the credit provided for in subsection A of this section shall be as
9 follows:

10 1. After ~~the effective date of this act~~ August 22, 2014, for
11 the qualified clean-burning motor vehicle fuel property defined in
12 paragraph 1 or 2 of subsection B of this section, forty-five percent
13 (45%) of the cost of the qualified clean-burning motor vehicle fuel
14 property;

15 2. For qualified clean-burning motor vehicle fuel property
16 defined in paragraph 3 of subsection B of this section, a per-
17 location credit of seventy-five percent (75%) of the cost of the
18 qualified clean-burning motor vehicle fuel property; and

19 3. For qualified clean-burning motor vehicle fuel property
20 defined in paragraph 4 of subsection B of this section, a per-
21 location credit of the lesser of fifty percent (50%) of the cost of
22 the qualified clean-burning motor vehicle fuel property or Two
23 Thousand Five Hundred Dollars (\$2,500.00).

24

1 E. In cases where no credit has been claimed pursuant to
2 paragraph 1 of subsection D of this section by any prior owner and
3 in which a motor vehicle is purchased by a taxpayer with qualified
4 clean-burning motor vehicle fuel property installed by the
5 manufacturer of such motor vehicle and the taxpayer is unable or
6 elects not to determine the exact basis which is attributable to
7 such property, the taxpayer may claim a credit in an amount not
8 exceeding the lesser of ten percent (10%) of the cost of the motor
9 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

10 F. If the tax credit allowed pursuant to subsection A of this
11 section exceeds the amount of income taxes due or if there are no
12 state income taxes due on the income of the taxpayer, the amount of
13 the credit not used as an offset against the income taxes of a
14 taxable year may be carried forward as a credit against subsequent
15 income tax liability for a period not to exceed five (5) years.

16 G. A husband and wife who file separate returns for a taxable
17 year in which they could have filed a joint return may each claim
18 only one-half (1/2) of the tax credit that would have been allowed
19 for a joint return.

20 H. The Oklahoma Tax Commission is herein empowered to
21 promulgate rules by which the purpose of this section shall be
22 administered, including the power to establish and enforce penalties
23 for violations thereof.

1 I. Notwithstanding the provisions of Section 2352 of this
2 title, for the fiscal year beginning on July 1, 2014, and each
3 fiscal year thereafter, the Tax Commission shall calculate an amount
4 that equals five percent (5%) of the cost of qualified clean-burning
5 motor vehicle fuel property as provided for in paragraph 1 of
6 subsection D of this section for tax year 2012. For each subsequent
7 fiscal year thereafter, the Tax Commission shall perform the same
8 computation with respect to the second tax year preceding the
9 beginning of each subsequent fiscal year. The Tax Commission shall
10 then transfer an amount equal to the amount calculated in this
11 subsection from the revenue derived pursuant to the provisions of
12 subsections A, B and E of Section 2355 of this title to the
13 Compressed Natural Gas Conversion Safety and Regulation Fund created
14 in Section ~~13 of this act~~ 130.25 of Title 74 of the Oklahoma
15 Statutes.

16 J. The credit otherwise authorized by the provisions of this
17 section shall be reduced by twenty-five percent (25%) for any
18 taxable year which begins on or after January 1, 2018, and ends on
19 or before December 31, 2019. The provisions of this subsection
20 shall not be applicable to tax credits carried forward from any tax
21 year which began prior to January 1, 2018.

22 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.32A, as
23 last amended by Section 1, Chapter 44, O.S.L. 2017 (68 O.S. Supp.
24 2017, Section 2357.32A), is amended to read as follows:

1 Section 2357.32A. A. Except as otherwise provided in
2 subsection H of this section, for tax years beginning on or after
3 January 1, 2003, there shall be allowed a credit against the tax
4 imposed by Section 2355 of this title to a taxpayer for the
5 taxpayer's production and sale to an unrelated person of electricity
6 generated by zero-emission facilities located in this state. As
7 used in this section:

8 1. "Electricity generated by zero-emission facilities" means
9 electricity that is exclusively produced by any facility located in
10 this state with a rated production capacity of one megawatt (1 mw)
11 or greater, constructed for the generation of electricity and placed
12 in operation after June 4, 2001, and with respect to electricity
13 generated by wind for any facility placed in operation not later
14 than July 1, 2017, which utilizes eligible renewable resources as
15 its fuel source. The construction and operation of such facilities
16 shall result in no pollution or emissions that are or may be harmful
17 to the environment, pursuant to a determination by the Department of
18 Environmental Quality; and

19 2. "Eligible renewable resources" means resources derived from:
20 a. wind,
21 b. moving water,
22 c. sun, or
23 d. geothermal energy.

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1 B. For facilities placed in operation on or after January 1,
2 2003, and before January 1, 2007, the amount of the credit for the
3 electricity generated on or after January 1, 2003, but prior to
4 January 1, 2004, shall be seventy-five one-hundredths of one cent
5 (\$0.0075) for each kilowatt-hour of electricity generated by zero-
6 emission facilities. For electricity generated on or after January
7 1, 2004, but prior to January 1, 2007, the amount of the credit
8 shall be fifty one-hundredths of one cent (\$0.0050) per kilowatt-
9 hour for electricity generated by zero-emission facilities. For
10 electricity generated on or after January 1, 2007, but prior to
11 January 1, 2012, the amount of the credit shall be twenty-five one-
12 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity
13 generated by zero-emission facilities. For facilities placed in
14 operation on or after January 1, 2007, and before January 1, 2021,
15 or with respect to electricity generated by wind for any facility
16 placed in operation not later than July 1, 2017, the amount of the
17 credit for the electricity generated on or after January 1, 2007,
18 but not including electricity generated on or after January 1, 2018,
19 and before January 1, 2020, shall be fifty one-hundredths of one
20 cent (\$0.0050) for each kilowatt-hour of electricity generated by
21 zero-emission facilities. For facilities placed in operation on or
22 after January 1, 2007, and before January 1, 2021, or with respect
23 to electricity generated by wind for any facility placed in
24 operation not later than July 1, 2017, the amount of the credit for

1 the electricity generated on or after January 1, 2018, and before
2 January 1, 2020, shall be three hundred seventy-five one-thousandths
3 of one cent (\$0.00375) for each kilowatt-hour of electricity
4 generated by zero-emission facilities.

5 C. Credits may be claimed with respect to electricity generated
6 on or after January 1, 2003, during a ten-year period following the
7 date that the facility is placed in operation on or after June 4,
8 2001.

9 D. 1. For credits generated prior to January 1, 2014, if the
10 credit allowed pursuant to this section exceeds the amount of income
11 taxes due or if there are no state income taxes due on the income of
12 the taxpayer, the amount of the credit allowed but not used in any
13 tax year may be carried forward as a credit against subsequent
14 income tax liability for a period not exceeding ten (10) years.

15 2. For credits generated, but not used, on or after January 1,
16 2014, the Oklahoma Tax Commission shall refund, at the taxpayer's
17 election, directly to the taxpayer eighty-five percent (85%) of the
18 face amount of such credits. The direct refund of the credits
19 pursuant to this paragraph shall be available to all taxpayers,
20 including, without limitation, pass-through entities and taxpayers
21 subject to Section 2355 of this title, but shall not be available to
22 any entities falling within the provisions of subsection E of this
23 section. The amount of any direct refund of credits actually
24 received at the eighty-five percent (85%) level by the taxpayer

1 pursuant to this paragraph shall not be subject to the tax imposed
2 by Section 2355 of this title. If the pass-through entity does not
3 file a claim for a direct refund, the pass-through entity shall
4 allocate the credit to one or more of the shareholders, partners or
5 members of the pass-through entity; provided, the total of all
6 credits refunded or allocated shall not exceed the amount of the
7 credit or refund to which the pass-through entity is entitled. For
8 the purposes of this paragraph, "pass-through entity" means a
9 corporation that for the applicable tax year is treated as an S
10 corporation under the Internal Revenue Code of 1986, as amended,
11 general partnership, limited partnership, limited liability
12 partnership, trust or limited liability company that for the
13 applicable tax year is not taxed as a corporation for federal income
14 tax purposes.

15 E. Any nontaxable entities, including agencies of the State of
16 Oklahoma or political subdivisions thereof, shall be eligible to
17 establish a transferable tax credit in the amount provided in
18 subsection B of this section. Such tax credit shall be a property
19 right available to a state agency or political subdivision of this
20 state to transfer or sell to a taxable entity, whether individual or
21 corporate, who shall have an actual or anticipated income tax
22 liability under Section 2355 of this title. These tax credit
23 provisions are authorized as an incentive to the State of Oklahoma,
24 its agencies and political subdivisions to encourage the expenditure

1 of funds in the development, construction and utilization of
2 electricity from zero-emission facilities as defined in subsection A
3 of this section.

4 F. For credits generated prior to January 1, 2014, the amount
5 of the credit allowed, but not used, shall be freely transferable at
6 any time during the ten (10) years following the year of
7 qualification. Any person to whom or to which a tax credit is
8 transferred shall have only such rights to claim and use the credit
9 under the terms that would have applied to the entity by whom or by
10 which the tax credit was transferred. The provisions of this
11 subsection shall not limit the ability of a tax credit transferee to
12 reduce the tax liability of the transferee, regardless of the actual
13 tax liability of the tax credit transferor, for the relevant taxable
14 period. The transferor initially allowed the credit and any
15 subsequent transferees shall jointly file a copy of any written
16 transfer agreement with the Oklahoma Tax Commission within thirty
17 (30) days of the transfer. The written agreement shall contain the
18 name, address and taxpayer identification number or social security
19 number of the parties to the transfer, the amount of the credit
20 being transferred, the year the credit was originally allowed to the
21 transferor, and the tax year or years for which the credit may be
22 claimed. The Tax Commission may promulgate rules to permit
23 verification of the validity and timeliness of the tax credit
24 claimed upon a tax return pursuant to this subsection but shall not

1 promulgate any rules that unduly restrict or hinder the transfers of
2 such tax credit. The tax credit allowed by this section, upon the
3 election of the taxpayer, may be claimed as a payment of tax, a
4 prepayment of tax or a payment of estimated tax for purposes of
5 Section 1803 or Section 2355 of this title.

6 G. For electricity generation produced and sold in a calendar
7 year, the tax credit allowed by the provisions of this section, upon
8 election of the taxpayer, shall be treated and may be claimed as a
9 payment of tax, a prepayment of tax or a payment of estimated tax
10 for purposes of Section 2355 of this title on or after July 1 of the
11 following calendar year.

12 H. No credit otherwise authorized by the provisions of this
13 section may be claimed for any event, transaction, investment,
14 expenditure or other act occurring on or after July 1, 2010, for
15 which the credit would otherwise be allowable until the provisions
16 of this subsection shall cease to be operative on July 1, 2011.
17 Beginning July 1, 2011, the credit authorized by this section may be
18 claimed for any event, transaction, investment, expenditure or other
19 act occurring on or after July 1, 2010, according to the provisions
20 of this section. Any tax credits which accrue during the period of
21 July 1, 2010, through June 30, 2011, may not be claimed for any
22 period prior to the taxable year beginning January 1, 2012. No
23 credits which accrue during the period of July 1, 2010, through June
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1 30, 2011, may be used to file an amended tax return for any taxable
2 year prior to the taxable year beginning January 1, 2012.

3 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2357.41, is
4 amended to read as follows:

5 Section 2357.41. A. Except as otherwise provided by subsection
6 I of this section, for tax years beginning after December 31, 2000,
7 there shall be allowed a credit against the tax imposed by Sections
8 2355 and 2370 of this title or that portion of the tax imposed by
9 Section 624 or 628 of Title 36 of the Oklahoma Statutes that would
10 otherwise have been apportioned to the General Revenue Fund for
11 qualified rehabilitation expenditures incurred in connection with
12 any certified historic hotel or historic newspaper plant building
13 located in an increment or incentive district created pursuant to
14 the Local Development Act or for qualified rehabilitation
15 expenditures incurred after January 1, 2006, in connection with any
16 certified historic structure.

17 B. ~~The~~ Except as otherwise provided for in subsection J, the
18 amount of the credit shall be one hundred percent (100%) of the
19 federal rehabilitation credit provided for in Section 47 of Title 26
20 of the United States Code. The credit authorized by this section
21 may be claimed at any time after the relevant local governmental
22 body responsible for doing so issues a certificate of occupancy or
23 other document that is a precondition for the applicable use of the
24

1 building or structure that is the basis upon which the credit
2 authorized by this section is claimed.

3 C. All requirements with respect to qualification for the
4 credit authorized by Section 47 of Title 26 of the United States
5 Code shall be applicable to the credit authorized by this section.

6 D. If the credit allowed pursuant to this section exceeds the
7 amount of income taxes due or if there are no state income taxes due
8 on the income of the taxpayer, the amount of the credit allowed but
9 not used in any taxable year may be carried forward as a credit
10 against subsequent income tax liability for a period not exceeding
11 ten (10) years following the qualified expenditures.

12 E. All rehabilitation work to which the credit may be applied
13 shall be reviewed by the State Historic Preservation Office which
14 will in turn forward the information to the National Park Service
15 for certification in accordance with 36 C.F.R., Part 67. A
16 certified historic structure may be rehabilitated for any lawful use
17 or uses, including without limitation mixed uses and still retain
18 eligibility for the credit provided for in this section.

19 F. The amount of the credit allowed for any credit claimed for
20 a certified historic hotel or historic newspaper plant building or
21 any certified historic structure, but not used, shall be freely
22 transferable, in whole or in part, to subsequent transferees at any
23 time during the five (5) years following the year of qualification.
24 Any person to whom or to which a tax credit is transferred shall

1 have only such rights to claim and use the credit under the terms
2 that would have applied to the entity by whom or by which the tax
3 credit was transferred. The provisions of this subsection shall not
4 limit the ability of a tax credit transferee to reduce the tax
5 liability of the transferee regardless of the actual tax liability
6 of the tax credit transferor for the relevant taxable period. The
7 transferor of the credit and the transferee shall jointly file a
8 copy of the written credit transfer agreement with the Oklahoma Tax
9 Commission within thirty (30) days of the transfer. Such filing of
10 the written credit transfer agreement with the Oklahoma Tax
11 Commission shall perfect such transfer. The written agreement shall
12 contain the name, address and taxpayer identification number of the
13 parties to the transfer, the amount of credit being transferred, the
14 year the credit was originally allowed to the transferor, the tax
15 year or years for which the credit may be claimed, and a
16 representation by the transferor that the transferor has neither
17 claimed for its own behalf nor conveyed such credits to any other
18 transferee. The Tax Commission shall develop a standard form for
19 use by subsequent transferees of the credit demonstrating
20 eligibility for the transferee to reduce its applicable tax
21 liabilities resulting from ownership of the credit. The Tax
22 Commission shall develop a system to record and track the transfers
23 of the credit and certify the ownership of the credit and may
24 promulgate rules to permit verification of the validity and

1 timeliness of a tax credit claimed upon a tax return pursuant to
2 this subsection but shall not promulgate any rules which unduly
3 restrict or hinder the transfers of such tax credit.

4 G. Notwithstanding any other provisions in this section, on or
5 after January 1, 2009, if a credit allowed pursuant to this section
6 which has been transferred is subsequently reduced as the result of
7 an adjustment by the Internal Revenue Service, Tax Commission, or
8 any other applicable government agency, only the transferor
9 originally allowed the credit and not any subsequent transferee of
10 the credit, shall be held liable to repay any amount of disallowed
11 credit.

12 H. As used in this section:

13 1. "Certified historic hotel or historic newspaper plant
14 building" means a hotel or newspaper plant building that is listed
15 on the National Register of Historic Places within thirty (30)
16 months of taking the credit pursuant to this section.

17 2. "Certified historic structure" means a building that is
18 listed on the National Register of Historic Places within thirty
19 (30) months of taking the credit pursuant to this section or a
20 building located in Oklahoma which is certified by the State
21 Historic Preservation Office as contributing to the historic
22 significance of a certified historic district listed on the National
23 Register of Historic Places, or a local district that has been
24

1 certified by the State Historic Preservation Office as eligible for
2 listing in the National Register of Historic Places; and

3 3. "Qualified rehabilitation expenditures" means capital
4 expenditures that qualify for the federal rehabilitation credit
5 provided in Section 47 of Title 26 of the United States Code and
6 that were paid after December 31, 2000. Qualified rehabilitation
7 expenditures do not include capital expenditures for nonhistoric
8 additions except an addition that is required by state or federal
9 regulations that relate to safety or accessibility. In addition,
10 qualified rehabilitation expenditures do not include expenditures
11 related to the cost of acquisition of the property.

12 I. No credit otherwise authorized by the provisions of this
13 section may be claimed for any event, transaction, investment,
14 expenditure or other act occurring on or after July 1, 2010, for
15 which the credit would otherwise be allowable until the provisions
16 of this subsection shall cease to be operative on July 1, 2012.
17 Beginning July 1, 2012, the credit authorized by this section may be
18 claimed for any event, transaction, investment, expenditure or other
19 act occurring on or after July 1, 2010, according to the provisions
20 of this section. Any tax credits which accrue during the period of
21 July 1, 2010, through June 30, 2012, may not be claimed for any
22 period prior to the taxable year beginning January 1, 2012. No
23 credits which accrue during the period of July 1, 2010, through June
24

1 30, 2012, may be used to file an amended tax return for any taxable
2 year prior to the taxable year beginning January 1, 2012.

3 J. The credit otherwise authorized by the provisions of this
4 section shall be reduced by twenty-five percent (25%) for any
5 taxable year which begins on or after January 1, 2018, and ends
6 before January 1, 2020. The provisions of this subsection shall not
7 be applicable to tax credits carried forward from any tax year which
8 began prior to January 1, 2018.

9 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2357.302, as
10 last amended by Section 1, Chapter 153, O.S.L. 2017 (68 O.S. Supp.
11 2017, Section 2357.302), is amended to read as follows:

12 Section 2357.302. A. Except as provided in ~~subsection~~
13 subsections F and G of this section, for taxable years beginning
14 after December 31, 2008, and ending before January 1, 2026, a
15 qualified employer shall be allowed a credit against the tax imposed
16 pursuant to Section 2355 of this title for tuition reimbursed to a
17 qualified employee.

18 B. The credit authorized by subsection A of this section may be
19 claimed only if the qualified employee has been awarded an
20 undergraduate or graduate degree within one (1) year of commencing
21 employment with the qualified employer.

22 C. The credit authorized by subsection A of this section shall
23 be in the amount of fifty percent (50%) of the tuition reimbursed to
24 a qualified employee for the first through fourth years of

1 employment. In no event shall this credit exceed fifty percent
2 (50%) of the average annual amount paid by a qualified employee for
3 enrollment and instruction in a qualified program at a public
4 institution in Oklahoma.

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

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

10 F. No credit otherwise authorized by the provisions of this
11 section may be claimed for any event, transaction, investment,
12 expenditure or other act occurring on or after July 1, 2010, for
13 which the credit would otherwise be allowable. The provisions of
14 this subsection shall cease to be operative on July 1, 2011.
15 Beginning July 1, 2011, the credit authorized by this section may be
16 claimed for any event, transaction, investment, expenditure or other
17 act occurring on or after July 1, 2011, according to the provisions
18 of this section.

19 G. The credit authorized by subsection A of this section shall,
20 for taxable years beginning on or after January 1, 2018, and ending
21 before January 1, 2020, be in the amount of thirty-seven and five
22 tenths percent (37.5%) of the tuition reimbursed to a qualified
23 employee for the first through fourth years of employment. In no
24 event shall this credit exceed thirty-seven and five tenths percent

1 (37.5%) of the average annual amount paid by a qualified employee
2 for enrollment and instruction in a qualified program at a public
3 institution in Oklahoma.

4 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2357.303, as
5 last amended by Section 2, Chapter 153, O.S.L. 2017 (68 O.S. Supp.
6 2017, Section 2357.303), is amended to read as follows:

7 Section 2357.303. A. Except as provided in ~~subsection~~
8 subsections F and G of this section, for taxable years beginning
9 after December 31, 2008, and ending before January 1, 2026, a
10 qualified employer shall be allowed a credit against the tax imposed
11 pursuant to Section 2355 of this title for compensation paid to a
12 qualified employee.

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

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

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

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

4 D. The credit authorized by this section shall not be used to
5 reduce the tax liability of the qualified employer to less than zero
6 (0).

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

9 F. No credit otherwise authorized by the provisions of this
10 section may be claimed for any event, transaction, investment,
11 expenditure or other act occurring on or after July 1, 2010, for
12 which the credit would otherwise be allowable. The provisions of
13 this subsection shall cease to be operative on July 1, 2011.
14 Beginning July 1, 2011, the credit authorized by this section may be
15 claimed for any event, transaction, investment, expenditure or other
16 act occurring on or after July 1, 2011, according to the provisions
17 of this section.

18 G. For the taxable years beginning on or after January 1, 2018,
19 and ending before January 1, 2020, the credit authorized by
20 subsection A of this section shall be in the amount of:

21 1. Seven and five tenths percent (7.5%) of the compensation
22 paid for the first through fifth years of employment in the
23 aerospace sector if the qualified employee graduated from an
24 institution located in this state; or

1 2. Three and seventy-five hundredths percent (3.75%) of the
2 compensation paid for the first through fifth years of employment in
3 the aerospace sector if the qualified employee graduated from an
4 institution located outside this state.

5 SECTION 7. AMENDATORY 68 O.S. 2011, Section 2357.304, as
6 last amended by Section 3, Chapter 153, O.S.L. 2017 (68 O.S. Supp.
7 2017, Section 2357.304), is amended to read as follows:

8 Section 2357.304. A. Except as provided in ~~subsection~~
9 subsections D and E of this section, for taxable years beginning
10 after December 31, 2008, and ending before January 1, 2026, a
11 qualified employee shall be allowed a credit against the tax imposed
12 pursuant to Section 2355 of this title of up to Five Thousand
13 Dollars (\$5,000.00) per year for a period of time not to exceed five
14 (5) years.

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

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

19 D. No credit otherwise authorized by the provisions of this
20 section may be claimed for any event, transaction, investment,
21 expenditure or other act occurring on or after July 1, 2010, for
22 which the credit would otherwise be allowable. The provisions of
23 this subsection shall cease to be operative on July 1, 2011.

24 Beginning July 1, 2011, the credit authorized by this section may be

1 claimed for any event, transaction, investment, expenditure or other
2 act occurring on or after July 1, 2011, according to the provisions
3 of this section.

4 E. The credit otherwise authorized by the provisions of this
5 section shall be reduced by twenty-five percent (25%) for any
6 taxable year which begins on or after January 1, 2018, and ends
7 before January 1, 2020. The provisions of this subsection shall not
8 be applicable to tax credits carried forward from any tax year which
9 began prior to January 1, 2018.

10 SECTION 8. AMENDATORY Section 1, Chapter 421, O.S.L.
11 2014 (68 O.S. Supp. 2017, Section 2357.403), is amended to read as
12 follows:

13 Section 2357.403. A. This act shall be known and may be cited
14 as the "Oklahoma Affordable Housing Act".

15 B. As used in this section:

16 1. "Allocation year" means the year for which the Oklahoma
17 Housing Finance Agency allocates credits pursuant to this section;

18 2. "Eligibility statement" means a statement authorized and
19 issued by the Oklahoma Housing Finance Agency certifying that a
20 given project qualifies for the Oklahoma Affordable Housing Tax
21 Credit authorized by this section. The Oklahoma Housing Finance
22 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter
23 36, Affordable Housing Tax Credit Program Rules, shall promulgate
24 rules establishing criteria upon which the eligibility statements

1 will be issued. The eligibility statement shall specify the amount
2 of Oklahoma Affordable Housing Tax Credits allocated to a qualified
3 project. The Oklahoma Housing Finance Agency shall only authorize
4 the tax credits created by this section to qualified projects which
5 are placed in service after July 1, 2015, but which shall not be
6 used to reduce tax liability accruing prior to January 1, 2016;

7 3. "Federal low-income housing tax credit" means the federal tax
8 credit as provided in Section 42 of the Internal Revenue Code of
9 1986, as amended;

10 4. "Oklahoma Affordable Housing Tax Credit" means the tax credit
11 created by this section;

12 5. "Qualified project" means a qualified low-income building as
13 that term is defined in Section 42 of the Internal Revenue Code of
14 1986, as amended, which is located in this state in a county with a
15 population of less than one hundred fifty thousand (150,000)
16 according to the latest Federal Decennial Census; and

17 6. "Taxpayer" means a person, firm or corporation subject to the
18 tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes or
19 an insurance company subject to the tax imposed by Section 624 or
20 628 of Title 36 of the Oklahoma Statutes or other financial
21 institution subject to the tax imposed by Section 2370 of Title 68
22 of the Oklahoma Statutes.

23 C. ~~For~~ Except as otherwise provided for in subsection L
24 qualified projects placed in service after July 1, 2015, the amount

1 of state tax credits created by this section which are allocated to a
2 project shall be equal to that of the federal low-income housing tax
3 credits for a qualified project. The total Oklahoma Affordable
4 Housing Tax Credits allocated to all qualified projects for an
5 allocation year shall not exceed Four Million Dollars
6 (\$4,000,000.00). For purposes of this section, the "credit period"
7 shall mean the period of ten (10) taxable years and "placed in
8 service" shall have the same meaning as is applicable under the
9 federal credit program.

10 D. A taxpayer owning an interest in an investment in a qualified
11 project shall be allowed Oklahoma Affordable Housing Tax Credits
12 under this section for tax years beginning on or after January 1,
13 2016, if the Oklahoma Housing Finance Agency issues an eligibility
14 statement for such project, which tax credit shall be allocated
15 among some or all of the partners, members or shareholders of the
16 taxpayer owning such interest in any manner agreed to by such
17 partners, members or shareholders. Such taxpayer may assign its
18 interest in the investment.

19 E. An insurance company claiming a credit against state premium
20 tax or retaliatory tax or any other tax imposed by Section 624 or 628
21 of Title 36 of the Oklahoma Statutes shall not be required to pay
22 any additional retaliatory tax under Section 628 of Title 36 of the
23 Oklahoma Statutes as a result of claiming the credit. The credit
24

1 may fully offset any retaliatory tax imposed by Section 628 of Title
2 36 of the Oklahoma Statutes.

3 F. The credit authorized by this section shall not be used to
4 reduce the tax liability of the taxpayer to less than zero (\$0.00).

5 G. Any credit claimed but not used in a taxable year may be
6 carried forward to each of the five (5) subsequent taxable years.

7 H. The owner of a qualified project eligible for the credit
8 authorized by this section shall submit, at the time of filing the
9 tax return with the Oklahoma Tax Commission, an eligibility
10 statement from the Oklahoma Housing Finance Agency. In the case of
11 failure to attach the eligibility statement, no credit under this
12 section shall be allowed with respect to such project for that year
13 until required documents are provided to the Tax Commission.

14 I. If under Section 42 of the Internal Revenue Code of 1986, as
15 amended, a portion of any federal low-income housing credits taken on
16 a qualified project is required to be recaptured during the first ten
17 (10) years after a project is placed in service, the taxpayer
18 claiming Oklahoma Affordable Housing Tax Credits with respect to such
19 project shall also be required to recapture a portion of such
20 credits. The amount of Oklahoma Affordable Housing Tax Credits
21 subject to recapture shall be proportionally equal to the amount of
22 federal low-income housing credits subject to recapture.

23

24

1 J. The Oklahoma Housing Finance Agency or the Oklahoma Tax
2 Commission may require the filing of additional documentation
3 necessary to determine the accuracy of a tax credit claimed.

4 K. The Oklahoma Affordable Housing Act shall undergo a review
5 every five (5) years by a committee of nine (9) persons, to be
6 appointed three persons each by the Governor, President Pro Tempore of
7 the Oklahoma State Senate and the Speaker of the Oklahoma House of
8 Representatives.

9 L. The credit otherwise authorized by the provisions of this
10 section shall be reduced by twenty-five percent (25%) for any
11 taxable year which begins on or after January 1, 2018, and ends
12 before January 2020. The provisions of this subsection shall not be
13 applicable to tax credits carried forward from any tax year which
14 began prior to January 1, 2018.

15 SECTION 9. AMENDATORY 68 O.S. 2011, Section 2370.1, as
16 last amended by Section 1, Chapter 110, O.S.L. 2016 (68 O.S. Supp.
17 2017, Section 2370.1), is amended to read as follows:

18 Section 2370.1. A. ~~There~~ Except as provided for in subsection
19 G, there shall be allowed a credit against the tax imposed by
20 Section 2370 of this title for any state banking association,
21 national banking association and credit union organized under the
22 laws of this state for the amount of the guaranty fee paid by the
23 banking association or credit union to the United States Small
24

1 Business Administration pursuant to the "7(a)" loan guaranty
2 program.

3 B. The credit authorized by this section may be claimed for
4 guaranty fees paid on or after January 1, 2000, and before January
5 1, 2019.

6 C. No credit may be claimed pursuant to this section if,
7 pursuant to the agreement between the banking association or credit
8 union and the entity to which proceeds are made available, the
9 banking association or credit union adds the amount of the SBA 7(a)
10 loan guaranty fee to the amount financed by the borrower or in any
11 other way recovers the guaranty fee amount from the borrower.

12 D. The credit authorized by this section may be claimed and if
13 not fully used in the initial year for which the credit is claimed
14 may be carried over, in order, to each of the five (5) succeeding
15 taxable years. The credit authorized by this section may not be
16 used to reduce the tax liability of the credit claimant below zero
17 (0).

18 E. The Oklahoma Tax Commission shall prepare a report regarding
19 the amount of tax credits claimed as authorized by this section.
20 The report shall be submitted to the Speaker of the House of
21 Representatives and to the President Pro Tempore of the Senate not
22 later than March 31 of each year.

23 F. Pursuant to Section 46A of Title 62 of the Oklahoma
24 Statutes, there shall be a measurable goal of retaining and/or

1 creating two thousand jobs per year in Oklahoma for the credit
2 against the tax imposed by Section 2370 of this title.

3 G. The credit otherwise authorized by the provisions of this
4 section shall be reduced by twenty-five percent (25%) for any
5 taxable year which begins on or after January 1, 2018, and ends
6 before January 1, 2020. The provisions of this subsection shall not
7 be applicable to tax credits carried forward from any tax year which
8 began prior to January 1, 2018.

9 SECTION 10. AMENDATORY 68 O.S. 2011, Section 3624, as
10 amended by Section 1, Chapter 121, O.S.L. 2017 (68 O.S. Supp. 2017,
11 Section 3624), is amended to read as follows:

12 Section 3624. A. There is hereby created the Oklahoma Film
13 Enhancement Rebate Program. A rebate in the amount of up to
14 seventeen percent (17%) of documented expenditures made in Oklahoma
15 directly attributable to the production of a film, television
16 production, or television commercial, as defined in Section 3623 of
17 this title, in this state, may be paid to the production company
18 responsible for the production. Provided, for documented
19 expenditures made after July 1, 2009, but not including expenditures
20 made after June 30, 2018, and before July 1, 2020, the rebate amount
21 shall be thirty-five percent (35%), except as provided in subsection
22 B of this section. For documented expenditures made after December
23 31, 2017, and before January 1, 2020, the rebate amount shall be
24

1 twenty-six and twenty-five hundredths percent (26.25%), except as
2 provided in subsection B of this section.

3 B. The amount of rebate paid to the production company as
4 provided for in subsection A of this section shall be increased by
5 an additional two percent (2%) of documented expenditures if a
6 production company spends at least Twenty Thousand Dollars
7 (\$20,000.00) for the use of music created by an Oklahoma resident
8 that is recorded in Oklahoma or for the cost of recording songs or
9 music in Oklahoma for use in the production.

10 C. The rebate program shall be administered by the Office of
11 the Oklahoma Film and Music Commission and the Oklahoma Tax
12 Commission, as provided in the Compete with Canada Film Act.

13 D. To be eligible for a rebate payment:

14 1. The production company responsible for a film, television
15 production, or television commercial, as defined in Section 3623 of
16 this title, made in this state shall submit documentation to the
17 Office of the Oklahoma Film and Music Commission of the amount of
18 wages paid for employment in this state to residents of this state
19 directly relating to the production and the amount of other
20 production costs incurred in this state directly relating to the
21 production;

22 2. The production company has filed or will file any Oklahoma
23 tax return or tax document which may be required by law;

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1 3. Except major studio productions, the production company
2 shall provide the name of the completion guarantor and a copy of the
3 bond guaranteeing the completion of the project or if a film has not
4 secured a completion bond, the production company shall provide
5 evidence that all Oklahoma crew and local vendors have been paid and
6 there are no liens against the production company pending in the
7 state;

8 4. The minimum budget for the film shall be Fifty Thousand
9 Dollars (\$50,000.00) of which not less than Twenty-five Thousand
10 Dollars (\$25,000.00) shall be expended in this state;

11 5. The production company shall provide evidence of financing
12 for production prior to the commencement of principal photography;
13 and

14 6. The production company shall provide evidence of a
15 certificate of general liability insurance with a minimum coverage
16 of One Million Dollars (\$1,000,000.00) and a workers' compensation
17 policy pursuant to state law, which shall include coverage of
18 employer's liability.

19 E. A production company shall not be eligible to receive both a
20 rebate payment pursuant to the provisions of ~~this act~~ the Compete
21 with Canada Film Act and an exemption from sales taxes pursuant to
22 the provisions of paragraph 21 of Section 1357 of this title. If a
23 production company has received such an exemption from sales taxes
24 and submits a claim for rebate pursuant to the provisions of the

1 Compete with Canada Film Act, the company shall be required to fully
2 repay the amount of the exemption to the Tax Commission. A claim
3 for a rebate shall include documentation from the Tax Commission
4 that repayment has been made as required herein or shall include an
5 affidavit from the production company that the company has not
6 received an exemption from sales taxes pursuant to the provisions of
7 paragraph 21 of Section 1357 of this title.

8 F. The Office shall approve or disapprove all claims for rebate
9 and shall notify the Tax Commission. The Tax Commission shall, upon
10 notification of approval from the Office of the Film and Music
11 Commission, issue payment for all approved claims from funds in the
12 Oklahoma Film Enhancement Rebate Program Revolving Fund created in
13 Section 3625 of this title. Provided, no claims for rebate for
14 expenditures made on or after July 1, 2009, shall be paid prior to
15 July 1, 2010. The amount of payments in any single fiscal year
16 shall, not including fiscal year 2019 and fiscal year 2020, not
17 exceed Four Million Dollars (\$4,000,000.00). The amount of payments
18 in fiscal year 2019 and fiscal year 2020 shall not exceed Three
19 Million Dollars (\$3,000,000.00) for each fiscal year. If the amount
20 of approved claims exceeds the amount specified in this subsection
21 in a fiscal year, payments shall be made in the order in which the
22 claims are approved by the Office. If an approved claim is not paid
23 in whole or in part, the unpaid claim or unpaid portion may be paid
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1 in the following fiscal year subject to the limitations specified in
2 this subsection.

3 SECTION 11. This act shall become effective November 1, 2018.

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