

1 **SENATE FLOOR VERSION**

February 2, 2016

2 **AS AMENDED**

3 SENATE BILL NO. 1052

By: Allen

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5
6 **[income tax credits - railroad reconstruction or**
7 **replacement expenditures - effective date]**
8

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

10 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.104, is
11 amended to read as follows:

12 Section 2357.104. A. Except as otherwise provided by
13 ~~subsection G~~ subsections G and H of this section, for taxable years
14 beginning after December 31, 2005, there shall be allowed a credit
15 against the tax imposed by Section 2355 of this title equal to fifty
16 percent (50%) of an eligible taxpayer's qualified railroad
17 reconstruction or replacement expenditures.

18 B. 1. Except as provided in paragraph 2 of this subsection,
19 the amount of the credit shall be limited to the product of Five
20 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars
21 (\$2,000.00) for tax year 2008 and subsequent tax years and the
22 number of miles of railroad track owned or leased within this state
23 by the eligible taxpayer as of the close of the taxable year.
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1 2. In tax year 2009 and subsequent tax years, a taxpayer may
2 elect to increase the limit provided in paragraph 1 of this
3 subsection to an amount equal to three times the limit specified in
4 paragraph 1 of this subsection for qualified expenditures made in
5 the tax year, provided the taxpayer may only claim one third (1/3)
6 of the credit in any one taxable period.

7 C. The For credits generated prior to January 1, 2017, the
8 credit allowed pursuant to subsection A of this section but not used
9 shall be freely transferable, by written agreement, to subsequent
10 transferees at any time during the five (5) years following the year
11 of qualification. An eligible transferee shall be any taxpayer
12 subject to the tax imposed by Section 2355 of this title. The
13 person originally allowed the credit and the subsequent transferee
14 shall jointly file a copy of the written credit transfer agreement
15 with the Oklahoma Tax Commission within thirty (30) days of the
16 transfer. The written agreement shall contain the name, address and
17 taxpayer identification number of the parties to the transfer, the
18 amount of credit being transferred, the year the credit was
19 originally allowed to the transferring person and the tax year or
20 years for which the credit may be claimed. The Tax Commission shall
21 promulgate rules to permit verification of the timeliness of a tax
22 credit claimed upon a tax return pursuant to this subsection but
23 shall not promulgate any rules which unduly restrict or hinder the
24 transfers of such tax credit. The Department of Transportation

1 shall promulgate rules to permit verification of the eligibility of
2 an eligible taxpayer's expenditures for the purpose of claiming the
3 credit. The rules shall provide for the approval of qualified
4 railroad reconstruction or replacement expenditures prior to
5 commencement of a project and provide a certificate of verification
6 upon completion of a project that uses qualified railroad
7 reconstruction or replacement expenditures. The certificate of
8 verification shall satisfy all requirements of the Tax Commission
9 pertaining to the eligibility of the person claiming the credit.

10 D. **Any With respect to** credits allowed pursuant to the
11 provisions of subsection A of this section, **earned prior to January**
12 **1, 2017,** but not used in any tax year may be carried over in order
13 to each of the five (5) years following the year of qualification.

14 E. A taxpayer who elects to increase the limitation on the
15 credit under paragraph 2 of subsection B of this section shall not
16 be granted additional credits under subsection A of this section
17 during the period of such election.

18 F. As used in this section:

19 1. "Class II and Class III railroad" means a railroad that is
20 classified by the United States Surface Transportation Board as a
21 Class II or Class III railroad;

22 2. "Eligible taxpayer" means any Class II or Class III
23 railroad; and
24

1 3. "Qualified railroad reconstruction or replacement
2 expenditures" means expenditures for:

- 3 a. reconstruction or replacement of railroad
4 infrastructure including track, roadbed, bridges,
5 industrial leads and track-related structures owned or
6 leased by a Class II or Class III railroad as of
7 January 1, 2006, or
8 b. new construction of industrial leads, switches, spurs
9 and sidings and extensions of existing sidings by a
10 Class II or Class III railroad.

11 G. No credit otherwise authorized by the provisions of this
12 section may be claimed for any event, transaction, investment,
13 expenditure or other act occurring on or after July 1, 2010, for
14 which the credit would otherwise be allowable. The provisions of
15 this subsection shall cease to be operative on July 1, 2012.

16 Beginning July 1, 2012, the credit authorized by this section may be
17 claimed for any event, transaction, investment, expenditure or other
18 act occurring on or after July 1, 2012, according to the provisions
19 of this section.

20 H. No credit shall be allowed pursuant to subsection A of this
21 section for taxable years beginning on or after January 1, 2018,
22 unless this section is reauthorized by the Oklahoma Legislature
23 after evaluation by the Incentive Evaluation Commission pursuant to
24 Section 7004 of Title 62 of the Oklahoma Statutes.

1 SECTION 2. This act shall become effective November 1, 2016.

2 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
3 February 2, 2016 - DO PASS AS AMENDED
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