

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 502

By: Quinn, Brecheen, Allen,
Shortey, Mazzei, Ford and
Fields of the Senate

6 and

7 Sears of the House

8
9
10
11 COMMITTEE SUBSTITUTE

12 An Act relating to revenue and taxation; amending 68
13 O.S. 2011, Section 2357.4, which relates to tax
14 credits for investment in certain depreciable
15 property or job creation; restricting use of
16 investment or job creation tax credits by certain
17 entities based upon claims for tax credits based upon
18 certain zero-emission facilities; imposing
19 restriction on use of tax credits based upon refund
20 provisions related to certain zero emission
21 facilities; providing for use of tax credits earned
22 through investment or job creation prior to specified
23 date; and providing an effective date.

24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.4, is
amended to read as follows:

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

6 1. Investment in qualified depreciable property placed in
7 service during those years for use in a manufacturing operation, as
8 defined in Section 1352 of this title, which has received a
9 manufacturer exemption permit pursuant to the provisions of Section
10 1359.2 of this title or a qualified aircraft maintenance or
11 manufacturing facility as defined in paragraph ~~14~~ 16 of Section 1357
12 of this title in this state or a qualified web search portal as
13 defined in paragraph ~~35~~ 38 of Section 1357 of this title; or

14 2. A net increase in the number of full-time-equivalent
15 employees engaged in manufacturing, processing or aircraft
16 maintenance in this state including employees engaged in support
17 services.

18 B. Except as otherwise provided in subsection F of Section 3658
19 of this title and in subsection J and subsection K of this section,
20 for taxable years beginning after December 31, 1998, there shall be
21 allowed a credit against the tax imposed by Section 2355 of this
22 title for:

23 1. Investment in qualified depreciable property with a total
24 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)

1 within three (3) years from the date of initial qualifying
2 expenditure and placed in service in this state during those years
3 for use in the manufacture of products described by any Industry
4 Number contained in Division D of Part I of the Standard Industrial
5 Classification (SIC) Manual, latest revision; or

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

14 C. The business entity may claim the credit authorized by
15 subsection B of this section for expenditures incurred or for a net
16 increase in the number of full-time-equivalent employees after the
17 business entity provides proof satisfactory to the Oklahoma Tax
18 Commission that the conditions imposed pursuant to paragraph 1 or
19 paragraph 2 of subsection B of this section have been satisfied.

20 D. If a business entity fails to expend the amount required by
21 paragraph 1 or paragraph 2 of subsection B of this section within
22 the time required, the business entity may not claim the credit
23 authorized by subsection B of this section, but shall be allowed to
24 claim a credit pursuant to subsection A of this section if the

1 requirements of subsection A of this section are met with respect to
2 the investment in qualified depreciable property or net increase in
3 the number of full-time-equivalent employees.

4 E. The credit provided for in subsection A of this section, if
5 based upon investment in qualified depreciable property, shall not
6 be allowed unless the investment in qualified depreciable property
7 is at least Fifty Thousand Dollars (\$50,000.00). The credit
8 provided for in subsection A or B of this section shall not be
9 allowed if the applicable investment is the direct cause of a
10 decrease in the number of full-time-equivalent employees. Qualified
11 property shall be limited to machinery, fixtures, equipment,
12 buildings or substantial improvements thereto, placed in service in
13 this state during the taxable year. The taxable years for which the
14 credit may be allowed if based upon investment in qualified
15 depreciable property shall be measured from the year in which the
16 qualified property is placed in service. If the credit provided for
17 in subsection A or B of this section is calculated on the basis of
18 the cost of the qualified property, the credit shall be allowed in
19 each of the four (4) subsequent years. If the qualified property on
20 which a credit has previously been allowed is acquired from a
21 related party, the date such property is placed in service by the
22 transferor shall be considered to be the date such property is
23 placed in service by the transferee, for purposes of determining the
24 aggregate number of years for which credit may be allowed.

1 F. The credit provided for in subsection A or B of this
2 section, if based upon an increase in the number of full-time-
3 equivalent employees, shall be allowed in each of the four (4)
4 subsequent years only if the level of new employees is maintained in
5 the subsequent year. In calculating the credit by the number of new
6 employees, only those employees whose paid wages or salary were at
7 least Seven Thousand Dollars (\$7,000.00) during each year the credit
8 is claimed shall be included in the calculation. Provided, that the
9 first year a credit is claimed for a new employee, such employee may
10 be included in the calculation notwithstanding paid wages of less
11 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
12 the last three quarters of the tax year, has wages or salary which
13 will result in annual paid wages in excess of Seven Thousand Dollars
14 (\$7,000.00) and the taxpayer submits an affidavit stating that the
15 employee's position will be retained in the following tax year and
16 will result in the payment of wages in excess of Seven Thousand
17 Dollars (\$7,000.00). The number of new employees shall be
18 determined by comparing the monthly average number of full-time
19 employees subject to Oklahoma income tax withholding for the final
20 quarter of the taxable year with the corresponding period of the
21 prior taxable year, as substantiated by such reports as may be
22 required by the Tax Commission.

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

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

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

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

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

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

13 No credit shall be allowed in any taxable year for a net
14 increase in the number of full-time-equivalent employees if such
15 increase is a result of an investment in qualified depreciable
16 property for which an income tax credit has been allowed as
17 authorized by this section.

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

21 1. To each of the four (4) years following the year of
22 qualification;

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

1 3. If a C corporation that otherwise qualified for the credits
2 under subsection A of this section subsequently changes its
3 operating status to that of a pass-through entity which is being
4 treated as the same entity for federal tax purposes, the credits
5 will continue to be available as if the pass-through entity had
6 originally qualified for the credits subject to the limitations of
7 this section.

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

12 J. 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; provided, credits accrued during the period from
21 July 1, 2010, through June 30, 2012, shall be limited to a period of
22 two (2) taxable years. The credit shall be limited in each taxable
23 year to fifty percent (50%) of the total amount of the accrued
24 credit. Any tax credits which accrue during the period of July 1,

1 2010, through June 30, 2012, may not be claimed for any period prior
2 to the taxable year beginning January 1, 2012. No credits which
3 accrue during the period of July 1, 2010, through June 30, 2012, may
4 be used to file an amended tax return for any taxable year prior to
5 the taxable year beginning January 1, 2012.

6 K. Beginning January 1, 2017, except with respect to tax
7 credits earned from investment or job creation occurring prior to
8 January 1, 2017, the credits authorized by this section may not be
9 used by any person, firm, partnership, corporation, limited
10 liability company or any other lawfully recognized business entity
11 if the person or entity claims any tax credit or requests a refund
12 as authorized by law with respect to tax credits for electric power
13 produced by a zero-emission facility pursuant to Section 2357.32A of
14 this title or pursuant to Section 1 of this act if:

15 1. The qualified depreciable property for purposes of the
16 credit authorized by this section consists of the same assets or
17 substantially the same assets used to produce the electric power for
18 which the tax credit authorized by Section 2357.32A of this title or
19 by Section 1 of this act is authorized; or

20 2. The increase in full-time-equivalent jobs occurs as a result
21 of the same business activity which produces electric power for
22 which the tax credit authorized by Section 2357.32A of this title or
23 by Section 1 of this act is authorized.

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

SECTION 2. This act shall become effective January 1, 2017.

55-1-7378 JM 04/09/15