

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 85

By: Mazzei of the Senate

and

Sears of the House

8 COMMITTEE SUBSTITUTE

9
10 An Act relating to income tax credits; amending 68
11 O.S. 2011, Section 2357.104, which relates to tax
12 credits; modifying time period during which certain
credits are allowed; providing condition under which
credits are allowed after a specified date; and
providing contingent effective date.

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

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

18 Section 2357.104 A. Except as otherwise provided by subsection
19 G of this section, for taxable years beginning after December 31,
20 2005, and unless reauthorized pursuant to subsection H of this
21 section, ending before January 1, 2019, there shall be allowed a
22 credit against the tax imposed by Section 2355 of this title equal
23 to fifty percent (50%) of an eligible taxpayer's qualified railroad
24 reconstruction or replacement expenditures.

1 B. 1. Except as provided in paragraph 2 of this subsection,
2 the amount of the credit shall be limited to the product of Five
3 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars
4 (\$2,000.00) for tax year 2008 and subsequent tax years and the
5 number of miles of railroad track owned or leased within this state
6 by the eligible taxpayer as of the close of the taxable year.

7 2. In tax year 2009 and subsequent tax years, a taxpayer may
8 elect to increase the limit provided in paragraph 1 of this
9 subsection to an amount equal to three times the limit specified in
10 paragraph 1 of this subsection for qualified expenditures made in
11 the tax year, provided the taxpayer may only claim one third (1/3)
12 of the credit in any one taxable period.

13 C. The credit allowed pursuant to subsection A of this section
14 but not used shall be freely transferable, by written agreement, to
15 subsequent transferees at any time during the five (5) years
16 following the year of qualification. An eligible transferee shall
17 be any taxpayer subject to the tax imposed by Section 2355 of this
18 title. The person originally allowed the credit and the subsequent
19 transferee shall jointly file a copy of the written credit transfer
20 agreement with the Oklahoma Tax Commission within thirty (30) days
21 of the transfer. The written agreement shall contain the name,
22 address and taxpayer identification number of the parties to the
23 transfer, the amount of credit being transferred, the year the
24 credit was originally allowed to the transferring person and the tax

1 year or years for which the credit may be claimed. The Tax
2 Commission shall promulgate rules to permit verification of the
3 timeliness of a tax credit claimed upon a tax return pursuant to
4 this subsection but shall not promulgate any rules which unduly
5 restrict or hinder the transfers of such tax credit. The Department
6 of Transportation shall promulgate rules to permit verification of
7 the eligibility of an eligible taxpayer's expenditures for the
8 purpose of claiming the credit. The rules shall provide for the
9 approval of qualified railroad reconstruction or replacement
10 expenditures prior to commencement of a project and provide a
11 certificate of verification upon completion of a project that uses
12 qualified railroad reconstruction or replacement expenditures. The
13 certificate of verification shall satisfy all requirements of the
14 Tax Commission pertaining to the eligibility of the person claiming
15 the credit.

16 D. Any credits allowed pursuant to the provisions of subsection
17 A of this section but not used in any tax year may be carried over
18 in order to each of the five (5) years following the year of
19 qualification.

20 E. A taxpayer who elects to increase the limitation on the
21 credit under paragraph 2 of subsection B of this section shall not
22 be granted additional credits under subsection A of this section
23 during the period of such election.

24 F. As used in this section:

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

4 2. "Eligible taxpayer" means any Class II or Class III
5 railroad; and

6 3. "Qualified railroad reconstruction or replacement
7 expenditures" means expenditures for:

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

16 G. No credit otherwise authorized by the provisions of this
17 section may be claimed for any event, transaction, investment,
18 expenditure or other act occurring on or after July 1, 2010, for
19 which the credit would otherwise be allowable. The provisions of
20 this subsection shall cease to be operative on July 1, 2012.
21 Beginning July 1, 2012, the credit authorized by this section may be
22 claimed for any event, transaction, investment, expenditure or other
23 act occurring on or after July 1, 2012, according to the provisions
24 of this section.

1 H. The credit provided pursuant to this section shall only be
2 allowed for expenditures made on or after January 1, 2019, if the
3 Oklahoma Legislature reauthorizes this section after review of the
4 report required pursuant to paragraph 14 of Section 5017 of Title 74
5 of the Oklahoma Statutes.

6 SECTION 2. This act shall not become effective as law unless
7 Senate Bill No. 72 of the 1st Session of the 55th Oklahoma
8 Legislature becomes effective as law.

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