

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 85 By: Mazzei of the Senate  
3 and  
4 Sears of the House  
5  
6

7 [ income tax credits - time period - credits are  
8 allowed - condition under which credits are allowed  
9 after a specified date - providing contingent  
10 effective date ]

11 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
12 entire bill and insert

13 "An Act relating to income tax credits; amending 68  
14 O.S. 2011, Section 2357.104, which relates to tax  
15 credits; modifying time period during which certain  
16 credits are allowed; providing condition under which  
17 credits are allowed after a specified date; and  
18 providing contingent effective date.

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

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

21 Section 2357.104 A. Except as otherwise provided by subsection  
22 G of this section, for taxable years beginning after December 31,  
23 2005, and unless reauthorized pursuant to subsection H of this  
24 section, ending before January 1, 2019, there shall be allowed a

1 credit against the tax imposed by Section 2355 of this title equal  
2 to fifty percent (50%) of an eligible taxpayer's qualified railroad  
3 reconstruction or replacement expenditures.

4 B. 1. Except as provided in paragraph 2 of this subsection,  
5 the amount of the credit shall be limited to the product of Five  
6 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars  
7 (\$2,000.00) for tax year 2008 and subsequent tax years and the  
8 number of miles of railroad track owned or leased within this state  
9 by the eligible taxpayer as of the close of the taxable year.

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

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

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

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

23 E. A taxpayer who elects to increase the limitation on the  
24 credit under paragraph 2 of subsection B of this section shall not

1 be granted additional credits under subsection A of this section  
2 during the period of such election.

3 F. As used in this section:

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

7 2. "Eligible taxpayer" means any Class II or Class III  
8 railroad; and

9 3. "Qualified railroad reconstruction or replacement  
10 expenditures" means expenditures for:

11 a. reconstruction or replacement of railroad  
12 infrastructure including track, roadbed, bridges,  
13 industrial leads and track-related structures owned or  
14 leased by a Class II or Class III railroad as of  
15 January 1, 2006, or

16 b. new construction of industrial leads, switches, spurs  
17 and sidings and extensions of existing sidings by a  
18 Class II or Class III railroad.

19 G. 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, 2012.

24 Beginning July 1, 2012, 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, 2012, according to the provisions  
3 of this section.

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

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

12 Passed the House of Representatives the 8th day of April, 2015.

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15 \_\_\_\_\_  
16 Presiding Officer of the House of  
Representatives

17 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE  
2 BILL NO. 85

By: Mazzei of the Senate

3 and

4 Sears of the House

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6 [ income tax credits - time period - credits are  
7 allowed - condition under which credits are allowed  
8 after a specified date - providing contingent  
9 effective date ]

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

11 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.104, is  
12 amended to read as follows:

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

20 B. 1. Except as provided in paragraph 2 of this subsection,  
21 the amount of the credit shall be limited to the product of Five  
22 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars  
23 (\$2,000.00) for tax year 2008 and subsequent tax years and the  
24

1 number of miles of railroad track owned or leased within this state  
2 by the eligible taxpayer as of the close of the taxable year.

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

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

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

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

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

20 F. As used in this section:

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

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

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

5           a. reconstruction or replacement of railroad  
6                infrastructure including track, roadbed, bridges,  
7                industrial leads and track-related structures owned or  
8                leased by a Class II or Class III railroad as of  
9                January 1, 2006, or

10          b. new construction of industrial leads, switches, spurs  
11                and sidings and extensions of existing sidings by a  
12                Class II or Class III railroad.

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

22       H. The credit provided pursuant to this section shall only be  
23 allowed for expenditures made on or after January 1, 2019, if the  
24 Oklahoma Legislature reauthorizes this section after review of the

1 report required pursuant to paragraph 14 of Section 5017 of Title 74  
2 of the Oklahoma Statutes.

3 SECTION 4. This act shall not become effective as law unless  
4 Senate Bill No. 72 of the 1st Session of the 55th Oklahoma  
5 Legislature becomes effective as law.

6 Passed the Senate the 3rd day of March, 2015.

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\_\_\_\_\_  
Presiding Officer of the Senate

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10 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
11 2015.

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Presiding Officer of the House  
of Representatives

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