

ENROLLED HOUSE
BILL NO. 1014

By: Auffet, Liotta, Kiesel, Staggs,
Dorman, Hilliard, Hyman, Mass,
Morgan (Danny), Roan, Shoemake
and Walker of the House

and

Wilson and Rabon of the Senate

An Act relating to revenue and taxation; amending Section 1, Chapter 510, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2357.100), which relates to tax credits for purchase and transportation of poultry litter; modifying expiration date of the credit; providing a tax credit for certain business enterprises; defining terms; providing scope of tax credit; providing for carryover of credits; authorizing the Oklahoma Tax Commission to prescribe forms; authorizing the Tax Commission request additional information; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 510, O.S.L. 2004 (68 O.S. Supp. 2004, Section 2357.100), is amended to read as follows:

Section 2357.100 A. For taxable years beginning after December 31, 2004, and ending on or before December 31, ~~2005~~ 2008, there shall be allowed a credit against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for the purchase and transportation of poultry litter. Subject to the limitations provided in subsection B of this section, the credit shall be available to the purchaser of the poultry litter and shall equal Five Dollars (\$5.00) per ton purchased and transported.

B. 1. The total of the credits authorized by this section shall not exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00) annually. The amount of the credit for each purchaser shall be adjusted annually so that the total estimate of the credits authorized by this section does not exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00). The formula to be used for the percentage adjustment shall be Three Hundred Seventy-five Thousand Dollars (\$375,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year.

2. In the event the total tax credits authorized by this section exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over Three Hundred Seventy-five Thousand

Dollars (\$375,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

C. In order to qualify for the credit provided for in subsection A of this section:

1. The poultry litter shall only be purchased from an Oklahoma-based poultry operation registered with the State Board of Agriculture and located within an environmentally sensitive and nutrient-limited watershed area as defined in the most recent Oklahoma Water Quality Standards;

2. The poultry litter shall be used or spread in a watershed that is not environmentally sensitive and nutrient-limited as defined in the most recent Oklahoma Water Quality Standards; and

3. The poultry litter shall be applied by a certified poultry waste applicator as defined by Section 10-9.1 of Title 2 of the Oklahoma Statutes and in accordance with the provisions of Sections 10-9.16 through 10-9.21 of Title 2 of the Oklahoma Statutes and any rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry.

D. The credit allowed by this section shall be available to the taxpayer in the year in which the poultry litter was purchased and transported, provided the taxpayer is found by the Oklahoma Department of Agriculture, Food, and Forestry to have applied the poultry litter in a manner consistent with an Animal Waste Management Plan, as defined in Section 10-9.1 of Title 2 of the Oklahoma Statutes, specifically designed to restore and protect beneficial uses from impairment from nutrients. If the credit exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes for a year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.201 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Nonqualified operating expenditures" means labor costs, salary and other compensation, whether direct or indirect, paid to directors, officers, limited liability company members, limited liability company managers, partners or other principals or employees of the business entity;

2. "Qualified direct costs" means expenditures, other than nonqualified operating expenditures, to construct dog kennels, fences, pens, training areas for canines, structures for office space or other improvements to real property necessary for the proper training of a specially trained canine, including the cost of food, water, veterinary expenses and other costs directly related to the operation of the training facility; and

3. "Specially trained canines" means dogs that are raised by a person who is officially licensed as a dog breeder by the United States Department of Agriculture.

B. For taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in the amount of fifty percent (50%) of the qualified direct costs associated with the operation of a business enterprise the principal purpose of which is the rearing of specially trained canines.

C. The provisions of this section shall not be applicable to nonqualified operating expenditures.

D. The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0). Any credits authorized by this section claimed for a taxable year which are unable to be used may be carried over, in order, to each of the five (5) subsequent taxable years.

E. The Oklahoma Tax Commission shall be authorized to prescribe such forms as may be necessary in order to administer the tax credit authorized by this section. The Tax Commission may request such additional documentation as may be required from the taxpayer in order to verify the eligibility for the credit authorized by this section.

SECTION 3. This act shall become effective November 1, 2005.

Passed the House of Representatives the 26th day of May, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the 26th day of May, 2005.

Presiding Officer of the Senate