

3 **Senate Bill No. 435**
4 **As Amended**

5 SENATE BILL NO. 435 - By: GUMM of the Senate and CALVEY of the
6 House.

7 [revenue and taxation - Railroad Modernization Act of 2005
8 - income tax credit - effective date]

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

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2357.101 of Title 68, unless
12 there is created a duplication in numbering, reads as follows:

13 A. This act shall be known and may be cited as the "Railroad
14 Modernization Act of 2005".

15 B. The exercise of the powers granted to the Department of
16 Transportation and the Oklahoma Tax Commission by the Railroad
17 Modernization Act of 2005 shall be in all respects for the benefit
18 of the people of this state and for the increase of their commerce
19 and prosperity.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2357.102 of Title 68, unless
22 there is created a duplication in numbering, reads as follows:

23 A. For taxable years beginning after December 31, 2005, there
24 shall be allowed a credit against the tax imposed by Section 2355 of

1 Title 68 of the Oklahoma Statutes equal to fifty percent (50%) of an
2 eligible taxpayer's qualified railroad reconstruction or replacement
3 expenditures.

4 B. In no event shall the amount of the credit exceed the
5 product of Two Thousand Dollars (\$2,000.00) and the number of miles
6 of railroad track owned or leased within this state by the eligible
7 taxpayer as of the close of the taxable year.

8 C. The credit allowed pursuant to subsection A of this section
9 but not used shall be freely transferable, by written agreement, to
10 subsequent transferees at any time during the five (5) years
11 following the year of qualification. An eligible transferee shall
12 be any taxpayer subject to the tax imposed by Section 2355 of Title
13 68 of the Oklahoma Statutes. The person originally allowed the
14 credit and the subsequent transferee shall jointly file a copy of
15 the written credit transfer agreement with the Oklahoma Tax
16 Commission within thirty (30) days of the transfer. The written
17 agreement shall contain the name, address and taxpayer
18 identification number of the parties to the transfer, the amount of
19 credit being transferred, the year the credit was originally allowed
20 to the transferring person and the tax year or years for which the
21 credit may be claimed. The Tax Commission shall promulgate rules to
22 permit verification of the timeliness of a tax credit claimed upon a
23 tax return pursuant to this subsection but shall not promulgate any

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

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

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

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

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

9 SECTION 3. This act shall become effective January 1, 2006.

10 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-22-05 - DO PASS,
11 As Amended and Coauthored.