

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 435

By: Gumm

AS INTRODUCED

An Act relating to revenue and taxation; creating Railroad Modernization Act of 2005; providing short title; stating purpose; providing income tax credit for expenditures on reconstruction or replacement of railroad for certain eligible taxpayers; limiting amount of credit; providing for transfer of credit; requiring promulgation of rules; providing for carryover of credit; defining terms; providing for codification; and providing an effective date.

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

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

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

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

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

A. For taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes equal to fifty percent (50%) of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures.

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

C. The credit allowed pursuant to subsection A of this section but not used shall be freely transferable, by written agreement, to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission shall promulgate rules to permit verification of the timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit. The Department of Transportation shall promulgate rules to permit verification of the eligibility of an eligible taxpayer's expenditures for the purpose of claiming the credit. The rules shall provide for the approval of qualified railroad reconstruction or replacement expenditures prior to commencement of a project and provide a certificate of verification upon completion of a project that uses qualified railroad reconstruction or replacement expenditures. The certificate of verification shall satisfy all requirements of the Tax Commission pertaining to the eligibility of the person claiming the credit.

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

E. As used in this section:

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

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

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

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

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