

ENROLLED HOUSE  
BILL NO. 3024

By: Hickman, Enns, Ownbey,  
Fields and Walker of the  
House

and

Mazzei, Stanislawski,  
Paddack, Marlatt and Schulz  
of the Senate

An Act relating to revenue and taxation; amending Section 1, Chapter 303, O.S.L. 2004 (68 O.S. Supp. 2009, Section 205.4), which relates to the Incentive Review Committee; requiring Oklahoma Tax Commission and Oklahoma Employment Security Commission provide certain information; providing procedures when information cannot be provided due to technical reasons; amending 68 O.S. 2001, Sections 2357.4, as last amended by Section 4 of Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature, which relates to tax credits for certain investments, events, transactions, expenditures or other occurrences; modifying periods during which credits may be claimed; prohibiting certain amended returns; amending 68 O.S. 2001, Section 2357.22, as last amended by Section 1, Chapter 308, O.S.L. 2009 (68 O.S. Supp. 2009, Section 2357.22), which relates to income tax; modifying period of time during which certain income tax credit may be claimed; modifying definition to limit time period during which certain property is eligible for specified credit; amending 68 O.S. 2001, Sections 2357.32A, as last amended by Section 11 of Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature and 2357.41, as last amended by Section 14 of Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature, which relate to tax credits for certain investments, events, transactions, expenditures or other occurrences; modifying periods during which credits may be claimed;

prohibiting certain amended returns; defining terms; creating tax credit for manufacture of certain electric vehicles; setting amount of credit based on vehicle type; providing for carryover; allowing for promulgation of rules; prohibiting double credits; providing for codification; providing conditional effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 303, O.S.L. 2004 (68 O.S. Supp. 2009, Section 205.4), is amended to read as follows:

Section 205.4 A. The Legislature hereby finds that a system to quantify the costs and benefits of existing tax incentives is necessary to determine the achievement of desired objectives in fiscal policy. This system must include a regular and comprehensive review of provisions of state tax incentives. For purposes of this section, "tax incentive" shall include special exclusions, credits, exemptions, or deductions that are not a part of the essential structure of the tax in question and are designed to reduce the tax liability for a special project. A tax incentive shall also include any provision of law that provides direct payment incentives and other measures designed to entice businesses to locate or expand in Oklahoma.

B. There is hereby created an Incentive Review Committee, which shall consist of nine (9) members, three each to be appointed by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Each member shall serve a four-year term and can be reappointed up to three times. The Oklahoma Tax Commission and the Oklahoma Department of Commerce shall provide the staffing needs of the Committee. The Committee shall annually conduct a review of existing tax incentives in an individual tax code and may conduct an in-depth review of the cost and benefits of selected tax incentives. Committee review reports shall be submitted to the Governor, Speaker of the House of Representatives and the President Pro Tempore of the Senate. This review shall include:

1. ~~An identification of the purpose of the tax incentive;~~

~~2.~~ A determination of whether the potential revenue impact on the state can be quantified and if so, an estimate of the potential revenue impact on the state;

~~3.~~ 2. A determination of whether the economic gain to the state can be quantified and if so, an estimate of the economic gain measured in jobs, wages, investments, or other economic criteria;

~~4.~~ 3. An estimate of the effect on the distribution of the tax burden;

~~5.~~ 4. An estimate of the number of taxpayers receiving the benefit;

~~6.~~ 5. A determination of the growth potential of the industry eligible to claim the incentive;

~~7.~~ 6. A determination of the effectiveness in achieving the desired objective;

~~8.~~ 7. A determination of whether the tax incentive is the most fiscally effective means of achieving its stated purpose;

~~9.~~ 8. An analysis of the costs and burdens of administration;

~~10.~~ 9. An analysis of the competitive position of Oklahoma relative to other states with similar incentives;

~~11.~~ 10. A determination of the effectiveness of evoking a change in taxpayer behavior; and

~~12.~~ 11. A public hearing, at which persons receiving the incentives reviewed, or other interested parties, may testify.

Nothing in this section shall preclude the Committee from reviewing incentives outside the tax code selected for the annual review.

C. The Oklahoma Tax Commission and the Oklahoma Employment Security Commission shall collect, organize and produce information in compliance with requests from the Incentive Review Committee subject to any confidentiality or privacy restrictions placed on information collected by either agency.

D. If the Incentive Review Committee makes a request for information from either the Oklahoma Tax Commission or the Oklahoma Employment Security Commission and the agency cannot respond to the request because of the features of its information technology or information management systems, the agency shall prepare a written summary of the request for which a response could not be provided and a description of the deficiency in the applicable information system and deliver both to the chair of the standing committee of the Oklahoma House of Representatives and the Oklahoma State Senate primarily responsible for the consideration of revenue and taxation measures. Such summaries shall be provided not later than thirty (30) days after the agency notifies the Incentive Review Committee regarding the inability to respond to requested information.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.4, as last amended by Section 4 of Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 2357.4 A. Except as otherwise provided in subsection F of Section 3658 of this title and in subsection J of this section, for taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of Section 1357 of this title in this state or a qualified web search portal as defined paragraph 35 of Section 1357 of this title; or

2. A net increase in the number of full-time-equivalent employees engaged in manufacturing, processing or aircraft maintenance in this state including employees engaged in support services.

B. Except as otherwise provided in subsection F of Section 3658 of this title and in subsection J of this section, for taxable years beginning after December 31, 1998, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property with a total cost equal to or greater than Forty Million Dollars (\$40,000,000.00) within three (3) years from the date of initial qualifying expenditure and placed in service in this state during those years for use in the manufacture of products described by any Industry Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual, latest revision; or

2. A net increase in the number of full-time-equivalent employees in this state engaged in the manufacture of any goods identified by any Industry Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual, latest revision, if the total cost of qualified depreciable property placed in service by the business entity within the state equals or exceeds Forty Million Dollars (\$40,000,000.00) within three (3) years from the date of initial qualifying expenditure.

C. The business entity may claim the credit authorized by subsection B of this section for expenditures incurred or for a net increase in the number of full-time-equivalent employees after the business entity provides proof satisfactory to the Oklahoma Tax Commission that the conditions imposed pursuant to paragraph 1 or paragraph 2 of subsection B of this section have been satisfied.

D. If a business entity fails to expend the amount required by paragraph 1 or paragraph 2 of subsection B of this section within the time required, the business entity may not claim the credit authorized by subsection B of this section, but shall be allowed to claim a credit pursuant to subsection A of this section if the requirements of subsection A of this section are met with respect to the investment in qualified depreciable property or net increase in the number of full-time-equivalent employees.

E. The credit provided for in subsection A of this section, if based upon investment in qualified depreciable property, shall not be allowed unless the investment in qualified depreciable property is at least Fifty Thousand Dollars (\$50,000.00). The credit provided for in subsection A or B of this section shall not be allowed if the applicable investment is the direct cause of a decrease in the number of full-time-equivalent employees. Qualified property shall be limited to machinery, fixtures, equipment, buildings or substantial improvements thereto, placed in service in this state during the taxable year. The taxable years for which the credit may be allowed if based upon investment in qualified depreciable property shall be measured from the year in which the

qualified property is placed in service. If the credit provided for in subsection A or B of this section is calculated on the basis of the cost of the qualified property, the credit shall be allowed in each of the four (4) subsequent years. If the qualified property on which a credit has previously been allowed is acquired from a related party, the date such property is placed in service by the transferor shall be considered to be the date such property is placed in service by the transferee, for purposes of determining the aggregate number of years for which credit may be allowed.

F. The credit provided for in subsection A or B of this section, if based upon an increase in the number of full-time-equivalent employees, shall be allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. In calculating the credit by the number of new employees, only those employees whose paid wages or salary were at least Seven Thousand Dollars (\$7,000.00) during each year the credit is claimed shall be included in the calculation. Provided, that the first year a credit is claimed for a new employee, such employee may be included in the calculation notwithstanding paid wages of less than Seven Thousand Dollars (\$7,000.00) if the employee was hired in the last three quarters of the tax year, has wages or salary which will result in annual paid wages in excess of Seven Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit stating that the employee's position will be retained in the following tax year and will result in the payment of wages in excess of Seven Thousand Dollars (\$7,000.00). The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable year, as substantiated by such reports as may be required by the Tax Commission.

G. The credit allowed by subsection A of this section shall be the greater amount of either:

1. One percent (1%) of the cost of the qualified property in the year the property is placed in service; or

2. Five Hundred Dollars (\$500.00) for each new employee. No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

H. The credit allowed by subsection B of this section shall be the greater amount of either:

1. Two percent (2%) of the cost of the qualified property in the year the property is placed in service; or
2. One Thousand Dollars (\$1,000.00) for each new employee.

No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

I. Except as provided by subsection G of Section 3658 of this title, any credits allowed but not used in any taxable year may be carried over in order as follows:

1. To each of the four (4) years following the year of qualification;
2. To the extent not used in those years in order to each of the fifteen (15) years following the initial five-year period; and
3. If a C corporation that otherwise qualified for the credits under subsection A of this section subsequently changes its operating status to that of a pass-through entity which is being treated as the same entity for federal tax purposes, the credits will continue to be available as if the pass-through entity had originally qualified for the credits subject to the limitations of this section.

To the extent not used in paragraphs 1 and 2 of this subsection, such credits from qualified depreciable property placed in service on or after January 1, 2000, may be utilized in any subsequent tax years after the initial twenty-year period.

J. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable.—~~The~~ until the provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, ~~2012~~ 2010, according to

the provisions of this section; provided, credits accrued during the period from July 1, 2010, through June 30, 2012, shall be limited to a period of two (2) taxable years. The credit shall be limited in each taxable year to fifty percent (50%) of the total amount of the accrued credit. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2012, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 2357.22, as last amended by Section 1, Chapter 308, O.S.L. 2009 (68 O.S. Supp. 2009, Section 2357.22), is amended to read as follows:

Section 2357.22 A. For tax years beginning before January 1, 2015, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title ~~for~~

1. For investments in qualified clean-burning motor vehicle fuel property placed in service after December 31, 1990~~7~~; and ~~for~~

2. For investments in qualified electric motor vehicle property placed in service after December 31, 1995, and before July 1, 2010.

B. As used in this section, "qualified clean-burning motor vehicle fuel property" means:

1. Equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas; provided, equipment installed on a vehicle propelled by a hydrogen fuel cell shall only be eligible for tax year 2010. The equipment covered by this paragraph must be new and must not have been previously used to modify or retrofit any vehicle propelled by gasoline or diesel fuel;

2. A motor vehicle originally equipped so that the vehicle may be propelled by a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas but only to the extent of the portion of the basis of such motor vehicle which is attributable to the storage of such fuel, the delivery to the engine of such motor vehicle of such fuel, and the exhaust of gases from combustion of such fuel. A motor vehicle originally equipped so

that the vehicle may be propelled by a hydrogen fuel cell shall only be eligible for tax year 2010;

3. Property, not including a building and its structural components, which is:

- a. directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, or hydrogen, for commercial purposes or for a fee or charge, into the fuel tank of a motor vehicle propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a motor vehicle, or
- b. a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity. The property covered by this paragraph must be new, and must not have been previously installed or used to refuel vehicles powered by compressed natural gas, liquefied natural gas or liquefied petroleum gas, hydrogen or electricity.

Any property covered by this paragraph which is related to the delivery of hydrogen into the fuel tank of a motor vehicle shall only be eligible for tax year 2010; or

4. Property which is directly related to the compression and delivery of natural gas from a private home or residence, for noncommercial purposes, into the fuel tank of a motor vehicle propelled by compressed natural gas. The property covered by this paragraph must be new and must not have been previously installed or used to refuel vehicles powered by natural gas.

C. As used in this section, "qualified electric motor vehicle property" means a motor vehicle originally equipped to be propelled only by electricity; provided, if a motor vehicle is also equipped with an internal combustion engine, then such vehicle shall be considered "qualified electric motor vehicle property" only to the extent of the portion of the basis of such motor vehicle which is attributable to the propulsion of the vehicle by electricity. The term "qualified electric motor vehicle property" shall not apply to

vehicles known as "golf carts", "go-carts" and other motor vehicles which are manufactured principally for use off the streets and highways.

D. As used in this section, "motor vehicle" means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways.

E. The credit provided for in subsection A of this section shall be as follows:

1. For the qualified clean-burning motor vehicle fuel property defined in paragraph 1 or 2 of subsection B of this section and for the qualified electric motor vehicle property, fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or qualified electric motor vehicle property;

2. For qualified clean-burning motor vehicle fuel property defined in paragraph 3 of subsection B of this section, a per-location credit of seventy-five percent (75%) of the cost of the qualified clean-burning motor vehicle fuel property; and

3. For qualified clean-burning motor vehicle fuel property defined in paragraph 4 of subsection B of this section, a per-location credit of the lesser of fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or Two Thousand Five Hundred Dollars (\$2,500.00).

F. In cases where no credit has been claimed pursuant to paragraph 1 of subsection E of this section by any prior owner and in which a motor vehicle is purchased by a taxpayer with qualified clean-burning motor vehicle fuel property or qualified electric motor vehicle property installed by the manufacturer of such motor vehicle and the taxpayer is unable or elects not to determine the exact basis which is attributable to such property, the taxpayer may claim a credit in an amount not exceeding the lesser of ten percent (10%) of the cost of the motor vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

G. If the tax credit allowed pursuant to subsection A of this section 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 of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

H. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

I. The Oklahoma Tax Commission is herein empowered to promulgate rules by which the purpose of this section shall be administered, including the power to establish and enforce penalties for violations thereof.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2357.32A, as last amended by Section 11 of Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 2357.32A A. Except as otherwise provided in subsection H of this section, for tax years beginning on or after January 1, 2003, there shall be allowed a credit against the tax imposed by Section 2355 of this title to a taxpayer for the taxpayer's production and sale to an unrelated person of electricity generated by zero-emission facilities located in this state. As used in this section:

1. "Electricity generated by zero-emission facilities" means electricity that is exclusively produced by any facility located in this state with a rated production capacity of one megawatt (1 mw) or greater, constructed for the generation of electricity and placed in operation after June 4, 2001, which utilizes eligible renewable resources as its fuel source. The construction and operation of such facilities shall result in no pollution or emissions that are or may be harmful to the environment, pursuant to a determination by the Department of Environmental Quality; and

2. "Eligible renewable resources" means resources derived from:

- a. wind,
- b. moving water,
- c. sun, or
- d. geothermal energy.

B. For facilities placed in operation on or after January 1, 2003, and before January 1, 2007, the electricity generated on or after January 1, 2003, but prior to January 1, 2004, the amount of the credit shall be seventy-five one hundredths of one cent (\$0.0075) for each kilowatt-hour of electricity generated by zero-emission facilities. For electricity generated on or after January 1, 2004, but prior to January 1, 2007, the amount of the credit shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-hour for electricity generated by zero-emission facilities. For electricity generated on or after January 1, 2007, but prior to January 1, 2012, the amount of the credit shall be twenty-five one hundredths of one cent (\$0.0025) per kilowatt-hour of electricity generated by zero-emission facilities. For facilities placed in operation on or after January 1, 2007, and before January 1, 2016, for the electricity generated by these facilities the amount of the credit shall be fifty one hundredths of one cent (\$0.0050) for each kilowatt-hour of electricity generated by zero-emission facilities.

C. Credits may be claimed with respect to electricity generated on or after January 1, 2003, during a ten-year period following the date that the facility is placed in operation on or after June 4, 2001.

D. If the credit allowed pursuant to this section 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 allowed but not used in any tax year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years.

E. Any nontaxable entities, including agencies of the State of Oklahoma or political subdivisions thereof, shall be eligible to establish a transferable tax credit in the amount provided in subsection B of this section. Such tax credit shall be a property right available to a state agency or political subdivision of this state to transfer or sell to a taxable entity, whether individual or corporate, who shall have an actual or anticipated income tax liability under Section 2355 of this title. These tax credit provisions are authorized as an incentive to the State of Oklahoma, its agencies and political subdivisions to encourage the expenditure of funds in the development, construction and utilization of electricity from zero-emission facilities as defined in subsection A of this section.

F. The amount of the credit allowed, but not used, shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee, regardless of the actual tax liability of the tax credit transferor, for the relevant taxable period. The transferor initially allowed the credit and any subsequent transferees shall jointly file a copy of any written 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 or social security number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor, and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of the tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit. The tax credit allowed by this section, upon the election of the taxpayer, may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or Section 2355 of this title.

G. For electricity generation produced and sold in a calendar year, the tax credit allowed by the provisions of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 2355 of this title on or after July 1 of the following calendar year.

H. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable.—~~The~~ until the provisions of this subsection shall cease to be operative on July 1, ~~2012~~ 2011. Beginning July 1, ~~2012~~ 2011, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, ~~2012~~ 2010, according to the provisions of this section. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2011, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July

1, 2010, through June 30, 2011, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 2357.41, as last amended by Section 14 of Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 2357.41 A. Except as otherwise provided by subsection I of this section, for tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Sections 2355 and 2370 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes that would otherwise have been apportioned to the General Revenue Fund for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment or incentive district created pursuant to the Local Development Act or for qualified rehabilitation expenditures incurred after January 1, 2006, in connection with any certified historic structure.

B. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code. The credit authorized by this section may be claimed at any time after the relevant local governmental body responsible for doing so issues a certificate of occupancy or other document that is a precondition for the applicable use of the building or structure that is the basis upon which the credit authorized by this section is claimed.

C. All requirements with respect to qualification for the credit authorized by Section 47 of Title 26 of the United States Code shall be applicable to the credit authorized by this section.

D. If the credit allowed pursuant to this section 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 allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

E. All rehabilitation work to which the credit may be applied shall be reviewed by the State Historic Preservation Office which will in turn forward the information to the National Park Service

for certification in accordance with 36 C.F.R., Part 67. A certified historic structure may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

F. The amount of the credit allowed for any credit claimed for a certified historic hotel or historic newspaper plant building or any certified historic structure, but not used, shall be freely transferable, in whole or in part, to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor of the credit and the transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. Such filing of the written credit transfer agreement with the Oklahoma Tax Commission shall perfect such 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 transferor, the tax year or years for which the credit may be claimed, and a representation by the transferor that the transferor has neither claimed for its own behalf nor conveyed such credits to any other transferee. The Tax Commission shall develop a standard form for use by subsequent transferees of the credit demonstrating eligibility for the transferee to reduce its applicable tax liabilities resulting from ownership of the credit. The Tax Commission shall develop a system to record and track the transfers of the credit and certify the ownership of the credit and may promulgate rules to permit verification of the validity and 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.

G. Notwithstanding any other provisions in this section, on or after January 1, 2009, if a credit allowed pursuant to this section which has been transferred is subsequently reduced as the result of an adjustment by the Internal Revenue Service, Tax Commission, or any other applicable government agency, only the transferor originally allowed the credit and not any subsequent transferee of

the credit, shall be held liable to repay any amount of disallowed credit.

H. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section.

2. "Certified historic structure" means a building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section or a building located in Oklahoma which is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the State Historic Preservation Office as eligible for listing in the National Register of Historic Places; and

3. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that relate to safety or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

I. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable.—The until the provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, according to the provisions of this section. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2012, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.402 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Electric motor vehicle" means a new motor vehicle originally equipped to be propelled only by electricity and that may be legally operated on both interstate highways and turnpikes in this state and that is eligible for registration pursuant to the Oklahoma Vehicle License and Registration Act. The term does not include:

- a. medium-speed electric motor vehicles, or
- b. low-speed electric motor vehicles;

2. "Electric motor vehicle manufacturer" means an entity that has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of Title 68 of the Oklahoma Statutes. Adding modifications to existing electric motor vehicles, existing medium-speed electric motor vehicles or existing low-speed electric motor vehicles shall not be considered manufacturing for purposes of this section;

3. "Low-speed electric motor vehicle" means a new four-wheeled electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than twenty (20) miles per hour but not greater than twenty-five (25) miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards as contained in 49 C.F.R. 571.500. In order to be eligible the vehicle must be eligible for registration pursuant to the Oklahoma Vehicle License and Registration Act; and

4. "Medium-speed electric motor vehicle" means any self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one (1) mile is more than thirty (30) miles per hour but not greater than thirty-five (35) miles per hour and, other than the speed requirement, is manufactured in compliance with the National Highway Traffic Safety Administration standards as contained in 49 C.F.R. 571.500. In order to be eligible the vehicle must be

eligible for registration pursuant to the Oklahoma Vehicle License and Registration Act.

B. There shall be allowed a one-time credit to electric motor vehicle manufacturers against the income tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for electric motor vehicles, medium-speed electric motor vehicles and low-speed electric motor vehicles manufactured after June 30, 2010.

C. The credit provided for in subsection B of this section shall be as follows:

1. For an electric motor vehicle defined in paragraph 1 of subsection A of this section a per-vehicle-manufactured credit of Two Thousand Dollars (\$2,000.00);

2. For a medium-speed electric motor vehicle defined in paragraph 4 of subsection A of this section a per-vehicle-manufactured credit of One Thousand Dollars (\$1,000.00); and

3. For a low-speed electric motor vehicle defined in paragraph 3 of subsection A of this section a per-vehicle-manufactured credit of Five Hundred Dollars (\$500.00).

D. If the tax credit allowed pursuant to this section 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 of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

E. The Oklahoma Tax Commission is herein empowered to promulgate rules by which the purpose of this section shall be administered.

F. The credit authorized by this section shall not be claimed with respect to any one vehicle based upon multiple definitions as set out in subsection A of this section even if such vehicle would otherwise qualify for tax credits based upon qualification pursuant to more than one definition.

SECTION 7. Sections 2, 4 and 5 of this act shall not become effective as law unless Enrolled Senate Bill No. 1267 of the 2nd Session of the 52nd Oklahoma Legislature becomes effective as law.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 28th day of May, 2010.

---

Presiding Officer of the House of  
Representatives

Passed the Senate the 28th day of May, 2010.

---

Presiding Officer of the Senate