

1 ENGROSSED SENATE  
2 BILL NO. 269

By: Schulz of the Senate

3 and

4 Liebmann of the House

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6  
7 [ income tax - tax credit for railroad reconstruction  
8 or replacement expenditures - effective date ]  
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY Section 8, Chapter 413, O.S.L.  
13 2005, as last amended by Section 24, Chapter 327, O.S.L. 2010 (68  
14 O.S. Supp. 2010, Section 2357.104), is amended to read as follows:

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

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

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~~ January  
18 1, 2012. Beginning ~~July 1, 2012~~ January 1, 2012, the credit  
19 authorized by this section may be ~~claimed~~ earned for any event,  
20 transaction, investment, expenditure or other act occurring on or  
21 after ~~July 1, 2012~~ January 1, 2012, according to the provisions of  
22 subsection H of this section.

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