

1 **SENATE FLOOR VERSION**

2 February 28, 2011

3 As Amended

4 SENATE BILL NO. 269

5 By: Schulz of the Senate

6 and

7 Liebmann of the House

8 [income tax credit for railroad reconstruction or
9 replacement - modifying time period for moratorium -
10 effective date]

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY Section 8, Chapter 413, O.S.L.

14 2005, as last amended by Section 24, Chapter 327, O.S.L. 2010 (68
15 O.S. Supp. 2010, Section 2357.104), is amended to read as follows:

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

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

1 (\$2,000.00) for tax year 2008 and subsequent tax years and the
2 number of miles of railroad track owned or leased within this state
3 by the eligible taxpayer as of the close of the taxable year.

4 2. In tax year 2009 and subsequent tax years, a taxpayer may
5 elect to increase the limit provided in paragraph 1 of this
6 subsection to an amount equal to three times the limit specified in
7 paragraph 1 of this subsection for qualified expenditures made in
8 the tax year, provided the taxpayer may only claim one third (1/3)
9 of the credit in any one taxable period.

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

1 this subsection but shall not promulgate any rules which unduly
2 restrict or hinder the transfers of such tax credit. The Department
3 of Transportation shall promulgate rules to permit verification of
4 the eligibility of an eligible taxpayer's expenditures for the
5 purpose of claiming the credit. The rules shall provide for the
6 approval of qualified railroad reconstruction or replacement
7 expenditures prior to commencement of a project and provide a
8 certificate of verification upon completion of a project that uses
9 qualified railroad reconstruction or replacement expenditures. The
10 certificate of verification shall satisfy all requirements of the
11 Tax Commission pertaining to the eligibility of the person claiming
12 the credit.

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

17 E. A taxpayer who elects to increase the limitation on the
18 credit under paragraph 2 of subsection B of this section shall not
19 be granted additional credits under subsection A of this section
20 during the period of such election.

21 F. As used in this section:

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

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 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 this section.

23 SECTION 2. This act shall become effective November 1, 2011.

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

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