

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1477

By: Mazzei

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5
6 AS INTRODUCED

7 An Act relating to tax credits; amending 68 O.S.
8 2011, Sections 2357.11, 2357.32A, 2357.32B, 2357.41,
9 2357.46 and 2357.104, which relate to credits against
10 income, premium, rural electric cooperative and bank
11 privilege tax; after specified date, eliminating
12 ability to transfer credits for furnishing power,
13 purchasing coal, electricity generation from zero-
14 emission facilities, manufacture of small wind
15 turbines, qualified rehabilitation expenditures,
16 expenditures for energy efficient construction and
17 railroad reconstruction; and providing an effective
18 date.

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

20 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.11, is
21 amended to read as follows:

22 Section 2357.11. A. For purposes of this section, the term
23 "person" means any legal business entity including limited and
24 general partnerships, corporations, sole proprietorships, and
limited liability companies, but does not include individuals.

B. 1. Except as provided in subsection M of this section, for
tax years beginning on or after January 1, 1993, and ending on or
before December 31, 2014, there shall be allowed a credit against

1 the tax imposed by Section 1803 or Section 2355 of this title or
2 Section 624 or 628 of Title 36 of the Oklahoma Statutes for every
3 person in this state furnishing water, heat, light or power to the
4 state or its citizens, or for every person in this state burning
5 coal to generate heat, light or power for use in manufacturing
6 operations located in this state.

7 2. For tax years beginning on or after January 1, 1993, and
8 ending on or before December 31, 2005, and for the period of January
9 1, 2006, through June 30, 2006, the credit shall be in the amount of
10 Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal
11 purchased by such person.

12 3. For the period of July 1, 2006 through December 31, 2006,
13 and for tax years beginning on or after January 1, 2007, and ending
14 on or before December 31, 2014, the credit shall be in the amount of
15 Two Dollars and eighty-five cents (\$2.85) per ton for each ton of
16 Oklahoma-mined coal purchased by such person.

17 4. In addition to the credit allowed pursuant to the provisions
18 of paragraph 3 of this subsection, for the period of July 1, 2006,
19 through December 31, 2006, and except as provided in subsection M of
20 this section, for tax years beginning on or after January 1, 2007,
21 and ending on or before December 31, 2014, there shall be allowed a
22 credit in the amount of Two Dollars and fifteen cents (\$2.15) per
23 ton for each ton of Oklahoma-mined coal purchased by such person.

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1 The credit allowed pursuant to the provisions of this paragraph may
2 not be claimed or transferred prior to January 1, 2008.

3 C. For tax years beginning on or after January 1, 1995, and
4 ending on or before December 31, 2005, and for the period beginning
5 January 1, 2006, through June 30, 2006, there shall be allowed, in
6 addition to the credits allowed pursuant to subsection B of this
7 section, a credit against the tax imposed by Section 1803 or Section
8 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
9 Statutes for every person in this state which:

10 1. Furnishes water, heat, light or power to the state or its
11 citizens, or burns coal to generate heat, light or power for use in
12 manufacturing operations located in this state; and

13 2. Purchases at least seven hundred fifty thousand (750,000)
14 tons of Oklahoma-mined coal in the tax year.

15 The additional credit allowed pursuant to this subsection shall
16 be in the amount of Three Dollars (\$3.00) per ton for each ton of
17 Oklahoma-mined coal purchased by such person.

18 D. Except as otherwise provided in subsection E of this section
19 and in subsection M of this section, for tax years beginning on or
20 after January 1, 2001, there shall be allowed a credit against the
21 tax imposed by Section 1803 or Section 2355 of this title or Section
22 624 or 628 of Title 36 of the Oklahoma Statutes for every person in
23 this state primarily engaged in mining, producing or extracting
24 coal, and holding a valid permit issued by the Oklahoma Department

1 of Mines. For tax years beginning on or after January 1, 2001, and
2 ending on or before December 31, 2005, and for the period beginning
3 January 1, 2006, through June 30, 2006, the credit shall be in the
4 amount of ninety-five cents (\$0.95) per ton and for the period of
5 July 1, 2006, through December 31, 2006, and for tax years beginning
6 on or after January 1, 2007, the credit shall be in the amount of
7 Five Dollars (\$5.00) for each ton of coal mined, produced or
8 extracted in on, under or through a permit in this state by such
9 person.

10 E. In addition to the credit allowed pursuant to the provisions
11 of subsection D of this section and except as otherwise provided in
12 subsection F of this section, for tax years beginning on or after
13 January 1, 2001, and ending on or before December 31, 2005, and for
14 the period of January 1, 2006, through June 30, 2006, there shall be
15 allowed a credit against the tax imposed by Section 1803 or Section
16 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
17 Statutes for every person in this state primarily engaged in mining,
18 producing or extracting coal, and holding a valid permit issued by
19 the Oklahoma Department of Mines in the amount of ninety-five cents
20 (\$0.95) per ton for each ton of coal mined, produced or extracted
21 from thin seams in this state by such person; provided, the credit
22 shall not apply to such coal sold to any consumer who purchases at
23 least seven hundred fifty thousand (750,000) tons of Oklahoma-mined
24 coal per year.

1 F. In addition to the credit allowed pursuant to the provisions
2 of subsection D of this section and except as otherwise provided in
3 subsection G of this section, for tax years beginning on or after
4 January 1, 2005, and ending on or before December 31, 2005, and for
5 the period of January 1, 2006, through June 30, 2006, there shall be
6 allowed a credit against the tax imposed by Section 1803 or Section
7 2355 of this title or that portion of the tax imposed by Section 624
8 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid
9 to and placed into the General Revenue Fund, in the amount of
10 ninety-five cents (\$0.95) per ton for each ton of coal mined,
11 produced or extracted from thin seams in this state by such person
12 on or after July 1, 2005.

13 G. The credits provided in subsections D and E of this section
14 shall not be allowed for coal mined, produced or extracted in any
15 month in which the average price of coal is Sixty-eight Dollars
16 (\$68.00) or more per ton, excluding freight charges, as determined
17 by the Tax Commission.

18 H. The additional credits allowed pursuant to subsections B, C,
19 D and E of this section but not used shall be freely transferable
20 after January 1, 2002 and before January 1, 2013, by written
21 agreement to subsequent transferees at any time during the five (5)
22 years following the year of qualification; provided, the additional
23 credits allowed pursuant to the provisions of paragraph 4 of
24 subsection B of this section but not used shall be freely

1 transferable after January 1, 2008, by written agreement to
2 subsequent transferees at any time during the five (5) years
3 following the year of qualification. An eligible transferee shall
4 be any taxpayer subject to the tax imposed by Section 1803 or
5 Section 2355 of this title or Section 624 or 628 of Title 36 of the
6 Oklahoma Statutes. The person originally allowed the credit and the
7 subsequent transferee shall jointly file a copy of the written
8 credit transfer agreement with the Tax Commission within thirty (30)
9 days of the transfer. The written agreement shall contain the name,
10 address and taxpayer identification number of the parties to the
11 transfer, the amount of credit being transferred, the year the
12 credit was originally allowed to the transferring person and the tax
13 year or years for which the credit may be claimed. The Tax
14 Commission may promulgate rules to permit verification of the
15 validity and timeliness of a tax credit claimed upon a tax return
16 pursuant to this subsection but shall not promulgate any rules which
17 unduly restrict or hinder the transfers of such tax credit.

18 I. The additional credit allowed pursuant to subsection F of
19 this section but not used shall be freely transferable on or after
20 July 1, 2006 and before January 1, 2013, by written agreement to
21 subsequent transferees at any time during the five (5) years
22 following the year of qualification. An eligible transferee shall
23 be any taxpayer subject to the tax imposed by Section 1803 or
24 Section 2355 of this title or Section 624 or 628 of Title 36 of the

1 Oklahoma Statutes. The person originally allowed the credit and the
2 subsequent transferee shall jointly file a copy of the written
3 credit transfer agreement with the Tax Commission within thirty (30)
4 days of the transfer. The written agreement shall contain the name,
5 address and taxpayer identification number of the parties to the
6 transfer, the amount of credit being transferred, the year the
7 credit was originally allowed to the transferring person and the tax
8 year or years for which the credit may be claimed. The Tax
9 Commission may promulgate rules to permit verification of the
10 validity and timeliness of a tax credit claimed upon a tax return
11 pursuant to this subsection but shall not promulgate any rules which
12 unduly restrict or hinder the transfers of such tax credit.

13 J. Any person receiving tax credits pursuant to the provisions
14 of this section shall apply the credits against taxes payable or
15 shall transfer the credits as provided in this section. Credits
16 shall not be used to lower the price of any Oklahoma-mined coal sold
17 that is produced by a subsidiary of the person receiving a tax
18 credit under this section to other buyers of the Oklahoma-mined
19 coal.

20 K. The credits allowed by subsections B, C, D, E and F of this
21 section, upon election of the taxpayer, shall be treated and may be
22 claimed as a payment of tax, a prepayment of tax or a payment of
23 estimated tax for purposes of Section 1803 or 2355 of this title or
24 Section 624 or 628 of Title 36 of the Oklahoma Statutes.

1 L. Any credits allowed pursuant to the provisions of
2 subsections B, C, D, E and F of this section but not used in any tax
3 year may be carried over in order to each of the five (5) years
4 following the year of qualification.

5 M. No credit otherwise authorized by the provisions of this
6 section may be claimed for any event, transaction, investment,
7 expenditure or other act occurring on or after July 1, 2010, for
8 which the credit would otherwise be allowable. The provisions of
9 this subsection shall cease to be operative on July 1, 2012.

10 Beginning July 1, 2012, the credit authorized by this section may be
11 claimed for any event, transaction, investment, expenditure or other
12 act occurring on or after July 1, 2012, according to the provisions
13 of this section.

14 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.32A, is
15 amended to read as follows:

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

23 1. "Electricity generated by zero-emission facilities" means
24 electricity that is exclusively produced by any facility located in

1 this state with a rated production capacity of one megawatt (1 mw)
2 or greater, constructed for the generation of electricity and placed
3 in operation after June 4, 2001, which utilizes eligible renewable
4 resources as its fuel source. The construction and operation of
5 such facilities shall result in no pollution or emissions that are
6 or may be harmful to the environment, pursuant to a determination by
7 the Department of Environmental Quality; and

- 8 2. "Eligible renewable resources" means resources derived from:
- 9 a. wind,
 - 10 b. moving water,
 - 11 c. sun, or
 - 12 d. geothermal energy.

13 B. For facilities placed in operation on or after January 1,
14 2003, and before January 1, 2007, the electricity generated on or
15 after January 1, 2003, but prior to January 1, 2004, the amount of
16 the credit shall be seventy-five one hundredths of one cent
17 (\$0.0075) for each kilowatt-hour of electricity generated by zero-
18 emission facilities. For electricity generated on or after January
19 1, 2004, but prior to January 1, 2007, the amount of the credit
20 shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-
21 hour for electricity generated by zero-emission facilities. For
22 electricity generated on or after January 1, 2007, but prior to
23 January 1, 2012, the amount of the credit shall be twenty-five one
24 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity

1 generated by zero-emission facilities. For facilities placed in
2 operation on or after January 1, 2007, and before January 1, 2016,
3 for the electricity generated by these facilities the amount of the
4 credit shall be fifty one hundredths of one cent (\$.0050) for each
5 kilowatt-hour of electricity generated by zero-emission facilities.

6 C. Credits may be claimed with respect to electricity generated
7 on or after January 1, 2003, during a ten-year period following the
8 date that the facility is placed in operation on or after June 4,
9 2001.

10 D. If the credit allowed pursuant to this section exceeds the
11 amount of income taxes due or if there are no state income taxes due
12 on the income of the taxpayer, the amount of the credit allowed but
13 not used in any tax year may be carried forward as a credit against
14 subsequent income tax liability for a period not exceeding ten (10)
15 years.

16 E. Any nontaxable entities, including agencies of the State of
17 Oklahoma or political subdivisions thereof, shall be eligible to
18 establish a transferable tax credit in the amount provided in
19 subsection B of this section. Such tax credit shall be a property
20 right available to a state agency or political subdivision of this
21 state to transfer or sell to a taxable entity, whether individual or
22 corporate, who shall have an actual or anticipated income tax
23 liability under Section 2355 of this title. These tax credit
24 provisions are authorized as an incentive to the State of Oklahoma,

1 its agencies and political subdivisions to encourage the expenditure
2 of funds in the development, construction and utilization of
3 electricity from zero-emission facilities as defined in subsection A
4 of this section.

5 F. ~~The~~ Before January 1, 2013, the amount of the credit
6 allowed, but not used, shall be freely transferable at any time
7 during the ten (10) years following the year of qualification. Any
8 person to whom or to which a tax credit is transferred shall have
9 only such rights to claim and use the credit under the terms that
10 would have applied to the entity by whom or by which the tax credit
11 was transferred. The provisions of this subsection shall not limit
12 the ability of a tax credit transferee to reduce the tax liability
13 of the transferee, regardless of the actual tax liability of the tax
14 credit transferor, for the relevant taxable period. The transferor
15 initially allowed the credit and any subsequent transferees shall
16 jointly file a copy of any written transfer agreement with the
17 Oklahoma Tax Commission within thirty (30) days of the transfer.
18 The written agreement shall contain the name, address and taxpayer
19 identification number or social security number of the parties to
20 the transfer, the amount of the credit being transferred, the year
21 the credit was originally allowed to the transferor, and the tax
22 year or years for which the credit may be claimed. The Tax
23 Commission may promulgate rules to permit verification of the
24 validity and timeliness of the tax credit claimed upon a tax return

1 pursuant to this subsection but shall not promulgate any rules that
2 unduly restrict or hinder the transfers of such tax credit. The tax
3 credit allowed by this section, upon the election of the taxpayer,
4 may be claimed as a payment of tax, a prepayment of tax or a payment
5 of estimated tax for purposes of Section 1803 or Section 2355 of
6 this title.

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

13 H. 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 until the provisions
17 of this subsection shall cease to be operative on July 1, 2011.
18 Beginning July 1, 2011, the credit authorized by this section may be
19 claimed for any event, transaction, investment, expenditure or other
20 act occurring on or after July 1, 2010, according to the provisions
21 of this section. Any tax credits which accrue during the period of
22 July 1, 2010, through June 30, 2011, may not be claimed for any
23 period prior to the taxable year beginning January 1, 2012. No
24 credits which accrue during the period of July 1, 2010, through June

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

3 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.32B, is
4 amended to read as follows:

5 Section 2357.32B. A. Except as otherwise provided by
6 subsection G of this section, for tax years beginning on or after
7 January 1, 2003, and ending on or before December 31, 2012, there
8 shall be allowed a credit against the tax imposed by Section 624 or
9 628 of Title 36 of the Oklahoma Statutes, and actually paid to and
10 placed into the General Revenue Fund, or Section 2370 or 2355 of
11 this title to Oklahoma manufacturers of advanced small wind
12 turbines. As used in this section:

13 1. "Oklahoma manufacturers" means manufacturers who operate
14 facilities located in this state which have the capability to
15 manufacture small wind turbine products, including rotor blade and
16 alternator fabrication; and

17 2. "Advanced small wind turbines" means upwind, furling wind
18 turbines that meet the following requirements:

- 19 a. have a rated capacity of at least one kilowatt (1 kw)
20 but not greater than fifty kilowatts (50 kw),
- 21 b. incorporate advanced technologies such as new
22 airfoils, new generators, and new power electronics,
23 variable speed,

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- 1 c. at least one unit of each model has undergone testing
2 at the US-DOE National Wind Technology Center, and
3 d. comply with appropriate interconnection safety
4 standards of the Institute of Electrical and
5 Electronics Engineers applicable to small wind
6 turbines.

7 B. The amount of the credit shall be based on the square
8 footage of rotor swept area of advanced small wind turbines
9 manufactured in this state. The amount of the credit shall be
10 Twenty-five Dollars (\$25.00) per square foot produced in calendar
11 year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot
12 produced in calendar year 2004, and Twenty-five Dollars (\$25.00) per
13 square foot produced in calendar years 2005 through 2012.

14 C. The companies claiming the credit allowed by this section
15 shall agree in advance to allow their production and claims to be
16 audited by the Oklahoma Tax Commission and they must be able to show
17 that they have made economic development investments in this state
18 over the period of time for which the credit was claimed that exceed
19 the net proceeds from the amount of credit claimed.

20 D. If the amount of the credits allowed pursuant to this
21 section exceeds the amount of income taxes due or if there are no
22 state income taxes due on the income of the taxpayer, the amount of
23 the credit allowed but not used in any taxable year may be carried
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1 forward as a credit against subsequent income tax liability for a
2 period not exceeding ten (10) years.

3 E. The Before January 1, 2013, the amount of the credit allowed
4 but not used shall be freely transferable at any time during the ten
5 (10) years following the year of qualification. Any person to whom
6 or to which a tax credit is transferred shall have only such rights
7 to claim and use the credit under the terms that would have applied
8 to the entity by whom or by which the tax credit was transferred.

9 The provisions of this subsection shall not limit the ability of a
10 tax credit transferee to reduce the tax liability of the transferee
11 regardless of the actual tax liability of the tax credit transferor
12 for the relevant taxable period. The transferor originally allowed
13 the credit and the subsequent transferee shall jointly file a copy
14 of the written credit transfer agreement with the Tax Commission
15 within thirty (30) days of the transfer. The written agreement
16 shall contain the name, address and taxpayer identification number
17 of the parties to the transfer, the amount of the credit being
18 transferred, the year the credit was originally allowed to the
19 transferor and the tax year or years for which the credit may be
20 claimed. The Tax Commission may promulgate rules to permit
21 verification of the validity and timeliness of a tax credit claimed
22 upon a tax return pursuant to this subsection but shall not
23 promulgate any rules that unduly restrict or hinder the transfers of
24 such tax credit.

1 F. For advanced small wind turbines produced in a calendar
2 year, the tax credit allowed by the provisions of this section, upon
3 election of the taxpayer, shall be treated and may be claimed as a
4 payment of tax, a prepayment of tax or a payment of estimated tax
5 for purposes of Section 624 or 628 of Title 36 of the Oklahoma
6 Statutes, and actually paid to and placed into the General Revenue
7 Fund, or Section 2370 or 2355 of this title on or after July 1 of
8 the following calendar year.

9 G. No credit otherwise authorized by the provisions of this
10 section may be claimed for any event, transaction, investment,
11 expenditure or other act occurring on or after July 1, 2010, for
12 which the credit would otherwise be allowable. The provisions of
13 this subsection shall cease to be operative on July 1, 2012.
14 Beginning July 1, 2012, the credit authorized by this section may be
15 claimed for any event, transaction, investment, expenditure or other
16 act occurring on or after July 1, 2012, according to the provisions
17 of this section.

18 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2357.41, is
19 amended to read as follows:

20 Section 2357.41. A. Except as otherwise provided by subsection
21 I of this section, for tax years beginning after December 31, 2000,
22 there shall be allowed a credit against the tax imposed by Sections
23 2355 and 2370 of this title or that portion of the tax imposed by
24 Section 624 or 628 of Title 36 of the Oklahoma Statutes that would

1 otherwise have been apportioned to the General Revenue Fund for
2 qualified rehabilitation expenditures incurred in connection with
3 any certified historic hotel or historic newspaper plant building
4 located in an increment or incentive district created pursuant to
5 the Local Development Act or for qualified rehabilitation
6 expenditures incurred after January 1, 2006, in connection with any
7 certified historic structure.

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

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

19 D. If the credit allowed pursuant to this section exceeds the
20 amount of income taxes due or if there are no state income taxes due
21 on the income of the taxpayer, the amount of the credit allowed but
22 not used in any taxable year may be carried forward as a credit
23 against subsequent income tax liability for a period not exceeding
24 ten (10) years following the qualified expenditures.

1 E. All rehabilitation work to which the credit may be applied
2 shall be reviewed by the State Historic Preservation Office which
3 will in turn forward the information to the National Park Service
4 for certification in accordance with 36 C.F.R., Part 67. A
5 certified historic structure may be rehabilitated for any lawful use
6 or uses, including without limitation mixed uses and still retain
7 eligibility for the credit provided for in this section.

8 F. ~~The~~ Before January 2, 2013, the amount of the credit allowed
9 for any credit claimed for a certified historic hotel or historic
10 newspaper plant building or any certified historic structure, but
11 not used, shall be freely transferable, in whole or in part, to
12 subsequent transferees at any time during the five (5) years
13 following the year of qualification. Any person to whom or to which
14 a tax credit is transferred shall have only such rights to claim and
15 use the credit under the terms that would have applied to the entity
16 by whom or by which the tax credit was transferred. The provisions
17 of this subsection shall not limit the ability of a tax credit
18 transferee to reduce the tax liability of the transferee regardless
19 of the actual tax liability of the tax credit transferor for the
20 relevant taxable period. The transferor of the credit and the
21 transferee shall jointly file a copy of the written credit transfer
22 agreement with the Oklahoma Tax Commission within thirty (30) days
23 of the transfer. Such filing of the written credit transfer
24 agreement with the Oklahoma Tax Commission shall perfect such

1 transfer. The written agreement shall contain the name, address and
2 taxpayer identification number of the parties to the transfer, the
3 amount of credit being transferred, the year the credit was
4 originally allowed to the transferor, the tax year or years for
5 which the credit may be claimed, and a representation by the
6 transferor that the transferor has neither claimed for its own
7 behalf nor conveyed such credits to any other transferee. The Tax
8 Commission shall develop a standard form for use by subsequent
9 transferees of the credit demonstrating eligibility for the
10 transferee to reduce its applicable tax liabilities resulting from
11 ownership of the credit. The Tax Commission shall develop a system
12 to record and track the transfers of the credit and certify the
13 ownership of the credit and may promulgate rules to permit
14 verification of the validity and timeliness of a tax credit claimed
15 upon a tax return pursuant to this subsection but shall not
16 promulgate any rules which unduly restrict or hinder the transfers
17 of such tax credit.

18 G. Notwithstanding any other provisions in this section, on or
19 after January 1, 2009, if a credit allowed pursuant to this section
20 which has been transferred is subsequently reduced as the result of
21 an adjustment by the Internal Revenue Service, Tax Commission, or
22 any other applicable government agency, only the transferor
23 originally allowed the credit and not any subsequent transferee of
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1 the credit, shall be held liable to repay any amount of disallowed
2 credit.

3 H. As used in this section:

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

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

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

3 I. No credit otherwise authorized by the provisions of this
4 section may be claimed for any event, transaction, investment,
5 expenditure or other act occurring on or after July 1, 2010, for
6 which the credit would otherwise be allowable until the provisions
7 of this subsection shall cease to be operative on July 1, 2012.
8 Beginning July 1, 2012, the credit authorized by this section may be
9 claimed for any event, transaction, investment, expenditure or other
10 act occurring on or after July 1, 2010, according to the provisions
11 of this section. Any tax credits which accrue during the period of
12 July 1, 2010, through June 30, 2012, may not be claimed for any
13 period prior to the taxable year beginning January 1, 2012. No
14 credits which accrue during the period of July 1, 2010, through June
15 30, 2012, may be used to file an amended tax return for any taxable
16 year prior to the taxable year beginning January 1, 2012.

17 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2357.46, is
18 amended to read as follows:

19 Section 2357.46. A. Except as otherwise provided by subsection
20 G of this section, for tax years beginning after December 31, 2005,
21 there shall be allowed a credit against the tax imposed by Section
22 2355 of Title 68 of Oklahoma Statutes for eligible expenditures
23 incurred by a contractor in the construction of energy efficient
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1 residential property of two thousand (2,000) square feet or less.

2 The amount of the credit shall be based upon the following:

3 1. For any eligible energy efficient residential property
4 constructed and certified as forty percent (40%) or more above the
5 International Energy Conservation Code 2003 and any supplement in
6 effect at the time of completion, the amount of the credit shall be
7 equal to the eligible expenses, not to exceed Four Thousand Dollars
8 (\$4,000.00) for the taxpayer who is the contractor; and

9 2. For any eligible energy efficient residential property
10 constructed and certified as between twenty percent (20%) and
11 thirty-nine percent (39%) above the International Energy
12 Conservation Code 2003 and any supplement in effect at the time of
13 completion, the credit shall be equal to the eligible expenditures,
14 not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who
15 is the contractor.

16 B. As used in this section:

17 1. "Eligible expenditure" means any:

- 18 a. energy efficient heating or cooling system,
19 b. insulation material or system which is specifically
20 and primarily designed to reduce the heat gain or loss
21 of a residential property when installed in or on such
22 property,
23 c. exterior windows, including skylights,
24 d. exterior doors, and

1 e. any metal roof installed on a residential property,
2 but only if such roof has appropriate pigmented
3 coatings which are specifically and primarily designed
4 to reduce the heat gain of such dwelling unit and
5 which meet Energy Star program requirements;

6 2. "Contractor" means the taxpayer who constructed the
7 residential property or manufactured home, or if more than one
8 taxpayer qualifies as the contractor, the primary contractor; and

9 3. "Eligible energy efficient residential property" means a
10 newly constructed residential property or manufactured home property
11 which is located in the State of Oklahoma and substantially complete
12 after December 31, 2005, and which is two thousand (2,000) square
13 feet or less:

14 a. for the credit provided pursuant to paragraph 1 of
15 subsection A of this section, which is certified by an
16 accredited Residential Energy Services Network
17 Provider using the Home Energy Rating System to have:

18 (1) a level of annual heating and cooling energy
19 consumption which is at least forty percent (40%)
20 below the annual level of heating and cooling
21 energy consumption of a comparable residential
22 property constructed in accordance with the
23 standards of Chapter 4 of the 2003 International
24

1 Energy Conservation Code, as such code is in
2 effect on the effective date of this act,

3 (2) heating and cooling equipment efficiencies which
4 correspond to the minimum allowed under the
5 regulations established by the Department of
6 Energy pursuant to the National Appliance Energy
7 Conservation Act of 1987 and in effect at the
8 time of construction of the property, and

9 (3) building envelope component improvements which
10 account for at least one-fifth of the reduced
11 annual heating and cooling energy consumption
12 levels,

13 b. for the credit provided pursuant to paragraph 2 of
14 subsection A of this section, which is certified by an
15 accredited Residential Energy Services Network
16 Provider using the Home Energy Rating System to have:

17 (1) a level of annual heating and cooling energy
18 consumption which is between twenty percent (20%)
19 and thirty-nine percent (39%) below the annual
20 level of heating and cooling energy consumption
21 of a comparable residential property constructed
22 in accordance with the standards of Chapter 4 of
23 the 2003 International Energy Conservation Code,
24

1 as such code is in effect on the effective date
2 of this act,

3 (2) heating and cooling equipment efficiencies which
4 correspond to the minimum allowed under the
5 regulations established by the Department of
6 Energy pursuant to the National Appliance Energy
7 Conservation Act of 1987 and in effect at the
8 time of construction of the property, and

9 (3) building envelope component improvements which
10 account for at least one-third of the reduced
11 annual heating and cooling energy consumption
12 levels.

13 C. The credit provided for in subsection A of this section may
14 only be claimed once for the contractor of any eligible residential
15 energy efficient property during the taxable year when the property
16 is substantially complete.

17 D. If the credit allowed pursuant to this section exceeds the
18 amount of income taxes due or if there are no state income taxes due
19 on the income of the taxpayer, the amount of credit allowed but not
20 used in any taxable year may be carried forward as a credit against
21 subsequent income tax liability for a period not exceeding four (4)
22 years following the qualified expenditures.

23 E. For credits earned ~~on or after the effective date of this~~
24 ~~act~~ from the time period beginning on July 1, 2006 through December

1 31, 2012, the credits authorized by this section shall be freely
2 transferable to subsequent transferees.

3 F. The Oklahoma Tax Commission shall promulgate rules necessary
4 to implement this act.

5 G. No credit otherwise authorized by the provisions of this
6 section may be claimed for any event, transaction, investment,
7 expenditure or other act occurring on or after July 1, 2010 for
8 which the credit would otherwise be allowable. The provisions of
9 this subsection shall cease to be operative on July 1, 2012.

10 Beginning July 1, 2012, the credit authorized by this section may be
11 claimed for any event, transaction, investment, expenditure or other
12 act occurring on or after July 1, 2012, according to the provisions
13 of this section.

14 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2357.104, is
15 amended to read as follows:

16 Section 2357.104. A. Except as otherwise provided by
17 subsection G of this section, for taxable years beginning after
18 December 31, 2005, there shall be allowed a credit against the tax
19 imposed by Section 2355 of this title equal to fifty percent (50%)
20 of an eligible taxpayer's qualified railroad reconstruction or
21 replacement 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~~ Before January 1, 2013, the credit allowed pursuant to
11 subsection A of this section but not used shall be freely
12 transferable, by written agreement, to subsequent transferees at any
13 time during the five (5) years following the year of qualification.
14 An eligible transferee shall be any taxpayer subject to the tax
15 imposed by Section 2355 of this title. The person originally
16 allowed the credit and the subsequent transferee shall jointly file
17 a copy of the written credit transfer agreement with the Oklahoma
18 Tax Commission within thirty (30) days of the transfer. The written
19 agreement shall contain the name, address and taxpayer
20 identification number of the parties to the transfer, the amount of
21 credit being transferred, the year the credit was originally allowed
22 to the transferring person and the tax year or years for which the
23 credit may be claimed. The Tax Commission shall promulgate rules to
24 permit verification of the timeliness of a tax credit claimed upon a

1 tax return pursuant to this subsection but shall not promulgate any
2 rules which unduly restrict or hinder the transfers of such tax
3 credit. The Department of Transportation shall promulgate rules to
4 permit verification of the eligibility of an eligible taxpayer's
5 expenditures for the purpose of claiming the credit. The rules
6 shall provide for the approval of qualified railroad reconstruction
7 or replacement expenditures prior to commencement of a project and
8 provide a certificate of verification upon completion of a project
9 that uses qualified railroad reconstruction or replacement
10 expenditures. The certificate of verification shall satisfy all
11 requirements of the Tax Commission pertaining to the eligibility of
12 the person claiming 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.
18 Beginning July 1, 2012, the credit authorized by this section may be
19 claimed for any event, transaction, investment, expenditure or other
20 act occurring on or after July 1, 2012, according to the provisions
21 of this section.

22 SECTION 7. This act shall become effective January 1, 2013.

23

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