

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1052

By: Allen

AS INTRODUCED

An Act relating to income tax credits; amending 68 O.S. 2011, Section 2357.104, which relates to credits for railroad reconstruction or replacement expenditures; modifying exception; modifying time period during which certain credits are allowed and providing condition thereto; and providing effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.104, is amended to read as follows:

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

B. 1. Except as provided in paragraph 2 of this subsection, the amount of the credit shall be limited to the product of Five 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.  
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           H. No credit shall be allowed pursuant to subsection A of this  
23 section for taxable years beginning on or after January 1, 2018,  
24 unless this section is reauthorized by the Oklahoma Legislature

1 after evaluation by the Incentive Evaluation Commission pursuant to  
2 Section 7004 of Title 62 of the Oklahoma Statutes.

3 SECTION 2. This act shall become effective November 1, 2016.  
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