

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1284

By: Fields

4
5
6 AS INTRODUCED

7 An Act relating to tax credits; amending 68 O.S.
8 2011, Sections 2357.4, as amended by Section 1,
9 Chapter 336, O.S.L. 2015, 2357.41, 2357.45, 2357.46,
10 2357.104, 2357.206, as last amended by Section 1,
11 Chapter 361, O.S.L. 2015, Section 1, Chapter 421,
12 O.S.L. 2014 (68 O.S Supp. 2015, Sections 2357.4,
13 2357.206 and 2357.403), which relate to tax credits
14 for certain events, transactions, investments,
15 expenditures or other acts; subject to certain
16 condition, limiting the time period during credits
17 are allowed for investment in depreciable property or
18 new employment relating to manufacturing,
19 rehabilitation of certain historic hotel or newspaper
20 buildings, donations for independent biomedical
21 research or cancer research institutes, energy
22 efficient residential property construction, railroad
23 reconstruction or replacement expenditures, donations
24 to eligible scholarship-granting or educational
improvement grant organizations and investment in
qualified affordable housing projects; and providing
an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.4, as
amended by Section 1, Chapter 336, O.S.L. 2015 (68 O.S. Supp. 2015,
Section 2357.4), is amended to read as follows:

1 Section 2357.4. A. Except as otherwise provided in subsection
2 F of Section 3658 of this title and in subsections J and, K and L of
3 this section, for taxable years beginning after December 31, 1987,
4 there shall be allowed a credit against the tax imposed by Section
5 2355 of this title for:

6 1. Investment in qualified depreciable property placed in
7 service during those years for use in a manufacturing operation, as
8 defined in Section 1352 of this title, which has received a
9 manufacturer exemption permit pursuant to the provisions of Section
10 1359.2 of this title or a qualified aircraft maintenance or
11 manufacturing facility as defined in Section 1357 of this title in
12 this state or a qualified web search portal as defined in Section
13 1357 of this title; or

14 2. A net increase in the number of full-time-equivalent
15 employees in a manufacturing operation, as defined in Section 1352
16 of this title, which has received a manufacturer exemption permit
17 pursuant to the provisions of Section 1359.2 of this title or a
18 qualified aircraft maintenance or manufacturing facility defined in
19 Section 1357 of this title in this state or in a qualified web
20 search portal as defined in Section 1357 of this title including
21 employees engaged in support services.

22 B. Except as otherwise provided in subsection F of Section 3658
23 of this title and in subsections J and, K and L of this section, for
24 taxable years beginning after December 31, 1998, there shall be

1 allowed a credit against the tax imposed by Section 2355 of this
2 title for:

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

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

18 C. The business entity may claim the credit authorized by
19 subsection B of this section for expenditures incurred or for a net
20 increase in the number of full-time-equivalent employees after the
21 business entity provides proof satisfactory to the Oklahoma Tax
22 Commission that the conditions imposed pursuant to paragraph 1 or
23 paragraph 2 of subsection B of this section have been satisfied.
24

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

9 E. The credit provided for in subsection A of this section, if
10 based upon investment in qualified depreciable property, shall not
11 be allowed unless the investment in qualified depreciable property
12 is at least Fifty Thousand Dollars (\$50,000.00). The credit
13 provided for in subsection A or B of this section shall not be
14 allowed if the applicable investment is the direct cause of a
15 decrease in the number of full-time-equivalent employees. Qualified
16 property shall be limited to machinery, fixtures, equipment,
17 buildings or substantial improvements thereto, placed in service in
18 this state during the taxable year. The taxable years for which the
19 credit may be allowed if based upon investment in qualified
20 depreciable property shall be measured from the year in which the
21 qualified property is placed in service. If the credit provided for
22 in subsection A or B of this section is calculated on the basis of
23 the cost of the qualified property, the credit shall be allowed in
24 each of the four (4) subsequent years. If the qualified property on

1 which a credit has previously been allowed is acquired from a
2 related party, the date such property is placed in service by the
3 transferor shall be considered to be the date such property is
4 placed in service by the transferee, for purposes of determining the
5 aggregate number of years for which credit may be allowed.

6 F. The credit provided for in subsection A or B of this
7 section, if based upon an increase in the number of full-time-
8 equivalent employees, shall be allowed in each of the four (4)
9 subsequent years only if the level of new employees is maintained in
10 the subsequent year. In calculating the credit by the number of new
11 employees, only those employees whose paid wages or salary were at
12 least Seven Thousand Dollars (\$7,000.00) during each year the credit
13 is claimed shall be included in the calculation. Provided, that the
14 first year a credit is claimed for a new employee, such employee may
15 be included in the calculation notwithstanding paid wages of less
16 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
17 the last three quarters of the tax year, has wages or salary which
18 will result in annual paid wages in excess of Seven Thousand Dollars
19 (\$7,000.00) and the taxpayer submits an affidavit stating that the
20 employee's position will be retained in the following tax year and
21 will result in the payment of wages in excess of Seven Thousand
22 Dollars (\$7,000.00). The number of new employees shall be
23 determined by comparing the monthly average number of full-time
24 employees subject to Oklahoma income tax withholding for the final

1 quarter of the taxable year with the corresponding period of the
2 prior taxable year, as substantiated by such reports as may be
3 required by the Tax Commission.

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

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

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

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

15 1. Two percent (2%) of the cost of the qualified property in
16 the year the property is placed in service; or

17 2. One Thousand Dollars (\$1,000.00) for each new employee.

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

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

1 1. To each of the four (4) years following the year of
2 qualification;

3 2. To the extent not used in those years in order to each of
4 the fifteen (15) years following the initial five-year period; and

5 3. If a C corporation that otherwise qualified for the credits
6 under subsection A of this section subsequently changes its
7 operating status to that of a pass-through entity which is being
8 treated as the same entity for federal tax purposes, the credits
9 will continue to be available as if the pass-through entity had
10 originally qualified for the credits subject to the limitations of
11 this section.

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

16 J. No credit otherwise authorized by the provisions of this
17 section may be claimed for any event, transaction, investment,
18 expenditure or other act occurring on or after July 1, 2010, for
19 which the credit would otherwise be allowable until the provisions
20 of this subsection shall cease to be operative on July 1, 2012.
21 Beginning July 1, 2012, the credit authorized by this section may be
22 claimed for any event, transaction, investment, expenditure or other
23 act occurring on or after July 1, 2010, according to the provisions
24 of this section; provided, credits accrued during the period from

1 July 1, 2010, through June 30, 2012, shall be limited to a period of
2 two (2) taxable years. The credit shall be limited in each taxable
3 year to fifty percent (50%) of the total amount of the accrued
4 credit. Any tax credits which accrue during the period of July 1,
5 2010, through June 30, 2012, may not be claimed for any period prior
6 to the taxable year beginning January 1, 2012. No credits which
7 accrue during the period of July 1, 2010, through June 30, 2012, may
8 be used to file an amended tax return for any taxable year prior to
9 the taxable year beginning January 1, 2012.

10 K. Beginning January 1, 2017, except with respect to tax
11 credits allowed from investment or job creation occurring prior to
12 January 1, 2017, the credits authorized by this section shall not be
13 allowed for investment or job creation in electric power generation
14 by means of wind as described by the North American Industry
15 Classification System, No. 221119.

16 L. No credit shall be allowed pursuant to subsections A and B
17 of this section for investment or job creation occurring on or after
18 January 1, 2018 unless this section is reauthorized by the Oklahoma
19 Legislature after evaluation by the Incentive Evaluation Commission
20 pursuant to Section 7004 of Title 62 of the Oklahoma Statutes.

21 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.41, is
22 amended to read as follows:

23 Section 2357.41. A. Except as otherwise provided by ~~subsection~~
24 ± subsections I and J of this section, for tax years beginning after

1 December 31, 2000, there shall be allowed a credit against the tax
2 imposed by Sections 2355 and 2370 of this title or that portion of
3 the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma
4 Statutes that would otherwise have been apportioned to the General
5 Revenue Fund for qualified rehabilitation expenditures incurred in
6 connection with any certified historic hotel or historic newspaper
7 plant building located in an increment or incentive district created
8 pursuant to the Local Development Act or for qualified
9 rehabilitation expenditures incurred after January 1, 2006, in
10 connection with any certified historic structure.

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

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

22 D. If the credit allowed pursuant to this section exceeds the
23 amount of income taxes due or if there are no state income taxes due
24 on the income of the taxpayer, the amount of the credit allowed but

1 not used in any taxable year may be carried forward as a credit
2 against subsequent income tax liability for a period not exceeding
3 ten (10) years following the qualified expenditures.

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

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

1 Commission within thirty (30) days of the transfer. Such filing of
2 the written credit transfer agreement with the Oklahoma Tax
3 Commission shall perfect such transfer. The written agreement shall
4 contain the name, address and taxpayer identification number of the
5 parties to the transfer, the amount of credit being transferred, the
6 year the credit was originally allowed to the transferor, the tax
7 year or years for which the credit may be claimed, and a
8 representation by the transferor that the transferor has neither
9 claimed for its own behalf nor conveyed such credits to any other
10 transferee. The Tax Commission shall develop a standard form for
11 use by subsequent transferees of the credit demonstrating
12 eligibility for the transferee to reduce its applicable tax
13 liabilities resulting from ownership of the credit. The Tax
14 Commission shall develop a system to record and track the transfers
15 of the credit and certify the ownership of the credit and may
16 promulgate rules to permit verification of the validity and
17 timeliness of a tax credit claimed upon a tax return pursuant to
18 this subsection but shall not promulgate any rules which unduly
19 restrict or hinder the transfers of such tax credit.

20 G. Notwithstanding any other provisions in this section, on or
21 after January 1, 2009, if a credit allowed pursuant to this section
22 which has been transferred is subsequently reduced as the result of
23 an adjustment by the Internal Revenue Service, Tax Commission, or
24 any other applicable government agency, only the transferor

1 originally allowed the credit and not any subsequent transferee of
2 the credit, shall be held liable to repay any amount of disallowed
3 credit.

4 H. As used in this section:

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

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

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

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 J. No credit shall be allowed pursuant to subsection A of this
18 section for activities on or after January 1, 2018 unless this
19 section is reauthorized by the Oklahoma Legislature after evaluation
20 by the Incentive Evaluation Commission pursuant to Section 7004 of
21 Title 62 of the Oklahoma Statutes.

22 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.45, is
23 amended to read as follows:
24

1 Section 2357.45. A. 1. ~~For~~ Except as otherwise provided in
2 subsection E of this section, for tax years beginning after December
3 31, 2004, there shall be allowed against the tax imposed by Section
4 2355 of this title, a credit for any taxpayer who makes a donation
5 to an independent biomedical research institute and for tax years
6 beginning after December 31, 2010, a credit for any taxpayer who
7 makes a donation to a cancer research institute.

8 2. The credit authorized by paragraph 1 of this subsection
9 shall be limited as follows:

- 10 a. for calendar year 2007 and all subsequent years, the
11 credit percentage, not to exceed fifty percent (50%),
12 shall be adjusted annually so that the total estimate
13 of the credits does not exceed Two Million Dollars
14 (\$2,000,000.00) annually. The formula to be used for
15 the percentage adjusted shall be fifty percent (50%)
16 times One Million Dollars (\$1,000,000.00) divided by
17 the credits claimed in the preceding year for each
18 donation to an independent biomedical research
19 institute and fifty percent (50%) times One Million
20 Dollars (\$1,000,000.00) divided by the credits claimed
21 in the preceding year for each donation to a cancer
22 research institute,
23 b. in no event shall a taxpayer claim more than one
24 credit for a donation to any independent biomedical

1 research institute and one credit for a donation to a
2 cancer research institute in each taxable year nor
3 shall the credit exceed One Thousand Dollars
4 (\$1,000.00) for each taxpayer for each type of
5 donation,

6 c. for tax year 2011, no more than Fifty Thousand Dollars
7 (\$50,000.00) in total tax credits for donations to a
8 cancer research institute shall be allowed,

9 d. in no event shall more than fifty percent (50%) of the
10 Two Million Dollars (\$2,000,000.00) in total tax
11 credits authorized by this section, for any calendar
12 year after ~~the effective date of this act~~ January 1,
13 2011, be allocated for credits for donations to a
14 cancer research institute, and

15 e. in the event the total tax credits authorized by this
16 section exceed One Million Dollars (\$1,000,000.00) in
17 any calendar year for either a cancer research
18 institute or an independent biomedical research
19 institute, the Oklahoma Tax Commission shall permit
20 any excess over One Million Dollars (\$1,000,000.00)
21 but shall factor such excess into the percentage
22 adjustment formula for subsequent years for that type
23 of donation. However, any such adjustment to the
24 formula for donations to an independent biomedical

1 research institute shall not affect the formula for
2 donations to a cancer research institute, and any such
3 adjustment to the formula for donations to a cancer
4 research institute shall not affect the formula for
5 donations to an independent biomedical research
6 institute.

7 3. For purposes of this section, "independent biomedical
8 research institute" means an organization which is exempt from
9 taxation pursuant to the provisions of Section 501(c)(3) of the
10 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary
11 focus is conducting peer-reviewed basic biomedical research. The
12 organization shall:

- 13 a. have a board of directors,
- 14 b. be able to accept grants in its own name,
- 15 c. be an identifiable institute that has its own
16 employees and administrative staff, and
- 17 d. receive at least Fifteen Million Dollars
18 (\$15,000,000.00) in National Institute of Health
19 funding each year.

20 4. For purposes of this section, "cancer research institute"
21 means an organization which is exempt from taxation pursuant to the
22 Internal Revenue Code and whose primary focus is raising the
23 standard of cancer clinical care in Oklahoma through peer-reviewed
24 cancer research and education or a not-for-profit supporting

1 organization, as that term is defined by the Internal Revenue Code,
2 affiliated with a tax-exempt organization whose primary focus is
3 raising the standard of cancer clinical care in Oklahoma through
4 peer-reviewed cancer research and education. The tax-exempt
5 organization whose primary focus is raising the standard of cancer
6 clinical care in Oklahoma through peer-reviewed cancer research and
7 education shall:

8 a. either be an independent research institute or a
9 program that is part of a state university which is a
10 member of The Oklahoma State System of Higher
11 Education, and

12 b. receive at least Four Million Dollars (\$4,000,000.00)
13 in National Cancer Institute funding each year.

14 B. In no event shall the amount of the credit exceed the amount
15 of any tax liability of the taxpayer.

16 C. Any credits allowed but not used in any tax year may be
17 carried over, in order, to each of the four (4) years following the
18 year of qualification.

19 D. The Tax Commission shall have the authority to prescribe
20 forms for purposes of claiming the credit authorized by this
21 section.

22 E. No credit shall be allowed pursuant to subsection A of this
23 section for donations made or after January 1, 2018 unless this
24 section is reauthorized by the Oklahoma Legislature after evaluation

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

3 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2357.46, is
4 amended to read as follows:

5 Section 2357.46. A. Except as otherwise provided by ~~subsection~~
6 ~~G~~ subsections G and H of this section, for tax years beginning after
7 December 31, 2005, there shall be allowed a credit against the tax
8 imposed by Section 2355 of ~~Title 68 of Oklahoma Statutes~~ this title
9 for eligible expenditures incurred by a contractor in the
10 construction of energy efficient residential property of two
11 thousand (2,000) square feet or less. The amount of the credit
12 shall be based upon the following:

13 1. For any eligible energy efficient residential property
14 constructed and certified as forty percent (40%) or more above the
15 International Energy Conservation Code 2003 and any supplement in
16 effect at the time of completion, the amount of the credit shall be
17 equal to the eligible expenses, not to exceed Four Thousand Dollars
18 (\$4,000.00) for the taxpayer who is the contractor; and

19 2. For any eligible energy efficient residential property
20 constructed and certified as between twenty percent (20%) and
21 thirty-nine percent (39%) above the International Energy
22 Conservation Code 2003 and any supplement in effect at the time of
23 completion, the credit shall be equal to the eligible expenditures,
24

1 not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who
2 is the contractor.

3 B. As used in this section:

4 1. "Eligible expenditure" means any:

- 5 a. energy efficient heating or cooling system,
- 6 b. insulation material or system which is specifically
7 and primarily designed to reduce the heat gain or loss
8 of a residential property when installed in or on such
9 property,
- 10 c. exterior windows, including skylights,
- 11 d. exterior doors, and
- 12 e. any metal roof installed on a residential property,
13 but only if such roof has appropriate pigmented
14 coatings which are specifically and primarily designed
15 to reduce the heat gain of such dwelling unit and
16 which meet Energy Star program requirements;

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

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

- 1 a. for the credit provided pursuant to paragraph 1 of
2 subsection A of this section, which is certified by an
3 accredited Residential Energy Services Network
4 Provider using the Home Energy Rating System to have:
- 5 (1) a level of annual heating and cooling energy
6 consumption which is at least forty percent (40%)
7 below the annual level of heating and cooling
8 energy consumption of a comparable residential
9 property constructed in accordance with the
10 standards of Chapter 4 of the 2003 International
11 Energy Conservation Code, as such code is in
12 effect on ~~the effective date of this act~~ November
13 1, 2005,
- 14 (2) heating and cooling equipment efficiencies which
15 correspond to the minimum allowed under the
16 regulations established by the Department of
17 Energy pursuant to the National Appliance Energy
18 Conservation Act of 1987 and in effect at the
19 time of construction of the property, and
- 20 (3) building envelope component improvements which
21 account for at least one-fifth of the reduced
22 annual heating and cooling energy consumption
23 levels,
24

- 1 b. for the credit provided pursuant to paragraph 2 of
2 subsection A of this section, which is certified by an
3 accredited Residential Energy Services Network
4 Provider using the Home Energy Rating System to have:
- 5 (1) a level of annual heating and cooling energy
6 consumption which is between twenty percent (20%)
7 and thirty-nine percent (39%) below the annual
8 level of heating and cooling energy consumption
9 of a comparable residential property constructed
10 in accordance with the standards of Chapter 4 of
11 the 2003 International Energy Conservation Code,
12 as such code is in effect on ~~the effective date~~
13 ~~of this act~~ November 1, 2005,
- 14 (2) heating and cooling equipment efficiencies which
15 correspond to the minimum allowed under the
16 regulations established by the Department of
17 Energy pursuant to the National Appliance Energy
18 Conservation Act of 1987 and in effect at the
19 time of construction of the property, and
- 20 (3) building envelope component improvements which
21 account for at least one-third of the reduced
22 annual heating and cooling energy consumption
23 levels.
- 24

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

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

11 E. For credits earned on or after ~~the effective date of this~~
12 ~~act~~ July 1, 2006, the credits authorized by this section shall be
13 freely transferable to subsequent transferees.

14 F. The Oklahoma Tax Commission shall promulgate rules necessary
15 to implement this act.

16 G. No credit otherwise authorized by the provisions of this
17 section may be claimed for any event, transaction, investment,
18 expenditure or other act occurring on or after July 1, 2010 for
19 which the credit would otherwise be allowable. The provisions of
20 this subsection shall cease to be operative on July 1, 2012.
21 Beginning July 1, 2012, the credit authorized by this section may be
22 claimed for any event, transaction, investment, expenditure or other
23 act occurring on or after July 1, 2012, according to the provisions
24 of this section.

1 H. No credit shall be allowed pursuant to subsection A of this
2 section for eligible expenditures made on or after January 1, 2018
3 unless this section is reauthorized by the Oklahoma Legislature
4 after evaluation by the Incentive Evaluation Commission pursuant to
5 Section 7004 of Title 62 of the Oklahoma Statutes.

6 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2357.104, is
7 amended to read as follows:

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

14 B. 1. Except as provided in paragraph 2 of this subsection,
15 the amount of the credit shall be limited to the product of Five
16 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars
17 (\$2,000.00) for tax year 2008 and subsequent tax years and the
18 number of miles of railroad track owned or leased within this state
19 by the eligible taxpayer as of the close of the taxable year.

20 2. In tax year 2009 and subsequent tax years, a taxpayer may
21 elect to increase the limit provided in paragraph 1 of this
22 subsection to an amount equal to three times the limit specified in
23 paragraph 1 of this subsection for qualified expenditures made in
24

1 the tax year, provided the taxpayer may only claim one third (1/3)
2 of the credit in any one taxable period.

3 C. The credit allowed pursuant to subsection A of this section
4 but not used shall be freely transferable, by written agreement, to
5 subsequent transferees at any time during the five (5) years
6 following the year of qualification. An eligible transferee shall
7 be any taxpayer subject to the tax imposed by Section 2355 of this
8 title. The person originally allowed the credit and the subsequent
9 transferee shall jointly file a copy of the written credit transfer
10 agreement with the Oklahoma Tax Commission within thirty (30) days
11 of the transfer. The written agreement shall contain the name,
12 address and taxpayer identification number of the parties to the
13 transfer, the amount of credit being transferred, the year the
14 credit was originally allowed to the transferring person and the tax
15 year or years for which the credit may be claimed. The Tax
16 Commission shall promulgate rules to permit verification of the
17 timeliness of a tax credit claimed upon a tax return pursuant to
18 this subsection but shall not promulgate any rules which unduly
19 restrict or hinder the transfers of such tax credit. The Department
20 of Transportation shall promulgate rules to permit verification of
21 the eligibility of an eligible taxpayer's expenditures for the
22 purpose of claiming the credit. The rules shall provide for the
23 approval of qualified railroad reconstruction or replacement
24 expenditures prior to commencement of a project and provide a

1 certificate of verification upon completion of a project that uses
2 qualified railroad reconstruction or replacement expenditures. The
3 certificate of verification shall satisfy all requirements of the
4 Tax Commission pertaining to the eligibility of the person claiming
5 the credit.

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

10 E. A taxpayer who elects to increase the limitation on the
11 credit under paragraph 2 of subsection B of this section shall not
12 be granted additional credits under subsection A of this section
13 during the period of such election.

14 F. As used in this section:

15 1. "Class II and Class III railroad" means a railroad that is
16 classified by the United States Surface Transportation Board as a
17 Class II or Class III railroad;

18 2. "Eligible taxpayer" means any Class II or Class III
19 railroad; and

20 3. "Qualified railroad reconstruction or replacement
21 expenditures" means expenditures for:

- 22 a. reconstruction or replacement of railroad
23 infrastructure including track, roadbed, bridges,
24 industrial leads and track-related structures owned or

1 leased by a Class II or Class III railroad as of
2 January 1, 2006, or

3 b. new construction of industrial leads, switches, spurs
4 and sidings and extensions of existing sidings by a
5 Class II or Class III railroad.

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

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

15 H. No credit shall be allowed pursuant to subsection A of this
16 section for expenditures made on or after January 1, 2018 unless
17 this section is reauthorized by the Oklahoma Legislature after
18 evaluation by the Incentive Evaluation Commission pursuant to
19 Section 7004 of Title 62 of the Oklahoma Statutes.

20 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2357.206, as
21 last amended by Section 1, Chapter 361, O.S.L. 2015 (68 O.S. Supp.
22 2015, Section 2357.206), is amended to read as follows:

23 Section 2357.206. A. This act shall be known and may be cited
24 as the "Oklahoma Equal Opportunity Education Scholarship Act".

1 B. 1. Except as provided in ~~subsection F~~ subsections F and M
2 of this section, after August 26, 2011, there shall be allowed a
3 credit for any taxpayer who makes a contribution to an eligible
4 scholarship-granting organization. The credit shall be equal to
5 fifty percent (50%) of the total amount of contributions made during
6 a taxable year, not to exceed One Thousand Dollars (\$1,000.00) for
7 single individuals, Two Thousand Dollars (\$2,000.00) for married
8 individuals filing jointly, or One Hundred Thousand Dollars
9 (\$100,000.00) for any taxpayer which is a legal business entity
10 including limited and general partnerships, corporations, subchapter
11 S corporations and limited liability companies; provided, if total
12 credits claimed pursuant to this paragraph exceed the caps
13 established pursuant to paragraph 1 of subsection D of this section,
14 the credit shall be equal to the taxpayer's proportionate share of
15 the cap for the taxable year, as determined pursuant to subsection H
16 of this section.

17 2. For any taxpayer who makes a contribution to an eligible
18 scholarship-granting organization and makes a written commitment to
19 contribute the same amount for an additional year, the credit for
20 the first year and the additional year shall be equal to seventy-
21 five percent (75%) of the total amount of the contribution made
22 during a taxable year, not to exceed the amounts established in
23 paragraph 1 of this subsection for the taxable year in which the
24 credit provided in this subsection is claimed. The taxpayer shall

1 provide evidence of the written commitment to the Oklahoma Tax
2 Commission at the time of filing the refund claim.

3 3. The credits authorized pursuant to the provisions of this
4 subsection shall be allocable to the partners, shareholders, members
5 or other equity owners of a taxpayer that is authorized to be
6 treated as a partnership for purposes of federal income tax
7 reporting for the taxable year for which the tax credits authorized
8 by this subsection are claimed on the applicable return, together
9 with required schedules, forms or reports of the partners,
10 shareholders, members or other equity owners of the taxpayer. Tax
11 credits which are allocated to such equity owners shall only be
12 limited in amount for the income tax return of a natural person or
13 persons based upon the limitation of the total credit amount to the
14 entity from which the tax credits have been allocated and shall not
15 be limited to One Thousand Dollars (\$1,000.00) for single
16 individuals or limited to Two Thousand Dollars (\$2,000.00) for
17 married persons filing a joint return.

18 4. On or before December 31, 2017, and once every four (4)
19 years thereafter, such scholarship-granting organization and
20 educational improvement granting organization shall submit to the
21 Governor, President Pro Tempore of the Senate and the Speaker of the
22 House of Representatives, an audited financial statement for the
23 organization along with information detailing the benefits,
24 successes or failures of the program.

1 C. 1. Except as provided in ~~subsection F~~ subsections F and M
2 of this section, after August 26, 2011, there shall be allowed a
3 credit for any taxpayer who makes a contribution to an eligible
4 educational improvement grant organization. The credit shall be
5 equal to fifty percent (50%) of the total amount of contributions
6 made during a taxable year, not to exceed One Thousand Dollars
7 (\$1,000.00) for single individuals, Two Thousand Dollars (\$2,000.00)
8 for married individuals filing jointly, or One Hundred Thousand
9 Dollars (\$100,000.00) for any taxpayer which is a legal business
10 entity including limited and general partnerships, corporations,
11 subchapter S corporations and limited liability companies; provided,
12 if total credits claimed pursuant to this paragraph exceed the cap
13 established pursuant to paragraph 2 of subsection D of this section,
14 the credit shall be equal to the taxpayer's proportionate share of
15 the cap for the taxable year, as determined pursuant to subsection H
16 of this section.

17 2. For any taxpayer who makes a contribution to an eligible
18 educational improvement grant organization and makes a written
19 commitment to contribute the same amount for an additional year, the
20 credit for the first year and the additional year shall be equal to
21 seventy-five percent (75%) of the total amount of the contribution
22 made during a taxable year, not to exceed the amounts established in
23 paragraph 1 of this subsection for the taxable year in which the
24 credit provided in this subsection is claimed; provided, if total

1 credits claimed pursuant to this paragraph exceed the cap
2 established pursuant to paragraph 3 of this subsection, the credit
3 shall be equal to the taxpayer's proportionate share of the cap for
4 the taxable year, as determined pursuant to subsection H of this
5 section. The taxpayer shall provide evidence of the written
6 commitment to the Oklahoma Tax Commission at the time of filing the
7 refund claim.

8 3. The credits authorized pursuant to the provisions of this
9 subsection shall be allocable to the partners, shareholders, members
10 or other equity owners of a taxpayer that is authorized to be
11 treated as a partnership for purposes of federal income tax
12 reporting for the taxable year for which the tax credits authorized
13 by this subsection are claimed on the applicable return, together
14 with required schedules, forms or reports of the partners,
15 shareholders, members or other equity owners of the taxpayer. Tax
16 credits which are allocated to such equity owners shall only be
17 limited in amount for the income tax return of a natural person or
18 persons based upon the limitation of the total credit amount to the
19 entity from which the tax credits have been allocated and shall not
20 be limited to One Thousand Dollars (\$1,000.00) for single
21 individuals or limited to Two Thousand Dollars (\$2,000.00) for
22 married persons filing a joint return.

1 D. 1. The total credits authorized pursuant to subsection B of
2 this section for all taxpayers shall not exceed Three Million Five
3 Hundred Thousand Dollars (\$3,500,000.00) annually.

4 2. The total credits authorized pursuant to subsection C of
5 this section for all taxpayers shall not exceed One Million Five
6 Hundred Thousand Dollars (\$1,500,000.00) annually.

7 3. The cap on total credits provided for in this subsection
8 shall be allocated by the Tax Commission as provided in subsection H
9 of this section.

10 E. For credits claimed for eligible contributions made during
11 tax year 2014 and thereafter, a credit shall not be allowed by the
12 Oklahoma Tax Commission for contributions made to a scholarship-
13 granting organization or an educational improvement grant
14 organization if that organization's percentage of funds actually
15 awarded is less than ninety percent (90%). For purposes of this
16 section, the "percentage of funds actually awarded" shall be
17 determined by dividing the total amount of funds actually awarded as
18 educational scholarships or educational improvement grants over the
19 most recent twenty-four (24) months by the total amount available to
20 award as educational scholarships or educational improvement grants
21 over the most recent twenty-four (24) months.

22 F. Any tax credits which are earned by a taxpayer pursuant to
23 this section during the time period beginning on ~~the effective date~~
24 ~~of this act~~ August 26, 2011, through December 31, 2012, may not be

1 claimed for any period prior to the taxable year beginning January
2 1, 2013. No credits which accrue during the time period beginning
3 on ~~the effective date of this act~~ August 26, 2011, through December
4 31, 2012, may be used to file an amended tax return for any taxable
5 year prior to the taxable year beginning January 1, 2013.

6 G. As used in this section:

7 1. "Eligible student" means a child of school age who is
8 lawfully present in the United States and who is a member of a
9 household in which the total annual income during the preceding tax
10 year does not exceed an amount equal to three hundred percent (300%)
11 of the income standard used to qualify for a free or reduced school
12 lunch or who, during the immediately preceding school year, attended
13 or, by virtue of the location of such student's place of residence,
14 was eligible to attend a public school in this state which has been
15 identified for school improvement as determined by the State Board
16 of Education pursuant to the requirements of the No Child Left
17 Behind Act of 2001, P.L. No. 107-110. Once a student has received
18 an educational scholarship, as defined in paragraph 3 of this
19 subsection, the student and any siblings who are members of the same
20 household shall remain eligible until they graduate from high school
21 or reach twenty-one (21) years of age, whichever occurs first;

22 2. "Eligible special needs student" means a child who has been
23 provided services under an Individual Family Service Plan through
24 the SoonerStart program and during transition was evaluated and

1 determined to be eligible for school district services, a child of
2 school age who has attended public school in our state with an
3 individualized education program pursuant to the Individuals With
4 Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq. or a
5 child who has been diagnosed by a clinical professional as having a
6 significant disability that will affect learning and who has been
7 approved by the board of a scholarship-granting organization;

8 3. "Educational scholarships" means:

- 9 a. scholarships to an eligible student of up to Five
10 Thousand Dollars (\$5,000.00) or eighty percent (80%)
11 of the statewide annual average per-pupil expenditure
12 as determined by the National Center for Education
13 Statistics, U.S. Department of Education, whichever is
14 greater, to cover all or part of the tuition, fees and
15 transportation costs of a qualified school which is
16 accredited by the State Board of Education or an
17 accrediting association approved by the Board pursuant
18 to Section 3-104 of Title 70 of the Oklahoma Statutes,
19 b. scholarships to an eligible student of up to Five
20 Thousand Dollars (\$5,000.00) or eighty percent (80%)
21 of the statewide annual average per-pupil expenditure
22 as determined by the National Center for Education
23 Statistics, U.S. Department of Education, whichever is
24 greater, to cover the educational costs of a qualified

1 school which does not charge tuition, which enrolls
2 special populations of students and which is
3 accredited by the State Board of Education or an
4 accrediting association approved by the Board pursuant
5 to Section 3-104 of Title 70 of the Oklahoma Statutes,
6 or

7 c. scholarships to an eligible special needs student of
8 up to Twenty-five Thousand Dollars (\$25,000.00) to
9 cover all or part of the tuition, fees and
10 transportation costs of a qualified school for
11 eligible special needs students which is accredited by
12 the State Board of Education or an accrediting
13 association approved by the Board pursuant to Section
14 3-104 of Title 70 of the Oklahoma Statutes;

15 4. "Low-income eligible student" means an eligible student or
16 eligible special needs student who qualifies for a free or reduced-
17 price lunch;

18 5. "Qualified school" means an early childhood, elementary or
19 secondary private school in this state, including schools which
20 provide special educational programs for three-year-olds or
21 prekindergarten educational programs for four-year-olds, which:

22 a. is accredited by the State Board of Education or an
23 accrediting association approved by the Board pursuant
24 to Section 3-104 of Title 70 of the Oklahoma Statutes,

- b. is in compliance with all applicable health and safety laws and codes,
- c. has a stated policy against discrimination in admissions on the basis of race, color, national origin or disability, and
- d. ensures academic accountability to parents and guardians of students through regular progress reports;

6. "Qualified school for eligible special needs students" means an early childhood, elementary or secondary private school in a county in this state, including schools which provide special educational programs for three-year-olds or prekindergarten educational programs for four-year-olds;

7. "Scholarship-granting organization" means an organization which:

- a. is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. distributes periodic scholarship payments as checks made out to an eligible student's or eligible special needs student's parent or guardian and mailed to the qualified school where the student is enrolled,
- c. spends no more than ten percent (10%) of its annual revenue on expenditures other than educational

1 scholarships as defined in paragraph 3 of this
2 subsection,

3 d. spends each year a portion of its expenditures on
4 educational scholarships for low-income eligible
5 students, as defined in paragraph 4 of this
6 subsection, in an amount equal to or greater than the
7 percentage of low-income eligible students in the
8 state,

9 e. ensures that scholarships are portable during the
10 school year and can be used at any qualified school
11 that accepts the eligible student or at any qualified
12 school for special needs students that accepts the
13 eligible special needs student,

14 f. registers with the Oklahoma Tax Commission as a
15 scholarship-granting organization, and

16 g. has policies in place to:

17 (1) carry out criminal background checks on all
18 employees and board members to ensure that no
19 individual is involved with the organization who
20 might reasonably pose a risk to the appropriate
21 use of contributed funds, and

22 (2) maintain full and accurate records with respect
23 to the receipt of contributions and expenditures
24 of those contributions and supply such records

1 and any other documentation required by the Tax
2 Commission to demonstrate financial
3 accountability;

4 8. "Annual revenue" means the total amount or value of
5 contributions received by an organization from taxpayers awarded
6 credits during the organization's fiscal year and all amounts earned
7 from interest or investments;

8 9. "Public school" means public schools as defined in Section
9 1-106 of Title 70 of the Oklahoma Statutes;

10 10. "Eligible school" means any public school that is not
11 located within a ten-mile radius of a qualified school in this
12 state, or any public school that is located within a ten-mile radius
13 of a qualified school in this state but offers grade-level
14 instruction different from the qualified school or any public school
15 located within a public school district with fewer than four
16 thousand five hundred (4,500) students;

17 11. "Early childhood education program" means a special
18 educational program for eligible special needs students who are
19 three (3) years of age or a prekindergarten educational program
20 provided to children who are at least four (4) years of age but not
21 more than five (5) years of age on or before September 1;

22 12. "Innovative educational program" means an advanced academic
23 or academic improvement program that is not part of the regular
24 coursework of a public school but that enhances the curriculum or

1 academic program of the school or provides early childhood education
2 programs to students;

3 13. "Educational improvement grant" means a grant to an
4 eligible public school to implement an innovative educational
5 program for students, including the ability for multiple public
6 schools to make an application and be awarded a grant to jointly
7 provide an innovative educational program; and

8 14. "Educational improvement grant organization" means an
9 organization which:

10 a. is a nonprofit entity exempt from taxation pursuant to
11 the provisions of the Internal Revenue Code, 26
12 U.S.C., Section 501(c)(3), and

13 b. contributes at least ninety percent (90%) of its
14 annual receipts as grants to eligible schools for
15 innovative educational programs. For purposes of this
16 subparagraph, an educational improvement grant
17 organization contributes its annual cash receipts when
18 it expends or otherwise irrevocably encumbers those
19 funds for expenditure during the then current fiscal
20 year of the organization or during the next succeeding
21 fiscal year of the organization.

22 H. Total credits authorized by this section shall be allocated
23 as follows:
24

1 1. By January 10 of the year immediately following each
2 calendar year, a scholarship-granting organization or an educational
3 improvement grant organization which accepts contributions pursuant
4 to this section shall provide electronically to the Tax Commission
5 information on each contribution accepted during such taxable year.
6 At least once each taxable year, the scholarship-granting
7 organization or the educational improvement grant organization shall
8 notify each contributor that Oklahoma law provides for a total,
9 statewide cap on the amount of income tax credits allowed annually;

10 2. a. If the Tax Commission determines the total combined
11 credits claimed for contributions made to scholarship-
12 granting organizations during the most recently
13 completed calendar year by all taxpayers are in excess
14 of the statewide caps provided in paragraph 1 of
15 subsection D of this section, the Tax Commission shall
16 determine the percentage of the contribution which
17 establishes the proportionate share of the credit
18 which may be claimed by any taxpayer so that the
19 maximum credits authorized by this section are not
20 exceeded.

21 b. If the Tax Commission determines the total combined
22 credits claimed for contributions made to educational
23 improvement grant organizations during the most
24 recently completed calendar year by all taxpayers are

1 in excess of the statewide caps provided in paragraph
2 of subsection D of this section, the Tax Commission
3 shall determine the percentage of the contribution
4 which establishes the proportionate share of the
5 credit which may be claimed by any taxpayer so that
6 the maximum credits authorized by this section are not
7 exceeded; and

8 3. The Tax Commission shall publish the percentage of the
9 contribution which may be claimed as a credit by contributors for
10 the most recently completed calendar year on the Tax Commission
11 website no later than February 15 of each calendar year for
12 contributions made the previous year. Each scholarship-granting
13 organization or educational improvement grant organization shall
14 notify contributors of that amount annually.

15 I. The credit authorized by this section shall not be used to
16 reduce the tax liability of the taxpayer to less than zero (0).

17 J. Any credits allowed but not used in any tax year may be
18 carried over, in order, to each of the three (3) years following the
19 year of qualification.

20 K. 1. In order to qualify under this section, an educational
21 improvement grant organization shall submit an application with
22 information to the Oklahoma Tax Commission on a form prescribed by
23 the Tax Commission that:
24

- 1 a. enables the Tax Commission to confirm that the
2 organization is a nonprofit entity exempt from
3 taxation pursuant to the provisions of the Internal
4 Revenue Code, 26 U.S.C., Section 501(c)(3), and
5 b. describes the proposed innovative educational program
6 or programs supported by the organization.

7 2. The Tax Commission shall review and approve or disapprove
8 the application, in consultation with the State Department of
9 Education.

10 3. In order to maintain eligibility under this section, an
11 educational improvement grant organization shall annually report the
12 following information to the Tax Commission by September 1 of each
13 year:

- 14 a. the name of the innovative educational program or
15 programs and the total amount of the grant or grants
16 made to those programs during the immediately
17 preceding school year,
18 b. a description of how each grant was utilized during
19 the immediately preceding school year and a
20 description of any demonstrated or expected innovative
21 educational improvements,
22 c. the names of the public school and school districts
23 where innovative educational programs that received
24

1 grants during the immediately preceding school year
2 were implemented,

3 d. where the organization collects information on a
4 county-by-county basis, and

5 e. the total number and total amount of grants made
6 during the immediately preceding school year for
7 innovative educational programs at public school by
8 each county in which the organization made grants.

9 4. The information required under paragraph 3 of this
10 subsection shall be submitted on a form provided by the Tax
11 Commission. No later than May 1 of each year, the Tax Commission
12 shall annually distribute sample forms together with the forms on
13 which the reports are required to be made to each approved
14 organization.

15 5. The Tax Commission shall not require any other information
16 be provided by an organization, except as expressly authorized in
17 this section.

18 L. In consultation with the State Department of Education, the
19 Tax Commission shall promulgate rules necessary to implement this
20 act. The rules shall include procedures for the registration of a
21 scholarship-granting organization or an educational improvement
22 grant organization for purposes of determining if the organization
23 meets the requirements of this act or for the revocation of the
24

1 registration of an organization, if applicable, and for notice as
2 required in subsection H of this section.

3 M. No credit shall be allowed pursuant to subsections B and C
4 of this section for donations made on or after January 1, 2018
5 unless this section is reauthorized by the Oklahoma Legislature
6 after evaluation by the Incentive Evaluation Commission pursuant to
7 Section 7004 of Title 62 of the Oklahoma Statutes.

8 SECTION 7. AMENDATORY Section 1, Chapter 421, O.S.L.
9 2014 (68 O.S. Supp. 2015, Section 2357.403), is amended to read as
10 follows:

11 Section 2357.403. A. This act shall be known and may be cited
12 as the "Oklahoma Affordable Housing Act".

13 B. As used in this section:

14 1. "Allocation year" means the year for which the Oklahoma
15 Housing Finance Agency allocates credits pursuant to this section;

16 2. "Eligibility statement" means a statement authorized and
17 issued by the Oklahoma Housing Finance Agency certifying that a
18 given project qualifies for the Oklahoma Affordable Housing Tax
19 Credit authorized by this section. The Oklahoma Housing Finance
20 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter
21 36, Affordable Housing Tax Credit Program Rules, shall promulgate
22 rules establishing criteria upon which the eligibility statements
23 will be issued. The eligibility statement shall specify the amount
24 of Oklahoma Affordable Housing Tax Credits allocated to a qualified

1 project. The Oklahoma Housing Finance Agency shall only authorize
2 the tax credits created by this section to qualified projects which
3 are placed in service after July 1, 2015, but which shall not be
4 used to reduce tax liability accruing prior to January 1, 2016;

5 3. "Federal low-income housing tax credit" means the federal tax
6 credit as provided in Section 42 of the Internal Revenue Code of
7 1986, as amended;

8 4. "Oklahoma Affordable Housing Tax Credit" means the tax credit
9 created by this section;

10 5. "Qualified project" means a qualified low-income building as
11 that term is defined in Section 42 of the Internal Revenue Code of
12 1986, as amended, which is located in this state in a county with a
13 population of less than one hundred fifty thousand (150,000)
14 according to the latest Federal Decennial Census; and

15 6. "Taxpayer" means a person, firm or corporation subject to the
16 tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~
17 this title or an insurance company subject to the tax imposed by
18 Section 624 or 628 of Title 36 of the Oklahoma Statutes or other
19 financial institution subject to the tax imposed by Section 2370 of
20 ~~Title 68 of the Oklahoma Statutes~~ this title.

21 C. For qualified projects placed in service after July 1, 2015,
22 the amount of state tax credits created by this section which are
23 allocated to a project shall be equal to that of the federal low-
24 income housing tax credits for a qualified project. The total

1 Oklahoma Affordable Housing Tax Credits allocated to all qualified
2 projects for an allocation year shall not exceed Four Million Dollars
3 (\$4,000,000.00). For purposes of this section, the "credit period"
4 shall mean the period of ten (10) taxable years and "placed in
5 service" shall have the same meaning as is applicable under the
6 federal credit program.

7 D. A Except as otherwise provided in subsection L of this
8 section, a taxpayer owning an interest in an investment in a
9 qualified project shall be allowed Oklahoma Affordable Housing Tax
10 Credits under this section for tax years beginning on or after
11 January 1, 2016, if the Oklahoma Housing Finance Agency issues an
12 eligibility statement for such project, which tax credit shall be
13 allocated among some or all of the partners, members or shareholders
14 of the taxpayer owning such interest in any manner agreed to by such
15 partners, members or shareholders. Such taxpayer may assign its
16 interest in the investment.

17 E. An insurance company claiming a credit against state premium
18 tax or retaliatory tax or any other tax imposed by Section 624 or 628
19 of Title 36 of the Oklahoma Statutes shall not be required to pay
20 any additional retaliatory tax under Section 628 of Title 36 of the
21 Oklahoma Statutes as a result of claiming the credit. The credit
22 may fully offset any retaliatory tax imposed by Section 628 of Title
23 36 of the Oklahoma Statutes.
24

1 F. The credit authorized by this section shall not be used to
2 reduce the tax liability of the taxpayer to less than zero (\$0.00).

3 G. Any credit claimed but not used in a taxable year may be
4 carried forward to each of the five (5) subsequent taxable years.

5 H. The owner of a qualified project eligible for the credit
6 authorized by this section shall submit, at the time of filing the
7 tax return with the Oklahoma Tax Commission, an eligibility
8 statement from the Oklahoma Housing Finance Agency. In the case of
9 failure to attach the eligibility statement, no credit under this
10 section shall be allowed with respect to such project for that year
11 until required documents are provided to the Tax Commission.

12 I. If under Section 42 of the Internal Revenue Code of 1986, as
13 amended, a portion of any federal low-income housing credits taken on
14 a qualified project is required to be recaptured during the first ten
15 (10) years after a project is placed in service, the taxpayer
16 claiming Oklahoma Affordable Housing Tax Credits with respect to such
17 project shall also be required to recapture a portion of such
18 credits. The amount of Oklahoma Affordable Housing Tax Credits
19 subject to recapture shall be proportionally equal to the amount of
20 federal low-income housing credits subject to recapture.

21 J. The Oklahoma Housing Finance Agency or the Oklahoma Tax
22 Commission may require the filing of additional documentation
23 necessary to determine the accuracy of a tax credit claimed.
24

1 K. The Oklahoma Affordable Housing Act shall undergo a review
2 every five (5) years by a committee of nine (9) persons, to be
3 appointed three persons each by the Governor, President Pro Tempore of
4 the Oklahoma State Senate and the Speaker of the Oklahoma House of
5 Representatives.

6 L. No credit shall be allowed pursuant to subsection D of this
7 section for investments made on or after January 1, 2018 unless this
8 section is reauthorized by the Oklahoma Legislature after evaluation
9 by the Incentive Evaluation Commission pursuant to Section 7004 of
10 Title 62 of the Oklahoma Statutes.

11 SECTION 8. This act shall become effective November 1, 2016.

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