

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2032

By: Shannon, Ritze, Martin
(Scott) and Turner of the
House

and

Bingman and Holt of the
Senate

COMMITTEE SUBSTITUTE

[revenue and taxation - income tax rates - modifying
income tax rates - modifying transferrable credits -
effective date]

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2355, is
amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning
after December 31, 1998, and before January 1, 2006, a tax is hereby
imposed upon the Oklahoma taxable income of every resident or
nonresident individual, which tax shall be computed at the option of
the taxpayer under one of the two following methods:

1. METHOD 1.

a. Single individuals and married individuals filing
separately not deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,300.00 or part thereof,
- (6) 5% tax on next \$1,500.00 or part thereof,
- (7) 6% tax on next \$2,300.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,
- (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
- (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

- (1) 1/2% tax on first \$2,000.00 or part thereof,
- (2) 1% tax on next \$3,000.00 or part thereof,
- (3) 2% tax on next \$2,500.00 or part thereof,

- (4) 3% tax on next \$2,300.00 or part thereof,
- (5) 4% tax on next \$2,400.00 or part thereof,
- (6) 5% tax on next \$2,800.00 or part thereof,
- (7) 6% tax on next \$6,000.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,
- (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
- (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

2. METHOD 2.

a. Single individuals and married individuals filing separately deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,200.00 or part thereof,
- (6) 5% tax on next \$1,400.00 or part thereof,
- (7) 6% tax on next \$1,500.00 or part thereof,
- (8) 7% tax on next \$1,500.00 or part thereof,
- (9) 8% tax on next \$2,000.00 or part thereof,

1 (10) 9% tax on next \$3,500.00 or part thereof, and

2 (11) 10% tax on the remainder.

3 b. Married individuals filing jointly and surviving
4 spouse to the extent and in the manner that a
5 surviving spouse is permitted to file a joint return
6 under the provisions of the Internal Revenue Code and
7 heads of households as defined in the Internal Revenue
8 Code deducting federal income tax:

9 (1) 1/2% tax on the first \$2,000.00 or part thereof,

10 (2) 1% tax on the next \$3,000.00 or part thereof,

11 (3) 2% tax on the next \$2,500.00 or part thereof,

12 (4) 3% tax on the next \$1,400.00 or part thereof,

13 (5) 4% tax on the next \$1,500.00 or part thereof,

14 (6) 5% tax on the next \$1,600.00 or part thereof,

15 (7) 6% tax on the next \$1,250.00 or part thereof,

16 (8) 7% tax on the next \$1,750.00 or part thereof,

17 (9) 8% tax on the next \$3,000.00 or part thereof,

18 (10) 9% tax on the next \$6,000.00 or part thereof, and

19 (11) 10% tax on the remainder.

20 B. Individuals. For all taxable years beginning on or after
21 January 1, 2008, and ending not later than December 31, 2014, a tax
22 is hereby imposed upon the Oklahoma taxable income of every resident
23 or nonresident individual, which tax shall be computed as follows:
24

1 1. Single individuals and married individuals filing
2 separately:

- 3 (a) 1/2% tax on first \$1,000.00 or part thereof,
- 4 (b) 1% tax on next \$1,500.00 or part thereof,
- 5 (c) 2% tax on next \$1,250.00 or part thereof,
- 6 (d) 3% tax on next \$1,150.00 or part thereof,
- 7 (e) 4% tax on next \$2,300.00 or part thereof,
- 8 (f) 5% tax on next \$1,500.00 or part thereof,
- 9 (g) 5.50% tax on the remainder for the 2008 tax year and
10 any subsequent tax year unless the rate prescribed by
11 subparagraph (h) of this paragraph is in effect, and
12 (h) 5.25% tax on the remainder for the 2009 and subsequent
13 tax years. The decrease in the top marginal
14 individual income tax rate otherwise authorized by
15 this subparagraph shall be contingent upon the
16 determination required to be made by the State Board
17 of Equalization pursuant to Section 2355.1A of this
18 title.

19 2. Married individuals filing jointly and surviving spouse to
20 the extent and in the manner that a surviving spouse is permitted to
21 file a joint return under the provisions of the Internal Revenue
22 Code and heads of households as defined in the Internal Revenue
23 Code:

- 24 (a) 1/2% tax on first \$2,000.00 or part thereof,

- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on next \$2,800.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

C. Individuals. For all taxable years beginning on or after January 1, 2015, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,

1 (d) 3% tax on next \$1,150.00 or part thereof,

2 (e) 4% tax on next \$2,300.00 or part thereof, and

3 (f) 4.95% tax on the remainder.

4 2. Married individuals filing jointly and surviving spouse to

5 the extent and in the manner that a surviving spouse is permitted to

6 file a joint return under the provisions of the Internal Revenue

7 Code and heads of households as defined in the Internal Revenue

8 Code:

9 (a) 1/2% tax on first \$2,000.00 or part thereof,

10 (b) 1% tax on next \$3,000.00 or part thereof,

11 (c) 2% tax on next \$2,500.00 or part thereof,

12 (d) 3% tax on next \$2,300.00 or part thereof,

13 (e) 4% tax on next \$2,400.00 or part thereof, and

14 (f) 4.95% tax on the remainder.

15 No deduction for federal income taxes paid shall be allowed to
16 any taxpayer to arrive at taxable income.

17 ~~E.~~ D. Nonresident aliens. In lieu of the rates set forth in
18 subsection A above, there shall be imposed on nonresident aliens, as
19 defined in the Internal Revenue Code, a tax of eight percent (8%)
20 instead of thirty percent (30%) as used in the Internal Revenue
21 Code, with respect to the Oklahoma taxable income of such
22 nonresident aliens as determined under the provision of the Oklahoma
23 Income Tax Act.
24

1 Every payer of amounts covered by this subsection shall deduct
2 and withhold from such amounts paid each payee an amount equal to
3 eight percent (8%) thereof. Every payer required to deduct and
4 withhold taxes under this subsection shall for each quarterly period
5 on or before the last day of the month following the close of each
6 such quarterly period, pay over the amount so withheld as taxes to
7 the Tax Commission, and shall file a return with each such payment.
8 Such return shall be in such form as the Tax Commission shall
9 prescribe. Every payer required under this subsection to deduct and
10 withhold a tax from a payee shall, as to the total amounts paid to
11 each payee during the calendar year, furnish to such payee, on or
12 before January 31, of the succeeding year, a written statement
13 showing the name of the payer, the name of the payee and the payee's
14 social security account number, if any, the total amount paid
15 subject to taxation, and the total amount deducted and withheld as
16 tax and such other information as the Tax Commission may require.
17 Any payer who fails to withhold or pay to the Tax Commission any
18 sums herein required to be withheld or paid shall be personally and
19 individually liable therefor to the State of Oklahoma.

20 ~~D.~~ E. Corporations. For all taxable years beginning after
21 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable
22 income of every corporation doing business within this state or
23 deriving income from sources within this state in an amount equal to
24 six percent (6%) thereof.

1 There shall be no additional Oklahoma income tax imposed on
2 accumulated taxable income or on undistributed personal holding
3 company income as those terms are defined in the Internal Revenue
4 Code.

5 ~~E.~~ F. Certain foreign corporations. In lieu of the tax imposed
6 in the first paragraph of subsection ~~E~~ D of this section, for all
7 taxable years beginning after December 31, 1989, there shall be
8 imposed on foreign corporations, as defined in the Internal Revenue
9 Code, a tax of six percent (6%) instead of thirty percent (30%) as
10 used in the Internal Revenue Code, where such income is received
11 from sources within Oklahoma, in accordance with the provisions of
12 the Internal Revenue Code and the Oklahoma Income Tax Act.

13 Every payer of amounts covered by this subsection shall deduct
14 and withhold from such amounts paid each payee an amount equal to
15 six percent (6%) thereof. Every payer required to deduct and
16 withhold taxes under this subsection shall for each quarterly period
17 on or before the last day of the month following the close of each
18 such quarterly period, pay over the amount so withheld as taxes to
19 the Tax Commission, and shall file a return with each such payment.
20 Such return shall be in such form as the Tax Commission shall
21 prescribe. Every payer required under this subsection to deduct and
22 withhold a tax from a payee shall, as to the total amounts paid to
23 each payee during the calendar year, furnish to such payee, on or
24 before January 31, of the succeeding year, a written statement

1 showing the name of the payer, the name of the payee and the payee's
2 social security account number, if any, the total amounts paid
3 subject to taxation, the total amount deducted and withheld as tax
4 and such other information as the Tax Commission may require. Any
5 payer who fails to withhold or pay to the Tax Commission any sums
6 herein required to be withheld or paid shall be personally and
7 individually liable therefor to the State of Oklahoma.

8 ~~F.~~ G. Fiduciaries. A tax is hereby imposed upon the Oklahoma
9 taxable income of every trust and estate at the same rates as are
10 provided in subsection B or C of this section for single
11 individuals. Fiduciaries are not allowed a deduction for any
12 federal income tax paid.

13 ~~G.~~ H. Tax rate tables. For all taxable years beginning after
14 December 31, 1991, in lieu of the tax imposed by subsection A ~~or~~, B
15 or C of this section, as applicable there is hereby imposed for each
16 taxable year on the taxable income of every individual, whose
17 taxable income for such taxable year does not exceed the ceiling
18 amount, a tax determined under tables, applicable to such taxable
19 year which shall be prescribed by the Tax Commission and which shall
20 be in such form as it determines appropriate. In the table so
21 prescribed, the amounts of the tax shall be computed on the basis of
22 the rates prescribed by ~~subsections~~ subsection A ~~and~~, B or C of this
23 section. For purposes of this subsection, the term "ceiling amount"
24 means, with respect to any taxpayer, the amount determined by the

1 Tax Commission for the tax rate category in which such taxpayer
2 falls.

3 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.11, is
4 amended to read as follows:

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

9 B. 1. Except as provided in subsection M of this section, for
10 tax years beginning on or after January 1, 1993, and ending on or
11 before December 31, 2014, there shall be allowed a credit against
12 the tax imposed by Section 1803 or Section 2355 of this title or
13 Section 624 or 628 of Title 36 of the Oklahoma Statutes for every
14 person in this state furnishing water, heat, light or power to the
15 state or its citizens, or for every person in this state burning
16 coal to generate heat, light or power for use in manufacturing
17 operations located in this state.

18 2. For tax years beginning on or after January 1, 1993, and
19 ending on or before December 31, 2005, and for the period of January
20 1, 2006, through June 30, 2006, the credit shall be in the amount of
21 Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal
22 purchased by such person.

23 3. For the period of July 1, 2006 through December 31, 2006,
24 and for tax years beginning on or after January 1, 2007, and ending

1 on or before December 31, 2014, the credit shall be in the amount of
2 Two Dollars and eighty-five cents (\$2.85) per ton for each ton of
3 Oklahoma-mined coal purchased by such person.

4 4. In addition to the credit allowed pursuant to the provisions
5 of paragraph 3 of this subsection, for the period of July 1, 2006,
6 through December 31, 2006, and except as provided in subsection M of
7 this section, for tax years beginning on or after January 1, 2007,
8 and ending on or before December 31, 2014, there shall be allowed a
9 credit in the amount of Two Dollars and fifteen cents (\$2.15) per
10 ton for each ton of Oklahoma-mined coal purchased by such person.
11 The credit allowed pursuant to the provisions of this paragraph may
12 not be claimed or transferred prior to January 1, 2008.

13 C. For tax years beginning on or after January 1, 1995, and
14 ending on or before December 31, 2005, and for the period beginning
15 January 1, 2006, through June 30, 2006, there shall be allowed, in
16 addition to the credits allowed pursuant to subsection B of this
17 section, a credit against the tax imposed by Section 1803 or Section
18 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
19 Statutes for every person in this state which:

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

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

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

4 D. Except as otherwise provided in subsection E of this section
5 and in subsection M of this section, for tax years beginning on or
6 after January 1, 2001, and ending on or before December 31, 2019,
7 there shall be allowed a credit against the tax imposed by Section
8 1803 or Section 2355 of this title or Section 624 or 628 of Title 36
9 of the Oklahoma Statutes for every person in this state primarily
10 engaged in mining, producing or extracting coal, and holding a valid
11 permit issued by the Oklahoma Department of Mines. For tax years
12 beginning on or after January 1, 2001, and ending on or before
13 December 31, 2005, and for the period beginning January 1, 2006,
14 through June 30, 2006, the credit shall be in the amount of ninety-
15 five cents (\$0.95) per ton and for the period of July 1, 2006,
16 through December 31, 2006, and for tax years beginning on or after
17 January 1, 2007, the credit shall be in the amount of Five Dollars
18 (\$5.00) for each ton of coal mined, produced or extracted in on,
19 under or through a permit in this state by such person.

20 E. In addition to the credit allowed pursuant to the provisions
21 of subsection D of this section and except as otherwise provided in
22 subsection F of this section, for tax years beginning on or after
23 January 1, 2001, and ending on or before December 31, 2005, and for
24 the period of January 1, 2006, through June 30, 2006, there shall be

1 allowed a credit against the tax imposed by Section 1803 or Section
2 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
3 Statutes for every person in this state primarily engaged in mining,
4 producing or extracting coal, and holding a valid permit issued by
5 the Oklahoma Department of Mines in the amount of ninety-five cents
6 (\$0.95) per ton for each ton of coal mined, produced or extracted
7 from thin seams in this state by such person; provided, the credit
8 shall not apply to such coal sold to any consumer who purchases at
9 least seven hundred fifty thousand (750,000) tons of Oklahoma-mined
10 coal per year.

11 F. In addition to the credit allowed pursuant to the provisions
12 of subsection D of this section and except as otherwise provided in
13 subsection G of this section, for tax years beginning on or after
14 January 1, 2005, and ending on or before December 31, 2005, and for
15 the period of January 1, 2006, through June 30, 2006, there shall be
16 allowed a credit against the tax imposed by Section 1803 or Section
17 2355 of this title or that portion of the tax imposed by Section 624
18 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid
19 to and placed into the General Revenue Fund, in the amount of
20 ninety-five cents (\$0.95) per ton for each ton of coal mined,
21 produced or extracted from thin seams in this state by such person
22 on or after July 1, 2005.

23 G. The credits provided in subsections D and E of this section
24 shall not be allowed for coal mined, produced or extracted in any

1 month in which the average price of coal is Sixty-eight Dollars
2 (\$68.00) or more per ton, excluding freight charges, as determined
3 by the Tax Commission.

4 H. The additional credits allowed pursuant to subsections B, C,
5 D and E of this section but not used shall be freely transferable
6 after January 1, 2002 and before January 1, 2015, by written
7 agreement to subsequent transferees at any time during the five (5)
8 years following the year of qualification; provided, the additional
9 credits allowed pursuant to the provisions of paragraph 4 of
10 subsection B of this section but not used shall be freely
11 transferable after January 1, 2008 and before January 1, 2015, by
12 written agreement to subsequent transferees at any time during the
13 five (5) years following the year of qualification. An eligible
14 transferee shall be any taxpayer subject to the tax imposed by
15 Section 1803 or Section 2355 of this title or Section 624 or 628 of
16 Title 36 of the Oklahoma Statutes. The person originally allowed
17 the credit and the subsequent transferee shall jointly file a copy
18 of the written credit transfer agreement with the Tax Commission
19 within thirty (30) days of the transfer. The written agreement
20 shall contain the name, address and taxpayer identification number
21 of the parties to the transfer, the amount of credit being
22 transferred, the year the credit was originally allowed to the
23 transferring person and the tax year or years for which the credit
24 may be claimed. The Tax Commission may promulgate rules to permit

1 verification of the validity and timeliness of a tax credit claimed
2 upon a tax return pursuant to this subsection but shall not
3 promulgate any rules which unduly restrict or hinder the transfers
4 of such tax credit.

5 I. The additional credit allowed pursuant to subsection F of
6 this section but not used shall be freely transferable on or after
7 July 1, 2006 and before January 1, 2015, by written agreement to
8 subsequent transferees at any time during the five (5) years
9 following the year of qualification. An eligible transferee shall
10 be any taxpayer subject to the tax imposed by Section 1803 or
11 Section 2355 of this title or Section 624 or 628 of Title 36 of the
12 Oklahoma Statutes. The person originally allowed the credit and the
13 subsequent transferee shall jointly file a copy of the written
14 credit transfer agreement with the Tax Commission within thirty (30)
15 days of the transfer. The written agreement shall contain the name,
16 address and taxpayer identification number of the parties to the
17 transfer, the amount of credit being transferred, the year the
18 credit was originally allowed to the transferring person and the tax
19 year or years for which the credit may be claimed. The Tax
20 Commission may promulgate rules to permit verification of the
21 validity and timeliness of a tax credit claimed upon a tax return
22 pursuant to this subsection but shall not promulgate any rules which
23 unduly restrict or hinder the transfers of such tax credit.

1 J. Any person receiving tax credits pursuant to the provisions
2 of this section shall apply the credits against taxes payable or
3 shall transfer the credits as provided in this section. Credits
4 shall not be used to lower the price of any Oklahoma-mined coal sold
5 that is produced by a subsidiary of the person receiving a tax
6 credit under this section to other buyers of the Oklahoma-mined
7 coal.

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

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

17 M. No credit otherwise authorized by the provisions of this
18 section may be claimed for any event, transaction, investment,
19 expenditure or other act occurring ~~on or after~~ during the time
20 period beginning on July 1, 2010, and ending on June 30, 2012, for
21 which the credit would otherwise be allowable. ~~The provisions of~~
22 ~~this subsection shall cease to be operative on July 1, 2012.~~
23 ~~Beginning July 1, 2012, the~~ The credit authorized by this section
24 may be claimed for any event, transaction, investment, expenditure

1 or other act occurring ~~on or after~~ during the time period beginning
2 on July 1, 2012, and ending on December 31, 2019, according to the
3 provisions of this section.

4 N. For any credits earned during the time period beginning on
5 January 1, 2015, and ending on December 31, 2019, the amount of any
6 credit allowed, but not used, may be refunded to the taxpayer at an
7 amount equal to eighty percent (80%) of the amount eligible to be
8 claimed pursuant to this section.

9 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.32A, is
10 amended to read as follows:

11 Section 2357.32A. A. Except as otherwise provided in
12 subsection H of this section, for tax years beginning on or after
13 January 1, 2003, and ending before January 1, 2020, there shall be
14 allowed a credit against the tax imposed by Section 2355 of this
15 title to a taxpayer for the taxpayer's production and sale to an
16 unrelated person of electricity generated by zero-emission
17 facilities located in this state. As used in this section:

18 1. "Electricity generated by zero-emission facilities" means
19 electricity that is exclusively produced by any facility located in
20 this state with a rated production capacity of one megawatt (1 mw)
21 or greater, constructed for the generation of electricity and placed
22 in operation after June 4, 2001, which utilizes eligible renewable
23 resources as its fuel source. The construction and operation of
24 such facilities shall result in no pollution or emissions that are

1 or may be harmful to the environment, pursuant to a determination by
2 the Department of Environmental Quality; and

3 2. "Eligible renewable resources" means resources derived from:

- 4 a. wind,
- 5 b. moving water,
- 6 c. sun, or
- 7 d. geothermal energy.

8 B. For facilities placed in operation on or after January 1,
9 2003, and before January 1, 2007, the electricity generated on or
10 after January 1, 2003, but prior to January 1, 2004, the amount of
11 the credit shall be seventy-five one hundredths of one cent
12 (\$0.0075) for each kilowatt-hour of electricity generated by zero-
13 emission facilities. For electricity generated on or after January
14 1, 2004, but prior to January 1, 2007, the amount of the credit
15 shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-
16 hour for electricity generated by zero-emission facilities. For
17 electricity generated on or after January 1, 2007, but prior to
18 January 1, 2012, the amount of the credit shall be twenty-five one
19 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity
20 generated by zero-emission facilities. For facilities placed in
21 operation on or after January 1, 2007, and before January 1, 2016,
22 for the electricity generated by these facilities the amount of the
23 credit shall be fifty one hundredths of one cent (\$0.0050) for each
24 kilowatt-hour of electricity generated by zero-emission facilities.

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

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 the credit allowed but
8 not used in any tax year may be carried forward as a credit against
9 subsequent income tax liability for a period not exceeding ten (10)
10 years.

11 E. Any nontaxable entities, including agencies of the State of
12 Oklahoma or political subdivisions thereof, shall be eligible to
13 establish a transferable tax credit in the amount provided in
14 subsection B of this section for a tax year ending before January 1,
15 2015. Such tax credit shall be a property right available to a
16 state agency or political subdivision of this state to transfer or
17 sell to a taxable entity, whether individual or corporate, who shall
18 have an actual or anticipated income tax liability under Section
19 2355 of this title. These tax credit provisions are authorized as
20 an incentive to the State of Oklahoma, its agencies and political
21 subdivisions to encourage the expenditure of funds in the
22 development, construction and utilization of electricity from zero-
23 emission facilities as defined in subsection A of this section.
24

1 F. ~~The~~ 1. For electricity generated before January 1, 2015,
2 the amount of the credit allowed, but not used, shall be freely
3 transferable at any time during the ten (10) years following the
4 year of qualification. Any person to whom or to which a tax credit
5 is transferred shall have only such rights to claim and use the
6 credit under the terms that would have applied to the entity by whom
7 or by which the tax credit was transferred. The provisions of this
8 ~~subsection~~ paragraph shall not limit the ability of a tax credit
9 transferee to reduce the tax liability of the transferee, regardless
10 of the actual tax liability of the tax credit transferor, for the
11 relevant taxable period. The transferor initially allowed the
12 credit and any subsequent transferees shall jointly file a copy of
13 any written transfer agreement with the Oklahoma Tax Commission
14 within thirty (30) days of the transfer. The written agreement
15 shall contain the name, address and taxpayer identification number
16 or social security number of the parties to the transfer, the amount
17 of the credit being transferred, the year the credit was originally
18 allowed to the transferor, and the tax year or years for which the
19 credit may be claimed. The Tax Commission may promulgate rules to
20 permit verification of the validity and timeliness of the tax credit
21 claimed upon a tax return pursuant to this ~~subsection~~ paragraph but
22 shall not promulgate any rules that unduly restrict or hinder the
23 transfers of such tax credit. The tax credit allowed by this
24 section, upon the election of the taxpayer, may be claimed as a

1 payment of tax, a prepayment of tax or a payment of estimated tax
2 for purposes of Section 1803 or Section 2355 of this title.

3 2. For electricity generated during the time period beginning
4 on January 1, 2015, and ending on December 31, 2019, the amount of
5 the credit allowed, but not used, may be refunded to the taxpayer at
6 an amount equal to eighty percent (80%) of the amount eligible to be
7 claimed pursuant to subsection B of this section.

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

14 H. No credit otherwise authorized by the provisions of this
15 section may be claimed for any event, transaction, investment,
16 expenditure or other act occurring ~~on or after~~ during the time
17 period beginning on July 1, 2010, and ending on June 30, 2011, for
18 which the credit would otherwise be allowable ~~until the provisions~~
19 ~~of this subsection shall cease to be operative on July 1, 2011.~~

20 Beginning July 1, 2011, the credit authorized by this section may be
21 claimed for any event, transaction, investment, expenditure or other
22 act occurring ~~on or after~~ during the time period beginning on July
23 1, 2010, and ending on December 31, 2019, according to the
24 provisions of this section. Any tax credits which accrue during the

1 period of July 1, 2010, through June 30, 2011, may not be claimed
2 for any period prior to the taxable year beginning January 1, 2012.
3 No credits which accrue during the period of July 1, 2010, through
4 June 30, 2011, may be used to file an amended tax return for any
5 taxable year prior to the taxable year beginning January 1, 2012.

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

8 Section 2357.41. A. Except as otherwise provided by subsection
9 I of this section, for tax years beginning after December 31, 2000,
10 and ending before January 1, 2020, there shall be allowed a credit
11 against the tax imposed by Sections 2355 and 2370 of this title or
12 that portion of the tax imposed by Section 624 or 628 of Title 36 of
13 the Oklahoma Statutes that would otherwise have been apportioned to
14 the General Revenue Fund for qualified rehabilitation expenditures
15 incurred in connection with any certified historic hotel or historic
16 newspaper plant building located in an increment or incentive
17 district created pursuant to the Local Development Act or for
18 qualified rehabilitation expenditures incurred after January 1,
19 2006, in connection with any certified historic structure.

20 B. The amount of the credit shall be one hundred percent (100%)
21 of the federal rehabilitation credit provided for in Section 47 of
22 Title 26 of the United States Code. The credit authorized by this
23 section may be claimed at any time after the relevant local
24 governmental body responsible for doing so issues a certificate of

1 occupancy or other document that is a precondition for the
2 applicable use of the building or structure that is the basis upon
3 which the credit authorized by this section is claimed.

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

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

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

20 F. ~~The~~ 1. For qualified expenditures made before January 1,
21 2015, the amount of the credit allowed for any credit claimed for a
22 certified historic hotel or historic newspaper plant building or any
23 certified historic structure, but not used, shall be freely
24 transferable, in whole or in part, to subsequent transferees at any

1 time during the five (5) years following the year of qualification.
2 Any person to whom or to which a tax credit is transferred shall
3 have only such rights to claim and use the credit under the terms
4 that would have applied to the entity by whom or by which the tax
5 credit was transferred. The provisions of this subsection shall not
6 limit the ability of a tax credit transferee to reduce the tax
7 liability of the transferee regardless of the actual tax liability
8 of the tax credit transferor for the relevant taxable period. The
9 transferor of the credit and the transferee shall jointly file a
10 copy of the written credit transfer agreement with the Oklahoma Tax
11 Commission within thirty (30) days of the transfer. Such filing of
12 the written credit transfer agreement with the ~~Oklahoma~~ Tax
13 Commission shall perfect such transfer. The written agreement shall
14 contain the name, address and taxpayer identification number of the
15 parties to the transfer, the amount of credit being transferred, the
16 year the credit was originally allowed to the transferor, the tax
17 year or years for which the credit may be claimed, and a
18 representation by the transferor that the transferor has neither
19 claimed for its own behalf nor conveyed such credits to any other
20 transferee. The Tax Commission shall develop a standard form for
21 use by subsequent transferees of the credit demonstrating
22 eligibility for the transferee to reduce its applicable tax
23 liabilities resulting from ownership of the credit. The Tax
24 Commission shall develop a system to record and track the transfers

1 of the credit and certify the ownership of the credit and may
2 promulgate rules to permit verification of the validity and
3 timeliness of a tax credit claimed upon a tax return pursuant to
4 this subsection but shall not promulgate any rules which unduly
5 restrict or hinder the transfers of such tax credit.

6 2. For qualified expenditures made during the time period
7 beginning on January 1, 2015, and ending on December 31, 2019, the
8 amount of the credit allowed, but not used, may be refunded to the
9 taxpayer at an amount equal to eighty percent (80%) of the amount
10 eligible to be claimed pursuant to subsection B of this section.

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

19 H. As used in this section:

20 1. "Certified historic hotel or historic newspaper plant
21 building" means a hotel or newspaper plant building that is listed
22 on the National Register of Historic Places within thirty (30)
23 months of taking the credit pursuant to this section.
24

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

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

19 I. No credit otherwise authorized by the provisions of this
20 section may be claimed for any event, transaction, investment,
21 expenditure or other act occurring on or after July 1, 2010, ~~for~~
22 ~~which the credit would otherwise be allowable until the provisions~~
23 ~~of this subsection shall cease to be operative on July 1, 2012~~
24 except as otherwise provided in this subsection. Beginning July 1,

1 2012, the credit authorized by this section may be claimed for any
2 event, transaction, investment, expenditure or other act occurring
3 on or after July 1, 2010, and before January 1, 2020, according to
4 the provisions of this section. Any tax credits which accrue during
5 the period of July 1, 2010, through June 30, 2012, may not be
6 claimed for any period prior to the taxable year beginning January
7 1, 2012. No credits which accrue during the period of July 1, 2010,
8 through June 30, 2012, may be used to file an amended tax return for
9 any taxable year prior to the taxable year beginning January 1,
10 2012.

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

13 Section 2357.46. A. Except as otherwise provided by subsection
14 G of this section, for tax years beginning after December 31, 2005,
15 and ending before January 1, 2020, there shall be allowed a credit
16 against the tax imposed by Section 2355 of ~~Title 68 of Oklahoma~~
17 ~~Statutes~~ this title for eligible expenditures incurred by a
18 contractor in the construction of energy efficient residential
19 property of two thousand (2,000) square feet or less. The amount of
20 the credit shall be based upon the following:

21 1. For any eligible energy efficient residential property
22 constructed and certified as forty percent (40%) or more above the
23 International Energy Conservation Code 2003 and any supplement in
24 effect at the time of completion, the amount of the credit shall be

1 equal to the eligible expenses, not to exceed Four Thousand Dollars
2 (\$4,000.00) for the taxpayer who is the contractor; and

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

10 B. As used in this section:

11 1. "Eligible expenditure" means any:

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

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

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

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

13 (1) a level of annual heating and cooling energy
14 consumption which is at least forty percent (40%)
15 below the annual level of heating and cooling
16 energy consumption of a comparable residential
17 property constructed in accordance with the
18 standards of Chapter 4 of the 2003 International
19 Energy Conservation Code, as such code is in
20 effect on ~~the effective date of this act~~ November
21 1, 2005,

22 (2) heating and cooling equipment efficiencies which
23 correspond to the minimum allowed under the
24 regulations established by the Department of

Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction of the property, and

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

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

(1) a level of annual heating and cooling energy consumption which is between twenty percent (20%) and thirty-nine percent (39%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on ~~the effective date of this act~~ November 1, 2005,

(2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy

1 Conservation Act of 1987 and in effect at the
2 time of construction of the property, and
3 (3) building envelope component improvements which
4 account for at least one-third of the reduced
5 annual heating and cooling energy consumption
6 levels.

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

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

17 E. 1. For credits earned ~~on or after the effective date of~~
18 ~~this act~~ during the time period beginning on August 25, 2006, and
19 ending on December 31, 2014, the credits authorized by this section
20 shall be freely transferable to subsequent transferees.

21 2. For credits earned during the time period beginning on
22 January 1, 2015, and ending on December 31, 2019, the amount of any
23 credit allowed, but not used, may be refunded to the taxpayer at an
24

1 amount equal to eighty percent (80%) of the amount eligible to be
2 claimed pursuant to subsection A of this section.

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~~ during the time
8 period beginning on July 1, 2010, and ending on June 30, 2012, 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~~ The credit authorized by this section
12 may be claimed for any event, transaction, investment, expenditure
13 or other act occurring ~~on or after~~ during the time period beginning
14 on July 1, 2012, and ending on December 31, 2019 , according to the
15 provisions of this section.

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

18 Section 2357.104. A. Except as otherwise provided by
19 subsection G of this section, for taxable years beginning after
20 December 31, 2005, and ending before January 1, 2020, there shall be
21 allowed a credit against the tax imposed by Section 2355 of this
22 title equal to fifty percent (50%) of an eligible taxpayer's
23 qualified railroad reconstruction or replacement expenditures.

1 B. 1. Except as provided in paragraph 2 of this subsection,
2 the amount of the credit shall be limited to the product of Five
3 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars
4 (\$2,000.00) for tax year 2008 and subsequent tax years and the
5 number of miles of railroad track owned or leased within this state
6 by the eligible taxpayer as of the close of the taxable year.

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

13 C. ~~The~~ 1. For expenditures made before January 1, 2015, the
14 credit allowed pursuant to subsection A of this section but not used
15 shall be freely transferable, by written agreement, to subsequent
16 transferees at any time during the five (5) years following the year
17 of qualification. An eligible transferee shall be any taxpayer
18 subject to the tax imposed by Section 2355 of this title. The
19 person originally allowed the credit and the subsequent transferee
20 shall jointly file a copy of the written credit transfer agreement
21 with the Oklahoma Tax Commission within thirty (30) days of the
22 transfer. The written agreement shall contain the name, address and
23 taxpayer identification number of the parties to the transfer, the
24 amount of credit being transferred, the year the credit was

originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission shall promulgate rules to permit verification of the timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit. The Department of Transportation shall promulgate rules to permit verification of the eligibility of an eligible taxpayer's expenditures for the purpose of claiming the credit. The rules shall provide for the approval of qualified railroad reconstruction or replacement expenditures prior to commencement of a project and provide a certificate of verification upon completion of a project that uses qualified railroad reconstruction or replacement expenditures. The certificate of verification shall satisfy all requirements of the Tax Commission pertaining to the eligibility of the person claiming the credit.

2. For expenditures made during the time period beginning on January 1, 2015, and ending on December 31, 2019, the amount of the credit allowed, but not used, may be refunded to the taxpayer at an amount equal to eighty percent (80%) of the amount eligible to be claimed pursuant to subsections A and B of this section.

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

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

5 F. As used in this section:

6 1. "Class II and Class III railroad" means a railroad that is
7 classified by the United States Surface Transportation Board as a
8 Class II or Class III railroad;

9 2. "Eligible taxpayer" means any Class II or Class III
10 railroad; and

11 3. "Qualified railroad reconstruction or replacement
12 expenditures" means expenditures for:

13 a. reconstruction or replacement of railroad
14 infrastructure including track, roadbed, bridges,
15 industrial leads and track-related structures owned or
16 leased by a Class II or Class III railroad as of
17 January 1, 2006, or

18 b. new construction of industrial leads, switches, spurs
19 and sidings and extensions of existing sidings by a
20 Class II or Class III railroad.

21 G. No credit otherwise authorized by the provisions of this
22 section may be claimed for any event, transaction, investment,
23 expenditure or other act occurring ~~on or after~~ during the time
24 period beginning on July 1, 2010, and ending on June 30, 2012, for

1 which the credit would otherwise be allowable. ~~The provisions of~~
2 ~~this subsection shall cease to be operative on July 1, 2012.~~
3 ~~Beginning July 1, 2012, the~~ The credit authorized by this section
4 may be claimed for any event, transaction, investment, expenditure
5 or other act occurring ~~on or after~~ during the time period beginning
6 on July 1, 2012, and ending on December 31, 2019, according to the
7 provisions of this section.

8 SECTION 7. This act shall become effective November 1, 2013.

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