

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 5, 2015

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 502

By: Quinn et al of the Senate and Sears et al of the House

Title: Revenue and taxation; restricting use of investment or job creation tax credits by certain entities. Effective date.

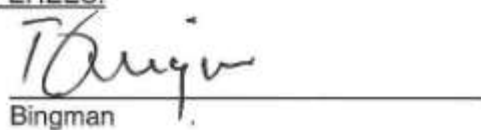
together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:


Quinn


Bingman


Mazzei

Bass


Schulz

Matthews


Marlatt

HOUSE CONFEREES:

General Conference Committee on Appropriations

Senate Action _____ Date _____ House Action _____ Date _____

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STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 502

By: Quinn, Brecheen, Allen,
Shortey, Mazzei, Ford and
Fields of the Senate

and

Sears, Roberts (Sean) and
Sanders of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68
O.S. 2011, Section 2357.4, which relates to tax
credits for investment in certain depreciable
property or job creation; clarifying and conforming
language; restricting use of investment or job
creation tax credits by certain entities after
specified date; providing for use of tax credits
earned through investment or job creation prior to
specified date; 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, is
amended to read as follows:

Section 2357.4 A. Except as otherwise provided in subsection F
of Section 3658 of this title and in ~~subsection~~ subsections J and K
of this section, for taxable years beginning after December 31,

1 1987, there shall be allowed a credit against the tax imposed by
2 Section 2355 of this title for:

3 1. Investment in qualified depreciable property placed in
4 service during those years for use in a manufacturing operation, as
5 defined in Section 1352 of this title, which has received a
6 manufacturer exemption permit pursuant to the provisions of Section
7 1359.2 of this title or a qualified aircraft maintenance or
8 manufacturing facility as defined in ~~paragraph 14 of~~ Section 1357 of
9 this title in this state or a qualified web search portal as defined
10 ~~paragraph 35 of~~ in Section 1357 of this title; or

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

20 B. Except as otherwise provided in subsection F of Section 3658
21 of this title and in ~~subsection~~ subsections J and K of this section,
22 for taxable years beginning after December 31, 1998, there shall be
23 allowed a credit against the tax imposed by Section 2355 of this
24 title for:

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

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

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

22 D. If a business entity fails to expend the amount required by
23 paragraph 1 or paragraph 2 of subsection B of this section within
24 the time required, the business entity may not claim the credit

1 authorized by subsection B of this section, but shall be allowed to
2 claim a credit pursuant to subsection A of this section if the
3 requirements of subsection A of this section are met with respect to
4 the investment in qualified depreciable property or net increase in
5 the number of full-time-equivalent employees.

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

1 placed in service by the transferee, for purposes of determining the
2 aggregate number of years for which credit may be allowed.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 J. 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 July 1, 2010, for
17 which the credit would otherwise be allowable until the provisions
18 of this subsection shall cease to be operative on July 1, 2012.
19 Beginning July 1, 2012, the credit authorized by this section may be
20 claimed for any event, transaction, investment, expenditure or other
21 act occurring on or after July 1, 2010, according to the provisions
22 of this section; provided, credits accrued during the period from
23 July 1, 2010, through June 30, 2012, shall be limited to a period of
24 two (2) taxable years. The credit shall be limited in each taxable

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

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

14 SECTION 2. This act shall become effective January 1, 2017.

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