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STATE OF OKLAHOMA

2nd Extraordinary Session of the 56th Legislature (2018)

HOUSE BILL 1036 By: Wallace and Casey of the

By: Wallace and Casey of the
House

and

David and Fields of the
Senate

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 2357.104, as amended by Section 1, Chapter 325, O.S.L. 2016 (68 O.S. Supp. 2017, Section 2357.104), which relates to income tax credits for railroad reconstruction expenditures; imposing cap; prescribing formula for computation of cap amount; providing for certain carryover amounts; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.104, as amended by Section 1, Chapter 325, O.S.L. 2016 (68 O.S. Supp. 2017, Section 2357.104), is amended to read as follows:

Section 2357.104 A. Except as otherwise provided by ~~subsections C and H of~~ this section, for taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of this title equal to fifty percent

1 (50%) of an eligible taxpayer's qualified railroad reconstruction or
2 replacement expenditures.

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

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

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

1 transfer, the amount of credit being transferred, the year the
2 credit was originally allowed to the transferring person and the tax
3 year or years for which the credit may be claimed. The Tax
4 Commission shall promulgate rules to permit verification of the
5 timeliness of a tax credit claimed upon a tax return pursuant to
6 this subsection but shall not promulgate any rules which unduly
7 restrict or hinder the transfers of such tax credit. The Department
8 of Transportation shall promulgate rules to permit verification of
9 the eligibility of an eligible taxpayer's expenditures for the
10 purpose of claiming the credit. The rules shall provide for the
11 approval of qualified railroad reconstruction or replacement
12 expenditures prior to commencement of a project and provide a
13 certificate of verification upon completion of a project that uses
14 qualified railroad reconstruction or replacement expenditures. The
15 certificate of verification shall satisfy all requirements of the
16 Tax Commission pertaining to the eligibility of the person claiming
17 the credit.

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

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

3 F. As used in this section:

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

7 2. "Eligible taxpayer" means any Class II or Class III
8 railroad; and

9 3. "Qualified railroad reconstruction or replacement
10 expenditures" means expenditures for:

- 11 a. reconstruction or replacement of railroad
12 infrastructure including track, roadbed, bridges,
13 industrial leads and track-related structures owned or
14 leased by a Class II or Class III railroad as of
15 January 1, 2006, or
16 b. new construction of industrial leads, switches, spurs
17 and sidings and extensions of existing sidings by a
18 Class II or Class III railroad.

19 G. 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. The provisions of
23 this subsection shall cease to be operative on July 1, 2012.

24 Beginning July 1, 2012, the credit authorized by this section may be

1 claimed for any event, transaction, investment, expenditure or other
2 act occurring on or after July 1, 2012, according to the provisions
3 of this section.

4 H. The credit otherwise authorized by the provisions of this
5 section shall be reduced by twenty-five percent (25%) for any
6 taxable year which begins on or after January 1, 2016. The
7 provisions of this subsection shall not be applicable to tax credits
8 carried forward from any tax year which began prior to January 1,
9 2016.

10 I. For tax years beginning on or after January 1, 2018, the
11 total amount of credits authorized by this section used to offset
12 tax shall be adjusted annually to limit the annual amount of credits
13 to Two Million Dollars (\$2,000,000.00). The Tax Commission shall
14 annually calculate and publish a percentage by which the credits
15 authorized by this section shall be reduced so the total amount of
16 credits used to offset tax does not exceed Two Million Dollars
17 (\$2,000,000.00) per year. The formula to be used for the percentage
18 adjustment shall be Two Million Dollars (\$2,000,000.00) divided by
19 the credits claimed in the second preceding year.

20 J. Pursuant to subsection I of this section, in the event the
21 total tax credits authorized by this section exceed Two Million
22 Dollars (\$2,000,000.00) in any calendar year, the Tax Commission
23 shall permit any excess over Two Million Dollars (\$2,000,000.00) but
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1 shall factor such excess into the percentage adjustment formula for
2 subsequent years.

3 SECTION 2. This act shall become effective January 1, 2018.
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5 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
6 AND BUDGET, dated 02/08/2018 - DO PASS.
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