

BILL SUMMARY
2nd Session of the 57th Legislature

Bill No.:	HB 3859
Version:	INT
Request Number:	9224
Author:	Rep. Wallace
Date:	2/11/2020
Impact:	Tax Commission:
	Revenue Decrease:
	FY-21: (\$5,875,000)

Research Analysis

HB3859, as introduced, modifies the formula for computing the railroad reconstruction tax credit and amends the definition of *qualified railroad reconstruction or replacement expenditures* to include expenditures for track maintenance, natural disasters and rail crossing replacement and or reconstruction costs. Up to 50% of qualified expenditures may be credited to the taxpayer, limited to \$5000 per mile of railroad track owned or leased in the state as of the close of the taxable year. The measure also sunsets the tax credit effective December 31, 2024 and increases, from \$2 million to \$5 million, the cap on total credits that may be claimed in a calendar year.

Current Formula	Proposed Formula
25% of qualified expenditures	50% of qualified expenditures
Maximum credit = (number of miles of railroad track owned or leased in Oklahoma) x (\$2000)	Maximum credit = (number of miles of railroad track owned or leased in Oklahoma) x (\$5000)

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

HB 3859 proposes to amend 68 O.S. §2357.104, which relates to the Railroad Modernization Credit. This measure proposes to increase the amount of the credit and the annual credit cap for tax years 2020 through 2024². The credit is eliminated for tax years beginning on or after January 1, 2025.

Currently an eligible taxpayer³ is allowed an income tax credit of 50% of qualified railroad reconstruction or replacement expenditures. The credit is \$2,000 per mile of railroad track that is owned or leased within Oklahoma by the taxpayer at the end of the taxable year. Beginning with tax year 2016, the credit was further reduced by 25% of the amount allowed. Total credits are capped at \$2,000,000 per year.

Under this proposal, qualified railroad reconstruction and replacement expenditures are expanded to include track maintenance, natural disasters and crossings. The amount of credit for tax years 2020 through 2024 is increased to \$5,000 per mile of railroad track that is owned or leased within Oklahoma by an eligible taxpayer at the end of the taxable year, and the amount of the credit is no longer reduced by 25%. Total credits are capped at \$5,000,000 per year effective for tax year 2020 and all subsequent tax years.

To estimate the potential revenue effect of this proposal, the Oklahoma 2018-2020 State Railroad Map⁴ was obtained from the Oklahoma Department of Transportation (ODOT). ODOT records indicate that 1,439 miles of railroad track are owned and/or leased within Oklahoma by Class III railroads. Because reconstruction and replacement expenditures now include track maintenance, natural disasters and crossings, it is assumed the credit may be claimed for all 1,439 railroad track miles.

Applying the \$5,000 per mile credit to 1,439 railroad track miles results in a total credit of \$7,195,000 for tax year 2020. OTC income tax data indicates \$1,320,000 in railroad credits were used to offset tax in 2017. Assuming similar activity in tax year 2020, an estimated decrease in income tax collections of approximately \$5,875,000 is expected for tax year 2020⁵. This decrease would occur in FY21 when the 2020 income tax returns are filed. No changes in withholding or estimated tax payments are anticipated.

² Additional obsolete language is deleted from this measure.

³ "Eligible taxpayer" means any Class II or Class III railroad. Oklahoma Department of Transportation records indicate that no railroad miles are owned and/or operated in Oklahoma by any Class II railroad.

⁴ See <https://www.ok.gov/odot/documents/Rail%20Map%202018-2020.pdf>.

⁵ The Tax Commission is required to calculate and publish the percentage by which the authorized credits will be reduced so the total credits used to offset tax do not exceed \$5 million per year beginning with tax year 2020. The formula to be used for the percentage adjustment is \$5 million divided by the credits claimed in the second preceding year. It is expected that 100% of the credit amount will be allowed in 2020 and 2021 because the credits claimed in 2018 and 2019 are not expected to exceed the \$5 million cap.

Prepared By: Mark Tygret

Other Considerations

None.