

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 604

By: Rader of the Senate

and

Fetgatter of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2021, Section 2357.104, which relates to certain
13 railroad rehabilitation tax credits; modifying
14 taxable year references; and providing an effective
15 date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.104, is
19 amended to read as follows:

20 Section 2357.104 A. Except as otherwise provided by this
21 section, for taxable years beginning after December 31, 2005, and
22 ending before January 1, ~~2025~~ 2030, there shall be allowed a credit
23 against the tax imposed by Section 2355 of this title equal to fifty
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1 percent (50%) of an eligible taxpayer's qualified railroad
2 reconstruction or replacement expenditures.

3 B. For tax years 2020 through ~~2024~~ 2029, the amount of the
4 credit shall be limited to the product of Five Thousand Dollars
5 (\$5,000.00) and the number of miles of railroad track owned or
6 leased within this state by the eligible taxpayer as of the close of
7 the taxable year.

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

1 of Transportation shall promulgate rules to permit verification of
2 the eligibility of an eligible taxpayer's expenditures for the
3 purpose of claiming the credit. The rules shall provide for the
4 approval of qualified railroad reconstruction or replacement
5 expenditures prior to commencement of a project and provide a
6 certificate of verification upon completion of a project that uses
7 qualified railroad reconstruction or replacement expenditures. The
8 certificate of verification shall satisfy all requirements of the
9 Tax Commission pertaining to the eligibility of the person claiming
10 the credit.

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

15 E. As used in this section:

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

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

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

23 a. track maintenance, natural disasters, and
24 reconstruction or replacement of railroad

1 infrastructure including track, roadbed, crossings,
2 bridges, industrial leads and track-related structures
3 owned or leased by a Class II or Class III railroad as
4 of January 1, 2006, or

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

8 F. The total amount of credits authorized by this section used
9 to offset tax shall be adjusted annually to limit the annual amount
10 of credits to Two Million Dollars (\$2,000,000.00) for tax years 2018
11 and 2019 and Five Million Dollars (\$5,000,000.00) for tax year 2020
12 and all subsequent tax years. The Tax Commission shall annually
13 calculate and publish a percentage by which the credits authorized
14 by this section shall be reduced so the total amount of credits used
15 to offset tax does not exceed the applicable annual limit. The
16 formula to be used for the percentage adjustment shall be the
17 applicable annual limit divided by the credits claimed in the second
18 preceding year.

19 G. Pursuant to subsection F of this section, in the event the
20 total tax credits authorized by this section exceed the annual
21 applicable limit in any calendar year, the Tax Commission shall
22 permit any excess over the annual applicable limit but shall factor
23 such excess into the percentage adjustment formula for subsequent
24 years.

SECTION 2. This act shall become effective November 1, 2023.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
04/19/2023 - DO PASS, As Amended.