

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1299

By: Rader

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5  
6 AS INTRODUCED

7 An Act relating to income tax credit; amending 68  
8 O.S. 2021, Section 2357.104, as amended by Section 1,  
9 Chapter 33, 1st Extraordinary Session, O.S.L. 2023  
10 (68 O.S. Supp. 2023, Section 2357.104), which relates  
11 to credit for certain railroad expenditures; making  
12 credit refundable for certain tax years; requiring  
13 submission of documentation to the Department of  
14 Transportation for credit eligibility; and providing  
15 an effective date.

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

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.104, as  
18 amended by Section 1, Chapter 33, 1st Extraordinary Session, O.S.L.  
19 2023 (68 O.S. Supp. 2023, Section 2357.104), is amended to read as  
20 follows:

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

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

6 C. ~~The~~ For tax years 2006 through 2024, the credit allowed  
7 pursuant to subsection A of this section but not used shall be  
8 freely transferable, by written agreement, to subsequent transferees  
9 at any time during the five (5) years following the year of  
10 qualification. An eligible transferee shall be any taxpayer subject  
11 to the tax imposed by Section 2355 of this title. The person  
12 originally allowed the credit and the subsequent transferee shall  
13 jointly file a copy of the written credit transfer agreement with  
14 the Oklahoma Tax Commission within thirty (30) days of the transfer.  
15 The written agreement shall contain the name, address, and taxpayer  
16 identification number of the parties to the transfer, the amount of  
17 credit being transferred, the year the credit was originally allowed  
18 to the transferring person, and the tax year or years for which the  
19 credit may be claimed. The Tax Commission shall promulgate rules to  
20 permit verification of the timeliness of a tax credit claimed upon a  
21 tax return pursuant to this subsection but shall not promulgate any  
22 rules which unduly restrict or hinder the transfers of such tax  
23 credit. The Department of Transportation shall promulgate rules to  
24 permit verification of the eligibility of an eligible taxpayer's

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

9 D. ~~Any~~ For tax years 2006 through 2024, credits allowed  
10 pursuant to the provisions of subsection A of this section but not  
11 used in any tax year may be carried over in order to each of the  
12 five (5) years following the year of qualification. For tax year  
13 2025 and subsequent tax years, if the credit exceeds the tax imposed  
14 by Section 2355 of this title, the excess amount shall be refunded  
15 to the taxpayer.

16 E. As used in this section:

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

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

22 3. "Qualified railroad reconstruction or replacement  
23 expenditures" means expenditures for:  
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- 1 a. track maintenance, natural disasters, and  
2 reconstruction or replacement of railroad  
3 infrastructure including track, roadbed, crossings,  
4 bridges, industrial leads, and track-related  
5 structures owned or leased by a Class II or Class III  
6 railroad as of January 1, 2006, or  
7 b. new construction of industrial leads, switches, spurs,  
8 and sidings and extensions of existing sidings by a  
9 Class II or Class III railroad.

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

21 G. Pursuant to subsection F of this section, in the event the  
22 total tax credits authorized by this section exceed the annual  
23 applicable limit in any calendar year, the Tax Commission shall  
24 permit any excess over the annual applicable limit but shall factor

1 such excess into the percentage adjustment formula for subsequent  
2 years.

3 H. For tax year 2025 and subsequent tax years, to be eligible  
4 to claim the credit provided in this section, the taxpayer shall  
5 submit documentation to the Department of Transportation which shall  
6 include the following:

7 1. The name of the entity;

8 2. Total project expenditures related to the reconstruction or  
9 replacement; and

10 3. Whether the construction project was completed as part of a  
11 broader economic development project, including any partnership with  
12 local government entities or economic development organizations.

13 SECTION 2. This act shall become effective November 1, 2024.

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