

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 17x

6 By: Thompson (Roger) and Hall
7 of the Senate

8 and

9 Wallace and Martinez of the
10 House

11 COMMITTEE SUBSTITUTE

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

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

B. For tax years 2020 through ~~2024~~ 2029, the amount of the
credit shall be limited to the product of Five Thousand Dollars

1 (\$5,000.00) and the number of miles of railroad track owned or
2 leased within this state by the eligible taxpayer as of the close of
3 the taxable year.

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

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

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

11 E. As used in this section:

12 1. "Class II and Class III railroad" means a railroad that is
13 classified by the United States Surface Transportation Board as a
14 Class II or Class III railroad;

15 2. "Eligible taxpayer" means any Class II or Class III
16 railroad; and

17 3. "Qualified railroad reconstruction or replacement
18 expenditures" means expenditures for:

19 a. track maintenance, natural disasters, and
20 reconstruction or replacement of railroad
21 infrastructure including track, roadbed, crossings,
22 bridges, industrial leads and track-related structures
23 owned or leased by a Class II or Class III railroad as
24 of January 1, 2006, or

1 b. new construction of industrial leads, switches, spurs
2 and sidings and extensions of existing sidings by a
3 Class II or Class III railroad.

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

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

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

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