

1 ENGROSSED SENATE  
2 BILL NO. 17x

By: Thompson (Roger) and Hall  
of the Senate

3 and

4 Wallace and Martinez of the  
5 House

6  
7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2021, Section 2357.104, which relates to certain  
9 railroad rehabilitation tax credits; modifying  
taxable year references; and providing an effective  
date.

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

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

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

20 B. For tax years 2020 through ~~2024~~ 2029, the amount of the  
21 credit shall be limited to the product of Five Thousand Dollars  
22 (\$5,000.00) and the number of miles of railroad track owned or  
23 leased within this state by the eligible taxpayer as of the close of  
24 the taxable year.

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

1 certificate of verification shall satisfy all requirements of the  
2 Tax Commission pertaining to the eligibility of the person claiming  
3 the credit.

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

8 E. As used in this section:

9 1. "Class II and Class III railroad" means a railroad that is  
10 classified by the United States Surface Transportation Board as a  
11 Class II or Class III railroad;

12 2. "Eligible taxpayer" means any Class II or Class III  
13 railroad; and

14 3. "Qualified railroad reconstruction or replacement  
15 expenditures" means expenditures for:

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

22 b. new construction of industrial leads, switches, spurs  
23 and sidings and extensions of existing sidings by a  
24 Class II or Class III railroad.

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

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

18 SECTION 2. This act shall become effective November 1, 2023.  
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1 Passed the Senate the 24th day of May, 2023.

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\_\_\_\_\_  
Presiding Officer of the Senate

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5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

6 2023.

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Presiding Officer of the House  
of Representatives

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