

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1451

By: Dahm

4  
5  
6 AS INTRODUCED

7 An Act relating to income tax; amending 68 O.S. 2011,  
8 Section 2357.104, as amended by Section 1, Chapter  
9 325, O.S.L. 2016 (68 O.S. Supp. 2017, Section  
10 2357.104), which relates to credits for qualified  
11 railroad reconstruction or rehabilitation  
12 expenditures; limiting time period during which  
13 credits are transferrable; and providing an effective  
14 date.

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

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.104, as  
17 amended by Section 1, Chapter 325, O.S.L. 2016 (68 O.S. Supp. 2017,  
18 Section 2357.104), is amended to read as follows:

19 Section 2357.104. A. Except as otherwise provided by  
20 subsections G and H of this section, for taxable years beginning  
21 after December 31, 2005, and ending on or before December 31, 2021,  
22 there shall be allowed a credit against the tax imposed by Section  
23 2355 of this title equal to fifty percent (50%) of an eligible  
24 taxpayer's qualified railroad reconstruction or replacement  
expenditures.

1 B. 1. Except as provided in paragraph 2 of this subsection,  
2 the amount of the credit shall be limited to the product of Five  
3 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars  
4 (\$2,000.00) for tax year 2008 and subsequent tax years and the  
5 number of miles of railroad track owned or leased within this state  
6 by the eligible taxpayer as of the close of the taxable year.

7 2. In tax year 2009 and subsequent tax years, a taxpayer may  
8 elect to increase the limit provided in paragraph 1 of this  
9 subsection to an amount equal to three times the limit specified in  
10 paragraph 1 of this subsection for qualified expenditures made in  
11 the tax year, provided the taxpayer may only claim one third (1/3)  
12 of the credit in any one taxable period.

13 C. ~~The~~ For credits generated prior to January 1, 2019, the  
14 credit allowed pursuant to subsection A of this section but not used  
15 shall be freely transferable, by written agreement, to subsequent  
16 transferees at any time during the five (5) years following the year  
17 of qualification. An eligible transferee shall be any taxpayer  
18 subject to the tax imposed by Section 2355 of this title. The  
19 person originally allowed the credit and the subsequent transferee  
20 shall jointly file a copy of the written credit transfer agreement  
21 with the Oklahoma Tax Commission within thirty (30) days of the  
22 transfer. The written agreement shall contain the name, address and  
23 taxpayer identification number of the parties to the transfer, the  
24 amount of credit being transferred, the year the credit was

1 originally allowed to the transferring person and the tax year or  
2 years for which the credit may be claimed. The Tax Commission shall  
3 promulgate rules to permit verification of the timeliness of a tax  
4 credit claimed upon a tax return pursuant to this subsection but  
5 shall not promulgate any rules which unduly restrict or hinder the  
6 transfers of such tax credit. The Department of Transportation  
7 shall promulgate rules to permit verification of the eligibility of  
8 an eligible taxpayer's expenditures for the purpose of claiming the  
9 credit. The rules shall provide for the approval of qualified  
10 railroad reconstruction or replacement expenditures prior to  
11 commencement of a project and provide a certificate of verification  
12 upon completion of a project that uses qualified railroad  
13 reconstruction or replacement expenditures. The certificate of  
14 verification shall satisfy all requirements of the Tax Commission  
15 pertaining to the eligibility of the person claiming the credit.

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

20 E. A taxpayer who elects to increase the limitation on the  
21 credit under paragraph 2 of subsection B of this section shall not  
22 be granted additional credits under subsection A of this section  
23 during the period of such election.

24 F. As used in this section:

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

4        2. "Eligible taxpayer" means any Class II or Class III  
5 railroad; and

6        3. "Qualified railroad reconstruction or replacement  
7 expenditures" means expenditures for:

- 8            a. reconstruction or replacement of railroad  
9                infrastructure including track, roadbed, bridges,  
10                industrial leads and track-related structures owned or  
11                leased by a Class II or Class III railroad as of  
12                January 1, 2006, or  
13            b. new construction of industrial leads, switches, spurs  
14                and sidings and extensions of existing sidings by a  
15                Class II or Class III railroad.

16        G. No credit otherwise authorized by the provisions of this  
17 section may be claimed for any event, transaction, investment,  
18 expenditure or other act occurring on or after July 1, 2010, for  
19 which the credit would otherwise be allowable. The provisions of  
20 this subsection shall cease to be operative on July 1, 2012.  
21 Beginning July 1, 2012, the credit authorized by this section may be  
22 claimed for any event, transaction, investment, expenditure or other  
23 act occurring on or after July 1, 2012, according to the provisions  
24 of this section.

1 H. The credit otherwise authorized by the provisions of this  
2 section shall be reduced by twenty-five percent (25%) for any  
3 taxable year which begins on or after January 1, 2016. The  
4 provisions of this subsection shall not be applicable to tax credits  
5 carried forward from any tax year which began prior to January 1,  
6 2016.

7 SECTION 2. This act shall become effective November 1, 2018.

8  
9 56-2-2357 JCR 1/18/2018 5:05:49 PM

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24