

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 604

By: Rader of the Senate

and

Fetgatter of the House

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9 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

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

13 E. As used in this section:

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

17 2. "Eligible taxpayer" means any Class II or Class III
18 railroad; and

19 3. "Qualified railroad reconstruction or replacement
20 expenditures" means expenditures for:

21 a. track maintenance, natural disasters, and
22 reconstruction or replacement of railroad
23 infrastructure including track, roadbed, crossings,
24 bridges, industrial leads and track-related structures

1 owned or leased by a Class II or Class III railroad as
2 of January 1, 2006, or

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

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

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

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

59-1-8267 JM 04/18/23