An Act

ENROLLED SENATE
BILL NO. 17x

By: Thompson (Roger) and Hall of the Senate

and

Wallace and Martinez of the House

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

SUBJECT: Tax credit

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

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

Section 2357.104. A. Except as otherwise provided by this section, for taxable years beginning after December 31, 2005, and ending before January 1, ~~2025~~ 2030, there shall be allowed a credit against the tax imposed by Section 2355 of this title equal to fifty 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 ($5,000.00) and the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year.

C. The credit allowed pursuant to subsection A of this section but not used shall be freely transferable, by written agreement, to subsequent transferees at any time during the five (5) years

following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 2355 of this title. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission shall promulgate rules to permit verification of the timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit. The Department of Transportation shall promulgate rules to permit verification of the eligibility of an eligible taxpayer's expenditures for the purpose of claiming the credit. The rules shall provide for the approval of qualified railroad reconstruction or replacement expenditures prior to commencement of a project and provide a certificate of verification upon completion of a project that uses qualified railroad reconstruction or replacement expenditures. The certificate of verification shall satisfy all requirements of the Tax Commission pertaining to the eligibility of the person claiming the credit.

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

E. As used in this section:

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

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

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

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

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

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

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

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

Passed the Senate the 24th day of May, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th

day of May, 20 23, at 5:48 o'clock p. M.

By: Summer Curry

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 2nd

day of June, 20 23, at 10:02 o'clock A M.

By: Brian Bingman

OFFICE OF

THE GOVERNOR
STATE OF OKLAHOMA

No. SB 17x

OKLAHOMA CITY, OKLA., June 2, 20 23

TIME SIGNED: _____

TO THE HONORABLE PRESIDENT PRO TEMPORE
AND MEMBERS OF THE OKLAHOMA SENATE
FIRST ***EXTRAORDINARY*** SESSION OF THE
FIFTY-NINTH OKLAHOMA LEGISLATURE

ENROLLED SENATE BILL NO. 17x:

Both because I support fiscal discipline and strongly oppose an increase in recurring expenditures, and because I am disheartened by other aspects of the budget package, I have not signed Senate Bill 17x.

Subject to objections to the unique process by which the Bill made its way to my desk, the Bill will become law without signature.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

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Delivered to SENATE: Summer Curry
Date/Time: 6/2/23; 12:50pm

SENATE:
By Cindy Faulkner
Date/Time 6/2/23 12:54 pm

RECEIVED
JUN 02 2023
OKLAHOMA SECRETARY OF STATE