

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2976

By: Dank

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 27A
8 O.S. 2011, Section 2-11-303, and 68 O.S. 2011,
9 Sections 2357, 2357.4, 2357.6, 2357.11, 2357.22,
10 2357.25, 2357.26, 2357.27, 2357.30, 2357.32A,
11 2357.32B, 2357.40, 2357.41, 2357.45, 2357.46,
12 2357.47, 2357.59, 2357.66, 2357.67, 2357.81,
13 2357.100, 2357.101, 2357.102, 2357.104, 2357.201,
14 2357.203, 2370, 2370.3 and 54006, which relate to tax
15 credits; modifying dates for purposes of tax credit
16 moratorium; modifying provisions related to accrual
17 of certain tax credits; providing tax credit
18 provisions not to be utilized unless measure enacted
19 pursuant to provisions of the Oklahoma Constitution;
20 providing an effective date; and declaring an
21 emergency.

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

23 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-303,
24 is amended to read as follows:

Section 2-11-303. A. Except as otherwise provided in
subsection C of this section, any person, firm, corporation or other
legal entity engaged, or proposing to engage, in the recycling,
reuse or source reduction of any hazardous waste, the processing of

1 which is certified as provided in Section 2-11-305 of this title,
2 shall be entitled to a one-time credit against its income tax
3 liability, as provided in Section 2-11-304 of this title, of not to
4 exceed twenty percent (20%) of the net investment cost of equipment
5 and installation of processes used for the recycling, reuse, or
6 source reduction of hazardous waste. Provided, that:

7 1. The credit allowed to be taken shall not exceed the income
8 tax liability for such year for such person, firm, corporation or
9 legal entity;

10 2. The tax credit to be allowed shall not extend to or include
11 plant operating expenses;

12 3. The person, firm, corporation or other legal entity applying
13 for such tax credit actually uses the recycling, reuse, or source
14 reduction process;

15 4. The tax credit is taken within three (3) years of the
16 installation and actual use of such process; and

17 5. The tax credit allowed by any person, firm, corporation or
18 other legal entity for any three (3) consecutive tax years shall not
19 exceed a total of Fifty Thousand Dollars (\$50,000.00).

20 B. The investment cost of such process may be treated as a
21 depreciable asset for income tax purposes.

22 C. No credit otherwise authorized by the provisions of this
23 section may be claimed for any event, transaction, investment,
24 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,

1 for which the credit would otherwise be allowable. ~~The provisions~~
2 ~~of this subsection shall cease to be operative on July 1, 2012.~~
3 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
4 ~~claimed for any event, transaction, investment, expenditure or other~~
5 ~~act occurring on or after July 1, 2012, according to the provisions~~
6 ~~of this section.~~ The credit authorized by this section shall not be
7 utilized for any period after June 30, 2014, unless the Legislature
8 passes a measure, enacted into law in the manner prescribed by the
9 Oklahoma Constitution, to reauthorize the ability to claim the
10 credit for any event, transaction, investment or expenditure
11 occurring on or after July 1, 2014.

12 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357, is
13 amended to read as follows:

14 Section 2357. A. The withheld taxes and estimated taxes paid
15 shall be allowed as credits as provided by law.

16 B. 1. There shall be allowed as a credit against the tax
17 imposed by Section 2355 of this title the amount of tax paid another
18 state by a resident individual, as defined in paragraph 4 of Section
19 2353 of this title, upon income received as compensation for
20 personal services in such other state; provided, such credit shall
21 not be allowed with respect to any income specified in Section 114
22 of Title 4 of the United States Code, 4 U.S.C., Section 114, upon
23 which a state is prohibited from imposing an income tax. The credit
24 shall not exceed such proportion of the tax payable under Section

1 2355 of this title as the compensation for personal services subject
2 to tax in the other state and also taxable under Section 2355 of
3 this title bears to the Oklahoma adjusted gross income as defined in
4 paragraph 13 of Section 2353 of this title.

5 2. For tax years beginning after December 31, 2007, there shall
6 be allowed to a resident individual or part-year resident individual
7 or nonresident individual member of the Armed Forces as a credit
8 against the tax imposed by Section 2355 of this title twenty percent
9 (20%) of the credit for child care expenses allowed under the
10 Internal Revenue Code of the United States or five percent (5%) of
11 the child tax credit allowed under the Internal Revenue Code,
12 whichever amount is greater. Neither credit authorized by this
13 paragraph shall exceed the tax imposed by Section 2355 of this
14 title. The maximum child care credit allowable on the Oklahoma
15 income tax return shall be prorated on the ratio that Oklahoma
16 adjusted gross income bears to the federal adjusted gross income.
17 The credit authorized by this paragraph shall not be claimed by any
18 taxpayer if the federal adjusted gross income reflected on the
19 Oklahoma return for the taxpayer is in excess of One Hundred
20 Thousand Dollars (\$100,000.00).

21 C. 1. Except as otherwise provided by paragraph 3 of this
22 subsection, every taxpayer who operates a manufacturing
23 establishment in the state shall be allowed a direct credit against
24 income taxes owed by such taxpayer to the state, the amount of which

1 credit shall be proportioned to the amount of gas used or consumed
2 in Oklahoma by such taxpayer in the operation of a manufacturing
3 establishment, at a rate of three (3) mills per thousand (1,000)
4 cubic feet of gas used or consumed after May 1, 1971, and during
5 each taxable year of such taxpayer provided that the credit allowed
6 herein shall not apply to the first twenty-five thousand (25,000)
7 MCF of gas used or gas used to generate electricity or consumed
8 after May 1, 1971, and during each taxable year of such taxpayer.

9 2. As used in this subsection:

10 a. "manufacturing establishment" means a plant or
11 establishment which engages in the business of working
12 raw materials into wares suitable for use or which
13 gives new shapes, new qualities or new combinations to
14 matter which has already gone through some artificial
15 process,

16 b. "gas used or consumed" shall include all natural or
17 casinghead gas used in the operation of the
18 manufacturing establishment for whatever purposes, but
19 shall not include the following:

20 (1) gas which, after being severed from the earth, is
21 subsequently injected into a formation in the
22 state for the purpose of storing, recycling,
23 repressuring or pressure maintenance,

24

- 1 (2) gas vented or flared directly into the
2 atmosphere,
- 3 (3) gas used for fuel in connection with the
4 operation and development for or production of
5 oil or gas in the field where produced, and
- 6 (4) gas, any part of which is resold by the
7 manufacturing establishment, except as to that
8 part and quantity of the gas which is actually
9 used by the establishment and not resold, and

10 c. "one thousand (1,000) cubic feet of gas" (MCF) means
11 that quantity of gas which, measured at a pressure of
12 fifteen and twenty-five thousandths (15.025) pounds
13 per square inch absolute and at a temperature of
14 sixty-nine (69) degrees Fahrenheit, would have the
15 volume of one thousand (1,000) cubic feet.

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

1 section shall not be utilized for any period after June 30, 2014,
2 unless the Legislature passes a measure, enacted into law in the
3 manner prescribed by the Oklahoma Constitution, to reauthorize the
4 ability to claim the credit for any event, transaction, investment
5 or expenditure occurring on or after July 1, 2014.

6 D. No additions to tax shall be made in Oklahoma income tax
7 returns by reason of the recapture or restoration of credits under
8 the Internal Revenue Code, and no other credits against tax shall be
9 allowed in Oklahoma income tax returns except as follows:

10 1. Those credits provided in this section; and

11 2. Those credits authorized by Sections 2-5-101 through 2-5-118
12 of Title 27A of the Oklahoma Statutes, which have been, or may
13 hereafter be, certified pursuant to applications therefor made on or
14 before March 22, 1971. Provided, the total amount of the credits
15 referred to in this subparagraph to be taken by the taxpayer shall
16 not exceed the certified net investment cost of the facilities or
17 processes to which such credits pertain, reduced by the greater of:

18 a. the reduction in federal income tax of taxpayer as the
19 result of deducting depreciation on such facilities or
20 processes, or deducting nondepreciable costs for which
21 credit has been so certified, or

22 b. the increase in the amount of Oklahoma income tax that
23 would result if taxable income were increased by the
24

1 amount deducted as set forth in subparagraph a of this
2 paragraph.

3 And, provided further, that, after such credits have been exhausted,
4 taxpayer shall each year thereafter adjust taxable income by adding
5 any depreciation taken on such facilities or processes, or any
6 nondepreciable costs having been included in the net investment cost
7 allowed as credit, and which depreciation or costs have been allowed
8 as a deduction in arriving at federal taxable income for such year.

9 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2357.4, is
10 amended to read as follows:

11 Section 2357.4 A. Except as otherwise provided in subsection F
12 of Section 3658 of this title and in subsection J of this section,
13 for taxable years beginning after December 31, 1987, there shall be
14 allowed a credit against the tax imposed by Section 2355 of this
15 title for:

16 1. Investment in qualified depreciable property placed in
17 service during those years for use in a manufacturing operation, as
18 defined in Section 1352 of this title, which has received a
19 manufacturer exemption permit pursuant to the provisions of Section
20 1359.2 of this title or a qualified aircraft maintenance or
21 manufacturing facility as defined in paragraph ~~14~~ 16 of Section 1357
22 of this title in this state or a qualified web search portal as
23 defined in paragraph ~~35~~ 38 of Section 1357 of this title; or

1 2. A net increase in the number of full-time-equivalent
2 employees engaged in manufacturing, processing or aircraft
3 maintenance in this state including employees engaged in support
4 services.

5 B. Except as otherwise provided in subsection F of Section 3658
6 of this title and in subsection J of this section, for taxable years
7 beginning after December 31, 1998, there shall be allowed a credit
8 against the tax imposed by Section 2355 of this title for:

9 1. Investment in qualified depreciable property with a total
10 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
11 within three (3) years from the date of initial qualifying
12 expenditure and placed in service in this state during those years
13 for use in the manufacture of products described by any Industry
14 Number contained in Division D of Part I of the Standard Industrial
15 Classification (SIC) Manual, latest revision; or

16 2. A net increase in the number of full-time-equivalent
17 employees in this state engaged in the manufacture of any goods
18 identified by any Industry Number contained in Division D of Part I
19 of the Standard Industrial Classification (SIC) Manual, latest
20 revision, if the total cost of qualified depreciable property placed
21 in service by the business entity within the state equals or exceeds
22 Forty Million Dollars (\$40,000,000.00) within three (3) years from
23 the date of initial qualifying expenditure.

24

1 C. The business entity may claim the credit authorized by
2 subsection B of this section for expenditures incurred or for a net
3 increase in the number of full-time-equivalent employees after the
4 business entity provides proof satisfactory to the Oklahoma Tax
5 Commission that the conditions imposed pursuant to paragraph 1 or
6 paragraph 2 of subsection B of this section have been satisfied.

7 D. If a business entity fails to expend the amount required by
8 paragraph 1 or paragraph 2 of subsection B of this section within
9 the time required, the business entity may not claim the credit
10 authorized by subsection B of this section, but shall be allowed to
11 claim a credit pursuant to subsection A of this section if the
12 requirements of subsection A of this section are met with respect to
13 the investment in qualified depreciable property or net increase in
14 the number of full-time-equivalent employees.

15 E. The credit provided for in subsection A of this section, if
16 based upon investment in qualified depreciable property, shall not
17 be allowed unless the investment in qualified depreciable property
18 is at least Fifty Thousand Dollars (\$50,000.00). The credit
19 provided for in subsection A or B of this section shall not be
20 allowed if the applicable investment is the direct cause of a
21 decrease in the number of full-time-equivalent employees. Qualified
22 property shall be limited to machinery, fixtures, equipment,
23 buildings or substantial improvements thereto, placed in service in
24 this state during the taxable year. The taxable years for which the

1 credit may be allowed if based upon investment in qualified
2 depreciable property shall be measured from the year in which the
3 qualified property is placed in service. If the credit provided for
4 in subsection A or B of this section is calculated on the basis of
5 the cost of the qualified property, the credit shall be allowed in
6 each of the four (4) subsequent years. If the qualified property on
7 which a credit has previously been allowed is acquired from a
8 related party, the date such property is placed in service by the
9 transferor shall be considered to be the date such property is
10 placed in service by the transferee, for purposes of determining the
11 aggregate number of years for which credit may be allowed.

12 F. The credit provided for in subsection A or B of this
13 section, if based upon an increase in the number of full-time-
14 equivalent employees, shall be allowed in each of the four (4)
15 subsequent years only if the level of new employees is maintained in
16 the subsequent year. In calculating the credit by the number of new
17 employees, only those employees whose paid wages or salary were at
18 least Seven Thousand Dollars (\$7,000.00) during each year the credit
19 is claimed shall be included in the calculation. Provided, that the
20 first year a credit is claimed for a new employee, such employee may
21 be included in the calculation notwithstanding paid wages of less
22 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
23 the last three quarters of the tax year, has wages or salary which
24 will result in annual paid wages in excess of Seven Thousand Dollars

1 (\$7,000.00) and the taxpayer submits an affidavit stating that the
2 employee's position will be retained in the following tax year and
3 will result in the payment of wages in excess of Seven Thousand
4 Dollars (\$7,000.00). The number of new employees shall be
5 determined by comparing the monthly average number of full-time
6 employees subject to Oklahoma income tax withholding for the final
7 quarter of the taxable year with the corresponding period of the
8 prior taxable year, as substantiated by such reports as may be
9 required by the Tax Commission.

10 G. The credit allowed by subsection A of this section shall be
11 the greater amount of either:

12 1. One percent (1%) of the cost of the qualified property in
13 the year the property is placed in service; or

14 2. Five Hundred Dollars (\$500.00) for each new employee. No
15 credit shall be allowed in any taxable year for a net increase in
16 the number of full-time-equivalent employees if such increase is a
17 result of an investment in qualified depreciable property for which
18 an income tax credit has been allowed as authorized by this section.

19 H. The credit allowed by subsection B of this section shall be
20 the greater amount of either:

21 1. Two percent (2%) of the cost of the qualified property in
22 the year the property is placed in service; or

23 2. One Thousand Dollars (\$1,000.00) for each new employee.
24

1 No credit shall be allowed in any taxable year for a net
2 increase in the number of full-time-equivalent employees if such
3 increase is a result of an investment in qualified depreciable
4 property for which an income tax credit has been allowed as
5 authorized by this section.

6 I. Except as provided by subsection G of Section 3658 of this
7 title, any credits allowed but not used in any taxable year may be
8 carried over in order as follows:

9 1. To each of the four (4) years following the year of
10 qualification;

11 2. To the extent not used in those years in order to each of
12 the fifteen (15) years following the initial five-year period; and

13 3. If a C corporation that otherwise qualified for the credits
14 under subsection A of this section subsequently changes its
15 operating status to that of a pass-through entity which is being
16 treated as the same entity for federal tax purposes, the credits
17 will continue to be available as if the pass-through entity had
18 originally qualified for the credits subject to the limitations of
19 this section.

20 To the extent not used in paragraphs 1 and 2 of this subsection,
21 such credits from qualified depreciable property placed in service
22 on or after January 1, 2000, may be utilized in any subsequent tax
23 years after the initial twenty-year period.

24

1 J. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
4 for which the credit would otherwise be allowable ~~until the~~
5 ~~provisions of this subsection shall cease to be operative on July 1,~~
6 ~~2012. Beginning July 1, 2012, the credit authorized by this section~~
7 ~~may be claimed for any event, transaction, investment, expenditure~~
8 ~~or other act occurring on or after July 1, 2010, according to the~~
9 ~~provisions of this section; provided, credits accrued during the~~
10 ~~period from July 1, 2010, through June 30, 2012, shall be limited to~~
11 ~~a period of two (2) taxable years. The credit shall be limited in~~
12 ~~each taxable year to fifty percent (50%) of the total amount of the~~
13 ~~accrued credit. Any tax credits which accrue during the period of~~
14 ~~July 1, 2010, through June 30, 2012, may not be claimed for any~~
15 ~~period prior to the taxable year beginning January 1, 2012. No~~
16 ~~credits which accrue during the period of July 1, 2010, through June~~
17 ~~30, 2012, may be used to file an amended tax return for any taxable~~
18 ~~year prior to the taxable year beginning January 1, 2012. The~~
19 credit authorized by this section shall not be utilized for any
20 period after June 30, 2014, unless the Legislature passes a measure,
21 enacted into law in the manner prescribed by the Oklahoma
22 Constitution, to reauthorize the ability to claim the credit for any
23 event, transaction, investment or expenditure occurring on or after
24 July 1, 2014.

1 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2357.6, is
2 amended to read as follows:

3 Section 2357.6 A. Any person or corporation may contribute
4 monies to the Energy Conservation Assistance Fund. Except as
5 otherwise provided in subsection B of this section, such
6 contributions shall be entitled to an income tax credit against the
7 state personal or corporate income tax liability of fifty percent
8 (50%) of the amount contributed to the fund for the taxable year in
9 which it was made.

10 B. No credit otherwise authorized by the provisions of this
11 section may be claimed for any event, transaction, investment,
12 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
13 for which the credit would otherwise be allowable. ~~The provisions~~
14 ~~of this subsection shall cease to be operative on July 1, 2012.~~
15 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
16 ~~claimed for any event, transaction, investment, expenditure or other~~
17 ~~act occurring on or after July 1, 2012, according to the provisions~~
18 ~~of this section.~~ The credit authorized by this section shall not be
19 utilized for any period after June 30, 2014, unless the Legislature
20 passes a measure, enacted into law in the manner prescribed by the
21 Oklahoma Constitution, to reauthorize the ability to claim the
22 credit for any event, transaction, investment or expenditure
23 occurring on or after July 1, 2014.

24

1 SECTION 5. AMENDATORY 68 O.S. 2011, Section 2357.11, is
2 amended to read as follows:

3 Section 2357.11 A. For purposes of this section, the term
4 "person" means any legal business entity including limited and
5 general partnerships, corporations, sole proprietorships, and
6 limited liability companies, but does not include individuals.

7 B. 1. Except as provided in subsection M of this section, for
8 tax years beginning on or after January 1, 1993, and ending on or
9 before December 31, 2014, there shall be allowed a credit against
10 the tax imposed by Section 1803 or Section 2355 of this title or
11 Section 624 or 628 of Title 36 of the Oklahoma Statutes for every
12 person in this state furnishing water, heat, light or power to the
13 state or its citizens, or for every person in this state burning
14 coal to generate heat, light or power for use in manufacturing
15 operations located in this state.

16 2. For tax years beginning on or after January 1, 1993, and
17 ending on or before December 31, 2005, and for the period of January
18 1, 2006, through June 30, 2006, the credit shall be in the amount of
19 Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal
20 purchased by such person.

21 3. For the period of July 1, 2006 through December 31, 2006,
22 and for tax years beginning on or after January 1, 2007, and ending
23 on or before December 31, 2014, the credit shall be in the amount of
24

1 Two Dollars and eighty-five cents (\$2.85) per ton for each ton of
2 Oklahoma-mined coal purchased by such person.

3 4. In addition to the credit allowed pursuant to the provisions
4 of paragraph 3 of this subsection, for the period of July 1, 2006,
5 through December 31, 2006, and except as provided in subsection M of
6 this section, for tax years beginning on or after January 1, 2007,
7 and ending on or before December 31, 2014, there shall be allowed a
8 credit in the amount of Two Dollars and fifteen cents (\$2.15) per
9 ton for each ton of Oklahoma-mined coal purchased by such person.
10 The credit allowed pursuant to the provisions of this paragraph may
11 not be claimed or transferred prior to January 1, 2008.

12 C. For tax years beginning on or after January 1, 1995, and
13 ending on or before December 31, 2005, and for the period beginning
14 January 1, 2006, through June 30, 2006, there shall be allowed, in
15 addition to the credits allowed pursuant to subsection B of this
16 section, a credit against the tax imposed by Section 1803 or Section
17 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
18 Statutes for every person in this state which:

19 1. Furnishes water, heat, light or power to the state or its
20 citizens, or burns coal to generate heat, light or power for use in
21 manufacturing operations located in this state; and

22 2. Purchases at least seven hundred fifty thousand (750,000)
23 tons of Oklahoma-mined coal in the tax year.

24

1 The additional credit allowed pursuant to this subsection shall
2 be in the amount of Three Dollars (\$3.00) per ton for each ton of
3 Oklahoma-mined coal purchased by such person.

4 D. Except as otherwise provided in subsection E of this section
5 and in subsection M of this section, for tax years beginning on or
6 after January 1, 2001, there shall be allowed a credit against the
7 tax imposed by Section 1803 or Section 2355 of this title or Section
8 624 or 628 of Title 36 of the Oklahoma Statutes for every person in
9 this state primarily engaged in mining, producing or extracting
10 coal, and holding a valid permit issued by the Oklahoma Department
11 of Mines. For tax years beginning on or after January 1, 2001, and
12 ending on or before December 31, 2005, and for the period beginning
13 January 1, 2006, through June 30, 2006, the credit shall be in the
14 amount of ninety-five cents (\$0.95) per ton and for the period of
15 July 1, 2006, through December 31, 2006, and for tax years beginning
16 on or after January 1, 2007, the credit shall be in the amount of
17 Five Dollars (\$5.00) for each ton of coal mined, produced or
18 extracted in on, under or through a permit in this state by such
19 person.

20 E. In addition to the credit allowed pursuant to the provisions
21 of subsection D of this section and except as otherwise provided in
22 subsection F of this section, for tax years beginning on or after
23 January 1, 2001, and ending on or before December 31, 2005, and for
24 the period of January 1, 2006, through June 30, 2006, there shall be

1 allowed a credit against the tax imposed by Section 1803 or Section
2 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
3 Statutes for every person in this state primarily engaged in mining,
4 producing or extracting coal, and holding a valid permit issued by
5 the Oklahoma Department of Mines in the amount of ninety-five cents
6 (\$0.95) per ton for each ton of coal mined, produced or extracted
7 from thin seams in this state by such person; provided, the credit
8 shall not apply to such coal sold to any consumer who purchases at
9 least seven hundred fifty thousand (750,000) tons of Oklahoma-mined
10 coal per year.

11 F. In addition to the credit allowed pursuant to the provisions
12 of subsection D of this section and except as otherwise provided in
13 subsection G of this section, for tax years beginning on or after
14 January 1, 2005, and ending on or before December 31, 2005, and for
15 the period of January 1, 2006, through June 30, 2006, there shall be
16 allowed a credit against the tax imposed by Section 1803 or Section
17 2355 of this title or that portion of the tax imposed by Section 624
18 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid
19 to and placed into the General Revenue Fund, in the amount of
20 ninety-five cents (\$0.95) per ton for each ton of coal mined,
21 produced or extracted from thin seams in this state by such person
22 on or after July 1, 2005.

23 G. The credits provided in subsections D and E of this section
24 shall not be allowed for coal mined, produced or extracted in any

1 month in which the average price of coal is Sixty-eight Dollars
2 (\$68.00) or more per ton, excluding freight charges, as determined
3 by the Tax Commission.

4 H. The additional credits allowed pursuant to subsections B, C,
5 D and E of this section but not used shall be freely transferable
6 after January 1, 2002, by written agreement to subsequent
7 transferees at any time during the five (5) years following the year
8 of qualification; provided, the additional credits allowed pursuant
9 to the provisions of paragraph 4 of subsection B of this section but
10 not used shall be freely transferable after January 1, 2008, by
11 written agreement to subsequent transferees at any time during the
12 five (5) years following the year of qualification. An eligible
13 transferee shall be any taxpayer subject to the tax imposed by
14 Section 1803 or Section 2355 of this title or Section 624 or 628 of
15 Title 36 of the Oklahoma Statutes. The person originally allowed
16 the credit and the subsequent transferee shall jointly file a copy
17 of the written credit transfer agreement with the Tax Commission
18 within thirty (30) days of the transfer. The written agreement
19 shall contain the name, address and taxpayer identification number
20 of the parties to the transfer, the amount of credit being
21 transferred, the year the credit was originally allowed to the
22 transferring person and the tax year or years for which the credit
23 may be claimed. The Tax Commission may promulgate rules to permit
24 verification of the validity and timeliness of a tax credit claimed

1 upon a tax return pursuant to this subsection but shall not
2 promulgate any rules which unduly restrict or hinder the transfers
3 of such tax credit.

4 I. The additional credit allowed pursuant to subsection F of
5 this section but not used shall be freely transferable on or after
6 July 1, 2006, by written agreement to subsequent transferees at any
7 time during the five (5) years following the year of qualification.
8 An eligible transferee shall be any taxpayer subject to the tax
9 imposed by Section 1803 or Section 2355 of this title or Section 624
10 or 628 of Title 36 of the Oklahoma Statutes. The person originally
11 allowed the credit and the subsequent transferee shall jointly file
12 a copy of the written credit transfer agreement with the Tax
13 Commission within thirty (30) days of the transfer. The written
14 agreement shall contain the name, address and taxpayer
15 identification number of the parties to the transfer, the amount of
16 credit being transferred, the year the credit was originally allowed
17 to the transferring person and the tax year or years for which the
18 credit may be claimed. The Tax Commission may promulgate rules to
19 permit verification of the validity and timeliness of a tax credit
20 claimed upon a tax return pursuant to this subsection but shall not
21 promulgate any rules which unduly restrict or hinder the transfers
22 of such tax credit.

23 J. Any person receiving tax credits pursuant to the provisions
24 of this section shall apply the credits against taxes payable or

1 shall transfer the credits as provided in this section. Credits
2 shall not be used to lower the price of any Oklahoma-mined coal sold
3 that is produced by a subsidiary of the person receiving a tax
4 credit under this section to other buyers of the Oklahoma-mined
5 coal.

6 K. The credits allowed by subsections B, C, D, E and F of this
7 section, upon election of the taxpayer, shall be treated and may be
8 claimed as a payment of tax, a prepayment of tax or a payment of
9 estimated tax for purposes of Section 1803 or 2355 of this title or
10 Section 624 or 628 of Title 36 of the Oklahoma Statutes.

11 L. Any credits allowed pursuant to the provisions of
12 subsections B, C, D, E and F of this section but not used in any tax
13 year may be carried over in order to each of the five (5) years
14 following the year of qualification.

15 M. No credit otherwise authorized by the provisions of this
16 section may be claimed for any event, transaction, investment,
17 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
18 for which the credit would otherwise be allowable. ~~The provisions~~
19 ~~of this subsection shall cease to be operative on July 1, 2012.~~
20 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
21 ~~claimed for any event, transaction, investment, expenditure or other~~
22 ~~act occurring on or after July 1, 2012, according to the provisions~~
23 ~~of this section.~~ The credit authorized by this section shall not be
24 utilized for any period after June 30, 2014, unless the Legislature

1 passes a measure, enacted into law in the manner prescribed by the
2 Oklahoma Constitution, to reauthorize the ability to claim the
3 credit for any event, transaction, investment or expenditure
4 occurring on or after July 1, 2014.

5 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2357.22, is
6 amended to read as follows:

7 Section 2357.22 A. For tax years beginning before January 1,
8 2015, there shall be allowed a one-time credit against the income
9 tax imposed by Section 2355 of this title

10 1. For investments in qualified clean-burning motor vehicle
11 fuel property placed in service after December 31, 1990; and

12 2. For investments in qualified electric motor vehicle property
13 placed in service after December 31, 1995, and before July 1, 2010.

14 B. As used in this section, "qualified clean-burning motor
15 vehicle fuel property" means:

16 1. Equipment installed to modify a motor vehicle which is
17 propelled by gasoline or diesel fuel so that the vehicle may be
18 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
19 natural gas or liquefied petroleum gas; provided, equipment
20 installed on a vehicle propelled by a hydrogen fuel cell shall only
21 be eligible for tax year 2010. The equipment covered by this
22 paragraph must be new and must not have been previously used to
23 modify or retrofit any vehicle propelled by gasoline or diesel fuel;

24

1 2. A motor vehicle originally equipped so that the vehicle may
2 be propelled by a hydrogen fuel cell, compressed natural gas,
3 liquefied natural gas or liquefied petroleum gas but only to the
4 extent of the portion of the basis of such motor vehicle which is
5 attributable to the storage of such fuel, the delivery to the engine
6 of such motor vehicle of such fuel, and the exhaust of gases from
7 combustion of such fuel. A motor vehicle originally equipped so
8 that the vehicle may be propelled by a hydrogen fuel cell shall only
9 be eligible for tax year 2010;

10 3. Property, not including a building and its structural
11 components, which is:

- 12 a. directly related to the delivery of compressed natural
13 gas, liquefied natural gas or liquefied petroleum gas,
14 or hydrogen, for commercial purposes or for a fee or
15 charge, into the fuel tank of a motor vehicle
16 propelled by such fuel including compression equipment
17 and storage tanks for such fuel at the point where
18 such fuel is so delivered but only if such property is
19 not used to deliver such fuel into any other type of
20 storage tank or receptacle and such fuel is not used
21 for any purpose other than to propel a motor vehicle,
22 or
- 23 b. a metered-for-fee, public access recharging system for
24 motor vehicles propelled in whole or in part by

1 electricity. The property covered by this paragraph
2 must be new, and must not have been previously
3 installed or used to refuel vehicles powered by
4 compressed natural gas, liquefied natural gas or
5 liquefied petroleum gas, hydrogen or electricity.

6 Any property covered by this paragraph which is related to the
7 delivery of hydrogen into the fuel tank of a motor vehicle shall
8 only be eligible for tax year 2010; or

9 4. Property which is directly related to the compression and
10 delivery of natural gas from a private home or residence, for
11 noncommercial purposes, into the fuel tank of a motor vehicle
12 propelled by compressed natural gas. The property covered by this
13 paragraph must be new and must not have been previously installed or
14 used to refuel vehicles powered by natural gas.

15 C. As used in this section, "qualified electric motor vehicle
16 property" means a motor vehicle originally equipped to be propelled
17 only by electricity; provided, if a motor vehicle is also equipped
18 with an internal combustion engine, then such vehicle shall be
19 considered "qualified electric motor vehicle property" only to the
20 extent of the portion of the basis of such motor vehicle which is
21 attributable to the propulsion of the vehicle by electricity. The
22 term "qualified electric motor vehicle property" shall not apply to
23 vehicles known as "golf carts", "go-carts" and other motor vehicles

1 which are manufactured principally for use off the streets and
2 highways.

3 D. As used in this section, "motor vehicle" means a motor
4 vehicle originally designed by the manufacturer to operate lawfully
5 and principally on streets and highways.

6 E. The credit provided for in subsection A of this section
7 shall be as follows:

8 1. For the qualified clean-burning motor vehicle fuel property
9 defined in paragraph 1 or 2 of subsection B of this section and for
10 the qualified electric motor vehicle property, fifty percent (50%)
11 of the cost of the qualified clean-burning motor vehicle fuel
12 property or qualified electric motor vehicle property;

13 2. For qualified clean-burning motor vehicle fuel property
14 defined in paragraph 3 of subsection B of this section, a per-
15 location credit of seventy-five percent (75%) of the cost of the
16 qualified clean-burning motor vehicle fuel property; and

17 3. For qualified clean-burning motor vehicle fuel property
18 defined in paragraph 4 of subsection B of this section, a per-
19 location credit of the lesser of fifty percent (50%) of the cost of
20 the qualified clean-burning motor vehicle fuel property or Two
21 Thousand Five Hundred Dollars (\$2,500.00).

22 F. In cases where no credit has been claimed pursuant to
23 paragraph 1 of subsection E of this section by any prior owner and
24 in which a motor vehicle is purchased by a taxpayer with qualified

1 clean-burning motor vehicle fuel property or qualified electric
2 motor vehicle property installed by the manufacturer of such motor
3 vehicle and the taxpayer is unable or elects not to determine the
4 exact basis which is attributable to such property, the taxpayer may
5 claim a credit in an amount not exceeding the lesser of ten percent
6 (10%) of the cost of the motor vehicle or One Thousand Five Hundred
7 Dollars (\$1,500.00).

8 G. If the tax credit allowed pursuant to subsection A of this
9 section exceeds the amount of income taxes due or if there are no
10 state income taxes due on the income of the taxpayer, the amount of
11 the credit not used as an offset against the income taxes of a
12 taxable year may be carried forward as a credit against subsequent
13 income tax liability for a period not to exceed five (5) years.

14 H. A husband and wife who file separate returns for a taxable
15 year in which they could have filed a joint return may each claim
16 only one-half (1/2) of the tax credit that would have been allowed
17 for a joint return.

18 I. The Oklahoma Tax Commission is herein empowered to
19 promulgate rules by which the purpose of this section shall be
20 administered, including the power to establish and enforce penalties
21 for violations thereof.

22 J. No credit otherwise authorized by the provisions of this
23 section may be claimed for any event, transaction, investment,
24 expenditure or other act occurring on or after July 1, 2012, for

1 which the credit would otherwise be allowable. The credit
2 authorized by this section shall not be utilized for any period
3 after June 30, 2014, unless the Legislature passes a measure,
4 enacted into law in the manner prescribed by the Oklahoma
5 Constitution, to reauthorize the ability to claim the credit for any
6 event, transaction, investment or expenditure occurring on or after
7 July 1, 2014.

8 SECTION 7. AMENDATORY 68 O.S. 2011, Section 2357.25, is
9 amended to read as follows:

10 Section 2357.25 A. Except as provided in subsection K of this
11 section, there shall be allowed a credit against the tax imposed by
12 Section 2355 of this title for direct investments by Oklahoma
13 agricultural producers in Oklahoma producer-owned agricultural
14 processing cooperatives, Oklahoma producer-owned agricultural
15 processing ventures, or Oklahoma producer-owned agricultural
16 processing marketing associations or Oklahoma-owned and -based
17 corporations or partnerships created and designed to develop and
18 advance the production, processing, handling and marketing of
19 agricultural commodities grown, made or manufactured in Oklahoma.
20 For calendar years 1997 and 1998, the amount of the credit shall be
21 thirty percent (30%) of the amount of the investment by the Oklahoma
22 agricultural producer in Oklahoma producer-owned agricultural
23 processing cooperatives, ventures, or marketing associations.

24

1 B. For calendar year 2006, and all subsequent years, the credit
2 percentage, not to exceed thirty percent (30%), shall be adjusted
3 annually so that the total estimate of credits does not exceed Two
4 Million Dollars (\$2,000,000.00) annually. The formula to be used
5 for the percentage adjustment shall be thirty percent (30%) times
6 Two Million Dollars (\$2,000,000.00) divided by the credits claimed
7 in the preceding year. In no event shall the credit be claimed more
8 than once by a taxpayer each taxable year.

9 C. In the event the total tax credits authorized by this
10 section exceed Two Million Dollars (\$2,000,000.00) in any calendar
11 year, the Oklahoma Tax Commission shall permit any excess over Two
12 Million Dollars (\$2,000,000.00) but shall factor such excess into
13 the percentage adjustment formula for subsequent years.

14 D. The credits authorized by this act may only be claimed for
15 taxable years beginning after December 31, 2006, and ending before
16 January 1, 2010. The provisions of this subsection shall not be
17 applicable to any credits earned, but not utilized, prior to the
18 effective date of this act.

19 E. If the credit allowed pursuant to this section exceeds the
20 amount of state income taxes due or if there are no state income
21 taxes due on the income of the taxpayer, the amount of credit
22 allowed but not used in any taxable year may be carried forward as a
23 credit against subsequent income tax liability for a period not
24

1 exceeding six (6) years following the year in which the investment
2 was originally made.

3 F. The Oklahoma Tax Commission shall have the authority to
4 prescribe forms for purposes of claiming the credit authorized by
5 this section. The Oklahoma Tax Commission shall be authorized to
6 conduct an investigation of the relevant facts as may be required in
7 order to verify the eligibility of a claimant to receive a credit
8 for any applicable income tax year.

9 G. 1. For any taxable year during which a taxpayer sells or
10 otherwise disposes of the ownership interest for which a tax credit
11 has previously been allowed to the taxpayer or for which a tax
12 credit will be allowed to the taxpayer for the year in which the
13 sale or other disposition of the ownership interest is made, the
14 taxpayer shall be required to reduce the cost of the ownership
15 interest in the Oklahoma producer-owned agricultural processing
16 cooperative, venture, or marketing association, as reported upon the
17 applicable income tax return, by the amount of the tax credit which
18 has previously been granted or for which the taxpayer is claiming
19 credit if the credit is allowable for the year during which the sale
20 or other disposition is made.

21 2. If a taxpayer sells or otherwise disposes of an ownership
22 interest in the Oklahoma producer-owned agricultural processing
23 cooperative, venture, or marketing association for which the tax
24 credit authorized by this section may be taken in a taxable year

1 following the year in which the ownership interest in the Oklahoma
2 producer-owned agricultural processing cooperative, venture, or
3 marketing association is sold or otherwise disposed of, the credit
4 authorized by this section shall be reduced to account for the prior
5 sale or other disposition.

6 H. The tax credit authorized by this section shall not be
7 available or taken for any calendar year during which the claimant
8 of the credit received any incentive payments pursuant to the
9 Oklahoma Quality Jobs Program Act or the Saving Quality Jobs Act.

10 I. As used in this section:

11 1. "Direct investment" means the payment of money in an
12 Oklahoma producer-owned agricultural processing cooperative,
13 venture, or marketing association or the transfer of any form of
14 economic value, whether tangible or intangible, other than money;

15 2. "Oklahoma producer-owned agricultural processing
16 cooperative" means a legal entity in the nature of a partnership or
17 business undertaking agricultural transactions or agricultural
18 commercial enterprises for mutual profit which are owned and
19 controlled by Oklahoma agricultural producers. An Oklahoma
20 producer-owned agricultural processing cooperative requires a
21 community of interest in the performance of the undertaking,
22 transaction or enterprise, a right to direct and govern the policy
23 in connection therewith and the duty, which may be altered by
24 agreement, to share both in profit and losses. The term does not

1 include a cooperative that provides only, and nothing more than,
2 storage, cleaning, or transportation of agricultural commodities;

3 3. "Oklahoma producer-owned agricultural processing venture"
4 means a legal entity in the nature of a corporation or company
5 organized to invest in or operate an agricultural commodity
6 processing facility operated primarily for the processing or
7 production of marketable products from agricultural commodities.
8 The term shall include a dairy operation that requires a depreciable
9 investment of at least Two Hundred Fifty Thousand Dollars
10 (\$250,000.00) and which produces milk from dairy cows. The term
11 does not include a venture that provides only, and nothing more
12 than, storage, cleaning, or transportation of agricultural
13 commodities;

14 4. "Oklahoma producer-owned agricultural processing marketing
15 association" means:

- 16 a. a legal entity owned by Oklahoma producers of
17 agricultural commodities and organized to jointly
18 market agricultural commodities and/or natural-
19 resource-based recreational activities, facilitate the
20 marketing process and to promote and stimulate the
21 processing, sales, and marketing of agricultural
22 commodities, or
23 b. a legal entity owned by Oklahoma producers of
24 agricultural commodities and organized for collective

1 marketing and improvement of land for natural-
2 resource-based recreational activity;

3 The term does not include a marketing association that provides
4 only, and nothing more than, storage, cleaning, or transportation of
5 agricultural commodities;

6 5. "Oklahoma agricultural producer" means any person who
7 produces agricultural commodities in this state;

8 6. "Oklahoma-based corporation or partnership" means an entity
9 created pursuant to the Oklahoma General Corporation Act or other
10 laws of the state authorizing either a corporate entity or an entity
11 with limited liability or any form of partnership, whether general,
12 limited or other authorized partnership form having either its
13 principal place of business within the state or substantial assets
14 located within the state. For the purpose of this section, the
15 definition contained in this paragraph shall not include an
16 Oklahoma-based corporation or partnership that engages only in and
17 nothing more than the storage, cleaning, and transportation or
18 production of its commodity;

19 7. "Agricultural commodities" means a farm or ranch product,
20 including but not limited to, wheat, corn, soybeans, cotton, timber,
21 cattle, hogs, sheep, horses, poultry, animals of the families
22 bovidae, cervidae and antilocapridae or birds of the ratite group
23 produced in farming or ranching operations or a product of such crop
24 or livestock in its unmanufactured state such as ginned cotton,

1 wool-dip, maple syrup, milk and eggs, or any other commodity listed
2 under any Industry Group Number under Major Group 20 of Division D
3 of the Standard Industrial Classification (SIC) Manual; and

4 8. "Dairy operation" means and includes equipment and
5 facilities to store and prepare feed, dairy cows, milking parlors,
6 bulk cooling tanks, buildings, and all such depreciable investment
7 commonly utilized in the dairy industry.

8 J. For purposes of this section, an agricultural commodity
9 shall be deemed to be produced within this state if it is
10 substantially produced, by any person, partnership, company,
11 association or corporation:

12 1. Authorized to do and doing business under the laws of this
13 state;

14 2. Paying all taxes duly assessed; and

15 3. Domiciled within this state by having a location of
16 production within this state.

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

22 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
23 ~~claimed for any event, transaction, investment, expenditure or other~~
24 ~~act occurring on or after July 1, 2012, according to the provisions~~

1 ~~of this section.~~ The credit authorized by this section shall not be
2 utilized for any period after June 30, 2014, unless the Legislature
3 passes a measure, enacted into law in the manner prescribed by the
4 Oklahoma Constitution, to reauthorize the ability to claim the
5 credit for any event, transaction, investment or expenditure
6 occurring on or after July 1, 2014.

7 SECTION 8. AMENDATORY 68 O.S. 2011, Section 2357.26, is
8 amended to read as follows:

9 Section 2357.26 A. Except as otherwise provided by subsection
10 G of this section, for tax years beginning after December 31, 2001,
11 there shall be allowed a credit against the tax imposed by Section
12 2355 of this title for employers incurring eligible expenses in
13 connection with the provision of child care services.

14 B. As used in this section:

15 1. "Eligible expenses" means amounts paid for:

16 a. the purchase of qualifying child care services that
17 are actually provided to children of employees, at a
18 program licensed by the Department of Human Services
19 with a rating of two stars or higher pursuant to rules
20 promulgated by the Department, at a:

21 (1) child care center, or

22 (2) family child care home,

23 b. planning, preparing a site and constructing a child
24 care center,

- c. renovating or remodeling a structure to be used for a child care center,
- d. purchasing equipment necessary for use by a child care center,
- e. expanding a child care center,
- f. maintaining and operating a child care center, including paying direct administrative and staff costs,
- g. purchasing child care slots actually provided or reserved for children of employees, or
- h. fees and grants provided to child care resource and referral organizations doing business within this state; and

2. "Employer" means a taxpayer who employs one or more full-time-equivalent employees and whose primary source of income is from a business other than the business of providing child care services.

C. In lieu of a deduction from taxable income, the credit allowed by subsection A of this section shall be twenty percent (20%) of the amount of eligible expenses.

D. The amount of eligible expenses upon which the credit will be based in any taxable year shall be limited to:

1. Three Thousand One Hundred Dollars (\$3,100.00) for expenses described in subparagraph a of paragraph 1 of subsection B of this

1 section for each child of an employee receiving qualifying child
2 care services;

3 2. Fifty Thousand Dollars (\$50,000.00) for expenses described
4 in subparagraphs b through g of paragraph 1 of subsection B of this
5 section; and

6 3. Five Thousand Dollars (\$5,000.00) for expenses described in
7 subparagraph h of paragraph 1 of subsection B of this section.

8 E. Any credits allowed but not used in any tax year may be
9 carried over in order to each of the four (4) tax years following
10 the year of qualification.

11 F. The Oklahoma Tax Commission, on or before January 31 of each
12 year, shall submit a report regarding the credit authorized by this
13 section to both houses of the Oklahoma Legislature. Such report
14 shall summarize the total amount of credits claimed and likely to be
15 claimed and allowed under this section.

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~~ 2012,
19 for which the credit would otherwise be allowable. ~~The provisions~~
20 ~~of 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.~~ The credit authorized by this section shall not be

1 utilized for any period after June 30, 2014, unless the Legislature
2 passes a measure, enacted into law in the manner prescribed by the
3 Oklahoma Constitution, to reauthorize the ability to claim the
4 credit for any event, transaction, investment or expenditure
5 occurring on or after July 1, 2014.

6 SECTION 9. AMENDATORY 68 O.S. 2011, Section 2357.27, is
7 amended to read as follows:

8 Section 2357.27 A. Except as otherwise provided by subsection
9 E of this section, for tax years beginning after December 31, 1998
10 there shall be allowed a credit against the tax imposed by Section
11 2355 of this title for eligible expenses incurred by entities
12 primarily engaged in the business of providing child care services.

13 B. As used in this section, "eligible expenses" means amounts
14 paid by an entity primarily engaged in the business of providing
15 child care services for expenses incurred by the entity to comply
16 with the standards promulgated by a national accrediting association
17 recognized by the Department of Human Services and which would not
18 have been incurred by the entity to comply with the Oklahoma Child
19 Care Facilities Licensing Act.

20 C. The credit allowed by subsection A of this section shall be
21 twenty percent (20%) of the amount of eligible expenses. Such
22 credit shall not be allowed for any amounts for which the entity
23 claims or receives an income tax credit, exemption or deduction.

24

1 D. Any credits allowed but not used in any tax year may be
2 carried over in order to each of the four (4) tax years following
3 the year of qualification.

4 E. No credit otherwise authorized by the provisions of this
5 section may be claimed for any event, transaction, investment,
6 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
7 for which the credit would otherwise be allowable. ~~The provisions~~
8 ~~of this subsection shall cease to be operative on July 1, 2012.~~

9 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
10 ~~claimed for any event, transaction, investment, expenditure or other~~
11 ~~act occurring on or after July 1, 2012, according to the provisions~~
12 ~~of this section. The credit authorized by this section shall not be~~
13 ~~utilized for any period after June 30, 2014, unless the Legislature~~
14 ~~passes a measure, enacted into law in the manner prescribed by the~~
15 ~~Oklahoma Constitution, to reauthorize the ability to claim the~~
16 ~~credit for any event, transaction, investment or expenditure~~
17 ~~occurring on or after July 1, 2014.~~

18 SECTION 10. AMENDATORY 68 O.S. 2011, Section 2357.30, is
19 amended to read as follows:

20 Section 2357.30 A. As used in this section, "small business"
21 means any corporation, partnership, sole proprietorship or other
22 business entity qualifying as "small" under the standards contained
23 in Section 121 of Title 13 of the Code of Federal Regulations (13
24 C.F.R., Section 121).

1 B. Except as otherwise provided in subsection E of this
2 section, for taxable years beginning after December 31, 1998, every
3 small business operating within this state shall be entitled to
4 claim as a credit against the tax imposed by Section 2355 of Title
5 68 of the Oklahoma Statutes, subject to the limitations provided by
6 subsection C of this section, any amount paid to the U.S. Small
7 Business Administration as a guaranty fee pursuant to the obtaining
8 of financing guaranteed by the Small Business Administration.

9 C. The credit authorized by this section shall only be claimed
10 against the tax liability resulting from income generated by the
11 small business. If an income tax return upon which this credit is
12 claimed includes taxable income from sources other than the small
13 business, the credit shall only be allowed to be claimed upon a
14 percentage of the income tax liability which does not exceed the
15 percentage of income generated by the small business as compared to
16 the total Oklahoma adjusted gross income shown on the return. The
17 Oklahoma Tax Commission shall promulgate rules and prescribe forms
18 to implement the provisions of this section.

19 D. If the credit authorized by this section exceeds the amount
20 of income taxes due or if there are no state income taxes due on the
21 income of the taxpayer as computed pursuant to the provisions of
22 subsection C of this section, the amount of the credit not used may
23 be carried forward as a credit against subsequent income tax
24 liability for a period not to exceed five (5) years. The credit

1 shall be claimable only by the small business which is the primary
2 obligor in the financing transaction and which actually paid the
3 guaranty fee.

4 E. No credit otherwise authorized by the provisions of this
5 section may be claimed for any event, transaction, investment,
6 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
7 for which the credit would otherwise be allowable. ~~The provisions~~
8 ~~of this subsection shall cease to be operative on July 1, 2012.~~

9 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
10 ~~claimed for any event, transaction, investment, expenditure or other~~
11 ~~act occurring on or after July 1, 2012, according to the provisions~~
12 ~~of this section. The credit authorized by this section shall not be~~
13 ~~utilized for any period after June 30, 2014, unless the Legislature~~
14 ~~passes a measure, enacted into law in the manner prescribed by the~~
15 ~~Oklahoma Constitution, to reauthorize the ability to claim the~~
16 ~~credit for any event, transaction, investment or expenditure~~
17 ~~occurring on or after July 1, 2014.~~

18 SECTION 11. AMENDATORY 68 O.S. 2011, Section 2357.32A,
19 is amended to read as follows:

20 Section 2357.32A A. Except as otherwise provided in subsection
21 H of this section, for tax years beginning on or after January 1,
22 2003, there shall be allowed a credit against the tax imposed by
23 Section 2355 of this title to a taxpayer for the taxpayer's
24 production and sale to an unrelated person of electricity generated

1 by zero-emission facilities located in this state. As used in this
2 section:

3 1. "Electricity generated by zero-emission facilities" means
4 electricity that is exclusively produced by any facility located in
5 this state with a rated production capacity of one megawatt (1 mw)
6 or greater, constructed for the generation of electricity and placed
7 in operation after June 4, 2001, which utilizes eligible renewable
8 resources as its fuel source. The construction and operation of
9 such facilities shall result in no pollution or emissions that are
10 or may be harmful to the environment, pursuant to a determination by
11 the Department of Environmental Quality; and

12 2. "Eligible renewable resources" means resources derived from:
13 a. wind,
14 b. moving water,
15 c. sun, or
16 d. geothermal energy.

17 B. For facilities placed in operation on or after January 1,
18 2003, and before January 1, 2007, the electricity generated on or
19 after January 1, 2003, but prior to January 1, 2004, the amount of
20 the credit shall be seventy-five one hundredths of one cent
21 (\$0.0075) for each kilowatt-hour of electricity generated by zero-
22 emission facilities. For electricity generated on or after January
23 1, 2004, but prior to January 1, 2007, the amount of the credit
24 shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-

1 hour for electricity generated by zero-emission facilities. For
2 electricity generated on or after January 1, 2007, but prior to
3 January 1, 2012, the amount of the credit shall be twenty-five one
4 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity
5 generated by zero-emission facilities. For facilities placed in
6 operation on or after January 1, 2007, and before January 1, 2016,
7 for the electricity generated by these facilities the amount of the
8 credit shall be fifty one hundredths of one cent (\$0.0050) for each
9 kilowatt-hour of electricity generated by zero-emission facilities.

10 C. Credits may be claimed with respect to electricity generated
11 on or after January 1, 2003, during a ten-year period following the
12 date that the facility is placed in operation on or after June 4,
13 2001.

14 D. If the credit allowed pursuant to this section exceeds the
15 amount of income taxes due or if there are no state income taxes due
16 on the income of the taxpayer, the amount of the credit allowed but
17 not used in any tax year may be carried forward as a credit against
18 subsequent income tax liability for a period not exceeding ten (10)
19 years.

20 E. Any nontaxable entities, including agencies of the State of
21 Oklahoma or political subdivisions thereof, shall be eligible to
22 establish a transferable tax credit in the amount provided in
23 subsection B of this section. Such tax credit shall be a property
24 right available to a state agency or political subdivision of this

1 state to transfer or sell to a taxable entity, whether individual or
2 corporate, who shall have an actual or anticipated income tax
3 liability under Section 2355 of this title. These tax credit
4 provisions are authorized as an incentive to the State of Oklahoma,
5 its agencies and political subdivisions to encourage the expenditure
6 of funds in the development, construction and utilization of
7 electricity from zero-emission facilities as defined in subsection A
8 of this section.

9 F. The amount of the credit allowed, but not used, shall be
10 freely transferable at any time during the ten (10) years following
11 the year of qualification. Any person to whom or to which a tax
12 credit is transferred shall have only such rights to claim and use
13 the credit under the terms that would have applied to the entity by
14 whom or by which the tax credit was transferred. The provisions of
15 this subsection shall not limit the ability of a tax credit
16 transferee to reduce the tax liability of the transferee, regardless
17 of the actual tax liability of the tax credit transferor, for the
18 relevant taxable period. The transferor initially allowed the
19 credit and any subsequent transferees shall jointly file a copy of
20 any written transfer agreement with the Oklahoma Tax Commission
21 within thirty (30) days of the transfer. The written agreement
22 shall contain the name, address and taxpayer identification number
23 or social security number of the parties to the transfer, the amount
24 of the credit being transferred, the year the credit was originally

1 allowed to the transferor, and the tax year or years for which the
2 credit may be claimed. The Tax Commission may promulgate rules to
3 permit verification of the validity and timeliness of the tax credit
4 claimed upon a tax return pursuant to this subsection but shall not
5 promulgate any rules that unduly restrict or hinder the transfers of
6 such tax credit. The tax credit allowed by this section, upon the
7 election of the taxpayer, may be claimed as a payment of tax, a
8 prepayment of tax or a payment of estimated tax for purposes of
9 Section 1803 or Section 2355 of this title.

10 G. For electricity generation produced and sold in a calendar
11 year, the tax credit allowed by the provisions of this section, upon
12 election of the taxpayer, shall be treated and may be claimed as a
13 payment of tax, a prepayment of tax or a payment of estimated tax
14 for purposes of Section 2355 of this title on or after July 1 of the
15 following calendar year.

16 H. 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~~ 2012,
19 for which the credit would otherwise be allowable ~~until the~~
20 ~~provisions of this subsection shall cease to be operative on July 1,~~
21 ~~2011. Beginning July 1, 2011, the credit authorized by this section~~
22 ~~may be claimed for any event, transaction, investment, expenditure~~
23 ~~or other act occurring on or after July 1, 2010, according to the~~
24 ~~provisions of this section. Any tax credits which accrue during the~~

1 ~~period of July 1, 2010, through June 30, 2011, may not be claimed~~
2 ~~for any period prior to the taxable year beginning January 1, 2012.~~
3 ~~No credits which accrue during the period of July 1, 2010, through~~
4 ~~June 30, 2011, may be used to file an amended tax return for any~~
5 ~~taxable year prior to the taxable year beginning January 1, 2012.~~
6 The credit authorized by this section shall not be utilized for any
7 period after June 30, 2014, unless the Legislature passes a measure,
8 enacted into law in the manner prescribed by the Oklahoma
9 Constitution, to reauthorize the ability to claim the credit for any
10 event, transaction, investment or expenditure occurring on or after
11 July 1, 2014.

12 SECTION 12. AMENDATORY 68 O.S. 2011, Section 2357.32B,
13 is amended to read as follows:

14 Section 2357.32B A. Except as otherwise provided by subsection
15 G of this section, for tax years beginning on or after January 1,
16 2003, and ending on or before December 31, 2012, there shall be
17 allowed a credit against the tax imposed by Section 624 or 628 of
18 Title 36 of the Oklahoma Statutes, and actually paid to and placed
19 into the General Revenue Fund, or Section 2370 or 2355 of this title
20 to Oklahoma manufacturers of advanced small wind turbines. As used
21 in this section:

22 1. "Oklahoma manufacturers" means manufacturers who operate
23 facilities located in this state which have the capability to
24

1 manufacture small wind turbine products, including rotor blade and
2 alternator fabrication; and

3 2. "Advanced small wind turbines" means upwind, furling wind
4 turbines that meet the following requirements:

5 a. have a rated capacity of at least one kilowatt (1 kw)
6 but not greater than fifty kilowatts (50 kw),

7 b. incorporate advanced technologies such as new
8 airfoils, new generators, and new power electronics,
9 variable speed,

10 c. at least one unit of each model has undergone testing
11 at the US-DOE National Wind Technology Center, and

12 d. comply with appropriate interconnection safety
13 standards of the Institute of Electrical and
14 Electronics Engineers applicable to small wind
15 turbines.

16 B. The amount of the credit shall be based on the square
17 footage of rotor swept area of advanced small wind turbines
18 manufactured in this state. The amount of the credit shall be
19 Twenty-five Dollars (\$25.00) per square foot produced in calendar
20 year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot
21 produced in calendar year 2004, and Twenty-five Dollars (\$25.00) per
22 square foot produced in calendar years 2005 through 2012.

23 C. The companies claiming the credit allowed by this section
24 shall agree in advance to allow their production and claims to be

1 audited by the Oklahoma Tax Commission and they must be able to show
2 that they have made economic development investments in this state
3 over the period of time for which the credit was claimed that exceed
4 the net proceeds from the amount of credit claimed.

5 D. If the amount of the credits allowed pursuant to this
6 section exceeds the amount of income taxes due or if there are no
7 state income taxes due on the income of the taxpayer, the amount of
8 the credit allowed but not used in any taxable year may be carried
9 forward as a credit against subsequent income tax liability for a
10 period not exceeding ten (10) years.

11 E. The amount of the credit allowed but not used shall be
12 freely transferable at any time during the ten (10) years following
13 the year of qualification. Any person to whom or to which a tax
14 credit is transferred shall have only such rights to claim and use
15 the credit under the terms that would have applied to the entity by
16 whom or by which the tax credit was transferred. The provisions of
17 this subsection shall not limit the ability of a tax credit
18 transferee to reduce the tax liability of the transferee regardless
19 of the actual tax liability of the tax credit transferor for the
20 relevant taxable period. The transferor originally allowed the
21 credit and the subsequent transferee shall jointly file a copy of
22 the written credit transfer agreement with the Tax Commission within
23 thirty (30) days of the transfer. The written agreement shall
24 contain the name, address and taxpayer identification number of the

1 parties to the transfer, the amount of the credit being transferred,
2 the year the credit was originally allowed to the transferor and the
3 tax year or years for which the credit may be claimed. The Tax
4 Commission may promulgate rules to permit verification of the
5 validity and timeliness of a tax credit claimed upon a tax return
6 pursuant to this subsection but shall not promulgate any rules that
7 unduly restrict or hinder the transfers of such tax credit.

8 F. For advanced small wind turbines produced in a calendar
9 year, the tax credit allowed by the provisions of this section, upon
10 election of the taxpayer, shall be treated and may be claimed as a
11 payment of tax, a prepayment of tax or a payment of estimated tax
12 for purposes of Section 624 or 628 of Title 36 of the Oklahoma
13 Statutes, and actually paid to and placed into the General Revenue
14 Fund, or Section 2370 or 2355 of this title on or after July 1 of
15 the following calendar year.

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~~ 2012,
19 for which the credit would otherwise be allowable. ~~The provisions~~
20 ~~of 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.~~ The credit authorized by this section shall not be

1 utilized for any period after June 30, 2014, unless the Legislature
2 passes a measure, enacted into law in the manner prescribed by the
3 Oklahoma Constitution, to reauthorize the ability to claim the
4 credit for any event, transaction, investment or expenditure
5 occurring on or after July 1, 2014.

6 SECTION 13. AMENDATORY 68 O.S. 2011, Section 2357.40, is
7 amended to read as follows:

8 Section 2357.40 A. Upon receiving notification from the
9 Director of the Oklahoma Tourism and Recreation Department that an
10 approved company has entered into a tourism project agreement or a
11 film, digital media and music production and development facility
12 project agreement and is entitled to the inducements provided by the
13 Oklahoma Tourism Development Act, the Oklahoma Tax Commission shall
14 provide the approved company with forms and instructions as
15 necessary to claim those inducements.

16 B. An approved company whose agreement provides that it shall
17 expend approved costs of more than One Hundred Thousand Dollars
18 (\$100,000.00) for music production and postproduction facilities,
19 Three Hundred Fifty Thousand Dollars (\$350,000.00) for film and
20 digital media production and postproduction facilities, and more
21 than Five Hundred Thousand Dollars (\$500,000.00) for a tourism
22 attraction project but less than One Million Dollars (\$1,000,000.00)
23 shall be entitled to an income tax credit or a sales tax credit if
24 the company certifies to the Tax Commission that it has expended at

1 | least the minimum amount in approved costs, and the Director
2 | certifies that the approved company is in compliance with the
3 | Oklahoma Tourism Development Act. The Tax Commission shall then
4 | issue a tax credit memorandum to the approved company granting an
5 | income tax credit or sales tax credit in the amount of up to ten
6 | percent (10%) of the approved costs, but limited to the percent of
7 | the approved costs that will result in the project being revenue
8 | neutral to the State of Oklahoma as determined by the Oklahoma Tax
9 | Commission. Subsequent requests for credit for additional certified
10 | approved costs in excess of the minimum amount for each project as
11 | listed in this subsection but less than One Million Dollars
12 | (\$1,000,000.00) shall result in an income tax credit or sales tax
13 | credit in the amount of up to ten percent (10%) of the approved
14 | costs, but limited to the percent of the approved costs that will
15 | result in the project being revenue neutral to the State of Oklahoma
16 | as determined by the Oklahoma Tax Commission. Income tax credits or
17 | sales tax credits allowed pursuant to the provisions of the Oklahoma
18 | Tourism Development Act shall not be transferable or assignable.

19 | An approved company whose agreement provides that it shall
20 | expend approved costs in excess of One Million Dollars
21 | (\$1,000,000.00) shall be entitled to an income tax credit or sales
22 | tax credit if the company certifies to the Tax Commission that it
23 | has expended at least One Million Dollars (\$1,000,000.00) in
24 | approved costs and the Director certifies that the approved company

1 is in compliance with the Oklahoma Tourism Development Act. The Tax
2 Commission shall then issue a tax credit memorandum to the approved
3 company granting an income tax credit or sales tax credit in the
4 amount of up to twenty-five percent (25%) of the approved costs, but
5 limited to the percent of the approved costs that will result in the
6 project being revenue neutral to the State of Oklahoma as determined
7 by the Oklahoma Tax Commission. The credit on all subsequent
8 additional certified approved costs shall be in the amount of up to
9 twenty-five percent (25%) of the costs, but limited to the percent
10 of the approved costs that will result in the project being revenue
11 neutral to the State of Oklahoma as determined by the Oklahoma Tax
12 Commission.

13 The Tax Commission shall require proof of expenditures prior to
14 issuing a tax credit memorandum to the approved company which may be
15 satisfied by a report from an independent certified public
16 accountant. Additional credit memoranda may be issued as the
17 approved company certifies additional expenditures of approved
18 costs.

19 No tax credit memorandum shall be issued for any approved costs
20 expended after the expiration of two (2) years from the date the
21 agreement was signed by the Director and the approved company.
22 However, the Director, with the advice and consent of the Tax
23 Commission, may authorize tax credits for approved costs expended up
24 to four (4) years from the date the agreement was signed if the

1 Director determines that the failure to complete the tourism
2 attraction project within two (2) years resulted from:

3 1. Unanticipated and unavoidable delay in the construction of
4 the tourism attraction or film, digital media and music production
5 and development facility project;

6 2. An original completion date for the tourism attraction or
7 film, digital media and music production and development facility
8 project, as originally planned, which will be more than two (2)
9 years from the date construction began; or

10 3. A change in business ownership or business structure
11 resulting from a merger or acquisition.

12 C. 1. An income tax credit allowed pursuant to the provisions
13 of this section shall be applied to the amount of income taxes due
14 from the approved company. If the amount of an income tax credit
15 allowed pursuant to the provisions of this section exceeds the
16 amount of income taxes due for the year in which the credit is
17 granted, the amount of the credit not used may be carried forward
18 for a period not to exceed ten (10) years.

19 2. A sales tax credit allowed pursuant to the provisions of
20 this section may be used to offset a portion of the reported state
21 sales tax liability of the approved company for all sales tax
22 reporting periods following the issuance of the credit memorandum
23 subject to the following limitations:

24

- 1 a. only increased state sales tax liability may be offset
2 by the issued credit,
- 3 b. an approved company whose agreement provides that it
4 shall expend approved costs in excess of One Million
5 Dollars (\$1,000,000.00) shall be entitled to use only
6 ten percent (10%) of the amount of each issued credit
7 to offset increased state sales tax liability during
8 each calendar year, plus the amount of any unused
9 credit carried forward from a prior calendar year, and
10 an approved company whose agreement provides that it
11 shall expend approved costs of more than the minimum
12 amount for each project as listed in this subsection
13 but less than One Million Dollars (\$1,000,000.00)
14 shall be entitled to use only twenty percent (20%) of
15 the amount of each issued credit to offset increased
16 state sales tax liability during each calendar year,
17 plus the amount of any unused credit carried forward
18 from a prior calendar year, and
- 19 c. all issued credit memoranda shall expire at the end of
20 the month following the expiration of the agreement as
21 provided in Section 2357.39 of this title.

22 The approved company shall have no obligation to refund or
23 otherwise return any amount of this credit to the person from whom
24 the sales tax was collected.

1 D. The Tax Commission shall promulgate rules as are necessary
2 for the proper administration of the Oklahoma Tourism Development
3 Act. The Tax Commission may also develop forms and instructions as
4 necessary for an approved company to claim the income tax credit
5 provided by the Oklahoma Tourism Development Act.

6 E. The Tax Commission shall have the authority to obtain any
7 information necessary from the approved company and the Director to
8 verify that approved companies have received the proper amounts of
9 tax credits as authorized by the Oklahoma Tourism Development Act.
10 The Oklahoma Tax Commission shall demand the repayment of any
11 credits taken in excess of the credit allowed by the Oklahoma
12 Tourism Development Act.

13 F. ~~No income or sales tax credit authorized by this section~~
14 ~~shall be granted on or after January 1, 2016.~~ No credit otherwise
15 authorized by the provisions of this section may be claimed for any
16 event, transaction, investment, expenditure or other act occurring
17 on or after July 1, 2012, for which the credit would otherwise be
18 allowable. The credit authorized by this section shall not be
19 utilized for any period after June 30, 2014, unless the Legislature
20 passes a measure, enacted into law in the manner prescribed by the
21 Oklahoma Constitution, to reauthorize the ability to claim the
22 credit for any event, transaction, investment or expenditure
23 occurring on or after July 1, 2014.

1 SECTION 14. AMENDATORY 68 O.S. 2011, Section 2357.41, is
2 amended to read as follows:

3 Section 2357.41 A. Except as otherwise provided by subsection
4 I of this section, for tax years beginning after December 31, 2000,
5 there shall be allowed a credit against the tax imposed by Sections
6 2355 and 2370 of this title or that portion of the tax imposed by
7 Section 624 or 628 of Title 36 of the Oklahoma Statutes that would
8 otherwise have been apportioned to the General Revenue Fund for
9 qualified rehabilitation expenditures incurred in connection with
10 any certified historic hotel or historic newspaper plant building
11 located in an increment or incentive district created pursuant to
12 the Local Development Act or for qualified rehabilitation
13 expenditures incurred after January 1, 2006, in connection with any
14 certified historic structure.

15 B. The amount of the credit shall be one hundred percent (100%)
16 of the federal rehabilitation credit provided for in Section 47 of
17 Title 26 of the United States Code. The credit authorized by this
18 section may be claimed at any time after the relevant local
19 governmental body responsible for doing so issues a certificate of
20 occupancy or other document that is a precondition for the
21 applicable use of the building or structure that is the basis upon
22 which the credit authorized by this section is claimed.

23
24

1 C. All requirements with respect to qualification for the
2 credit authorized by Section 47 of Title 26 of the United States
3 Code shall be applicable to the credit authorized by this section.

4 D. If the credit allowed pursuant to this section exceeds the
5 amount of income taxes due or if there are no state income taxes due
6 on the income of the taxpayer, the amount of the credit allowed but
7 not used in any taxable year may be carried forward as a credit
8 against subsequent income tax liability for a period not exceeding
9 ten (10) years following the qualified expenditures.

10 E. All rehabilitation work to which the credit may be applied
11 shall be reviewed by the State Historic Preservation Office which
12 will in turn forward the information to the National Park Service
13 for certification in accordance with 36 C.F.R., Part 67. A
14 certified historic structure may be rehabilitated for any lawful use
15 or uses, including without limitation mixed uses and still retain
16 eligibility for the credit provided for in this section.

17 F. The amount of the credit allowed for any credit claimed for
18 a certified historic hotel or historic newspaper plant building or
19 any certified historic structure, but not used, shall be freely
20 transferable, in whole or in part, to subsequent transferees at any
21 time during the five (5) years following the year of qualification.
22 Any person to whom or to which a tax credit is transferred shall
23 have only such rights to claim and use the credit under the terms
24 that would have applied to the entity by whom or by which the tax

1 credit was transferred. The provisions of this subsection shall not
2 limit the ability of a tax credit transferee to reduce the tax
3 liability of the transferee regardless of the actual tax liability
4 of the tax credit transferor for the relevant taxable period. The
5 transferor of the credit and the transferee shall jointly file a
6 copy of the written credit transfer agreement with the Oklahoma Tax
7 Commission within thirty (30) days of the transfer. Such filing of
8 the written credit transfer agreement with the Oklahoma Tax
9 Commission shall perfect such transfer. The written agreement shall
10 contain the name, address and taxpayer identification number of the
11 parties to the transfer, the amount of credit being transferred, the
12 year the credit was originally allowed to the transferor, the tax
13 year or years for which the credit may be claimed, and a
14 representation by the transferor that the transferor has neither
15 claimed for its own behalf nor conveyed such credits to any other
16 transferee. The Tax Commission shall develop a standard form for
17 use by subsequent transferees of the credit demonstrating
18 eligibility for the transferee to reduce its applicable tax
19 liabilities resulting from ownership of the credit. The Tax
20 Commission shall develop a system to record and track the transfers
21 of the credit and certify the ownership of the credit and may
22 promulgate rules to permit verification of the validity and
23 timeliness of a tax credit claimed upon a tax return pursuant to
24

1 this subsection but shall not promulgate any rules which unduly
2 restrict or hinder the transfers of such tax credit.

3 G. Notwithstanding any other provisions in this section, on or
4 after January 1, 2009, if a credit allowed pursuant to this section
5 which has been transferred is subsequently reduced as the result of
6 an adjustment by the Internal Revenue Service, Tax Commission, or
7 any other applicable government agency, only the transferor
8 originally allowed the credit and not any subsequent transferee of
9 the credit, shall be held liable to repay any amount of disallowed
10 credit.

11 H. As used in this section:

12 1. "Certified historic hotel or historic newspaper plant
13 building" means a hotel or newspaper plant building that is listed
14 on the National Register of Historic Places within thirty (30)
15 months of taking the credit pursuant to this section~~;~~;

16 2. "Certified historic structure" means a building that is
17 listed on the National Register of Historic Places within thirty
18 (30) months of taking the credit pursuant to this section or a
19 building located in Oklahoma which is certified by the State
20 Historic Preservation Office as contributing to the historic
21 significance of a certified historic district listed on the National
22 Register of Historic Places, or a local district that has been
23 certified by the State Historic Preservation Office as eligible for
24 listing in the National Register of Historic Places; and

1 3. "Qualified rehabilitation expenditures" means capital
2 expenditures that qualify for the federal rehabilitation credit
3 provided in Section 47 of Title 26 of the United States Code and
4 that were paid after December 31, 2000. Qualified rehabilitation
5 expenditures do not include capital expenditures for nonhistoric
6 additions except an addition that is required by state or federal
7 regulations that relate to safety or accessibility. In addition,
8 qualified rehabilitation expenditures do not include expenditures
9 related to the cost of acquisition of the property.

10 I. No credit otherwise authorized by the provisions of this
11 section may be claimed for any event, transaction, investment,
12 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
13 for which the credit would otherwise be allowable ~~until the~~
14 ~~provisions of this subsection shall cease to be operative on July 1,~~
15 ~~2012. Beginning July 1, 2012, the credit authorized by this section~~
16 ~~may be claimed for any event, transaction, investment, expenditure~~
17 ~~or other act occurring on or after July 1, 2010, according to the~~
18 ~~provisions of this section. Any tax credits which accrue during the~~
19 ~~period of July 1, 2010, through June 30, 2012, may not be claimed~~
20 ~~for any period prior to the taxable year beginning January 1, 2012.~~
21 ~~No credits which accrue during the period of July 1, 2010, through~~
22 ~~June 30, 2012, may be used to file an amended tax return for any~~
23 ~~taxable year prior to the taxable year beginning January 1, 2012.~~
24 The credit authorized by this section shall not be utilized for any

1 period after June 30, 2014, unless the Legislature passes a measure,
2 enacted into law in the manner prescribed by the Oklahoma
3 Constitution, to reauthorize the ability to claim the credit for any
4 event, transaction, investment or expenditure occurring on or after
5 July 1, 2014.

6 SECTION 15. AMENDATORY 68 O.S. 2011, Section 2357.45, is
7 amended to read as follows:

8 Section 2357.45 A. 1. For tax years beginning after December
9 31, 2004, there shall be allowed against the tax imposed by Section
10 2355 of this title, a credit for any taxpayer who makes a donation
11 to an independent biomedical research institute and for tax years
12 beginning after December 31, 2010, a credit for any taxpayer who
13 makes a donation to a cancer research institute.

14 2. The credit authorized by paragraph 1 of this subsection
15 shall be limited as follows:

16 a. for calendar year 2007 and all subsequent years, the
17 credit percentage, not to exceed fifty percent (50%),
18 shall be adjusted annually so that the total estimate
19 of the credits does not exceed Two Million Dollars
20 (\$2,000,000.00) annually. The formula to be used for
21 the percentage adjusted shall be fifty percent (50%)
22 times One Million Dollars (\$1,000,000.00) divided by
23 the credits claimed in the preceding year for each
24 donation to an independent biomedical research

1 institute and fifty percent (50%) times One Million
2 Dollars (\$1,000,000.00) divided by the credits claimed
3 in the preceding year for each donation to a cancer
4 research institute,

5 b. in no event shall a taxpayer claim more than one
6 credit for a donation to any independent biomedical
7 research institute and one credit for a donation to a
8 cancer research institute in each taxable year nor
9 shall the credit exceed One Thousand Dollars
10 (\$1,000.00) for each taxpayer for each type of
11 donation,

12 c. for tax year 2011, no more than Fifty Thousand Dollars
13 (\$50,000.00) in total tax credits for donations to a
14 cancer research institute shall be allowed,

15 d. in no event shall more than fifty percent (50%) of the
16 Two Million Dollars (\$2,000,000.00) in total tax
17 credits authorized by this section, for any calendar
18 year after the effective date of this act, be
19 allocated for credits for donations to a cancer
20 research institute, and

21 e. in the event the total tax credits authorized by this
22 section exceed One Million Dollars (\$1,000,000.00) in
23 any calendar year for either a cancer research
24 institute or an independent biomedical research

1 institute, the Oklahoma Tax Commission shall permit
2 any excess over One Million Dollars (\$1,000,000.00)
3 but shall factor such excess into the percentage
4 adjustment formula for subsequent years for that type
5 of donation. However, any such adjustment to the
6 formula for donations to an independent biomedical
7 research institute shall not affect the formula for
8 donations to a cancer research institute, and any such
9 adjustment to the formula for donations to a cancer
10 research institute shall not affect the formula for
11 donations to an independent biomedical research
12 institute.

13 3. For purposes of this section, "independent biomedical
14 research institute" means an organization which is exempt from
15 taxation pursuant to the provisions of Section 501(c)(3) of the
16 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary
17 focus is conducting peer-reviewed basic biomedical research. The
18 organization shall:

- 19 a. have a board of directors,
- 20 b. be able to accept grants in its own name,
- 21 c. be an identifiable institute that has its own
22 employees and administrative staff, and

1 d. receive at least Fifteen Million Dollars
2 (\$15,000,000.00) in National Institute of Health
3 funding each year.

4 4. For purposes of this section, "cancer research institute"
5 means an organization which is exempt from taxation pursuant to the
6 Internal Revenue Code and whose primary focus is raising the
7 standard of cancer clinical care in Oklahoma through peer-reviewed
8 cancer research and education or a not-for-profit supporting
9 organization, as that term is defined by the Internal Revenue Code,
10 affiliated with a tax-exempt organization whose primary focus is
11 raising the standard of cancer clinical care in Oklahoma through
12 peer-reviewed cancer research and education. The tax-exempt
13 organization whose primary focus is raising the standard of cancer
14 clinical care in Oklahoma through peer-reviewed cancer research and
15 education shall:

16 a. either be an independent research institute or a
17 program that is part of a state university which is a
18 member of The Oklahoma State System of Higher
19 Education, and

20 b. receive at least Four Million Dollars (\$4,000,000.00)
21 in National Cancer Institute funding each year.

22 B. In no event shall the amount of the credit exceed the amount
23 of any tax liability of the taxpayer.

1 C. Any credits allowed but not used in any tax year may be
2 carried over, in order, to each of the four (4) years following the
3 year of qualification.

4 D. The Tax Commission shall have the authority to prescribe
5 forms for purposes of claiming the credit authorized by this
6 section.

7 E. No credit otherwise authorized by the provisions of this
8 section may be claimed for any event, transaction, investment,
9 expenditure or other act occurring on or after July 1, 2012, for
10 which the credit would otherwise be allowable. The credit
11 authorized by this section shall not be utilized for any period
12 after June 30, 2014, unless the Legislature passes a measure,
13 enacted into law in the manner prescribed by the Oklahoma
14 Constitution, to reauthorize the ability to claim the credit for any
15 event, transaction, investment or expenditure occurring on or after
16 July 1, 2014.

17 SECTION 16. AMENDATORY 68 O.S. 2011, Section 2357.46, is
18 amended to read as follows:

19 Section 2357.46 A. Except as otherwise provided by subsection
20 G of this section, for tax years beginning after December 31, 2005,
21 there shall be allowed a credit against the tax imposed by Section
22 2355 of Title 68 of Oklahoma Statutes for eligible expenditures
23 incurred by a contractor in the construction of energy efficient
24

1 residential property of two thousand (2,000) square feet or less.

2 The amount of the credit shall be based upon the following:

3 1. For any eligible energy efficient residential property
4 constructed and certified as forty percent (40%) or more above the
5 International Energy Conservation Code 2003 and any supplement in
6 effect at the time of completion, the amount of the credit shall be
7 equal to the eligible expenses, not to exceed Four Thousand Dollars
8 (\$4,000.00) for the taxpayer who is the contractor; and

9 2. For any eligible energy efficient residential property
10 constructed and certified as between twenty percent (20%) and
11 thirty-nine percent (39%) above the International Energy
12 Conservation Code 2003 and any supplement in effect at the time of
13 completion, the credit shall be equal to the eligible expenditures,
14 not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who
15 is the contractor.

16 B. As used in this section:

17 1. "Eligible expenditure" means any:

- 18 a. energy efficient heating or cooling system,
19 b. insulation material or system which is specifically
20 and primarily designed to reduce the heat gain or loss
21 of a residential property when installed in or on such
22 property,
23 c. exterior windows, including skylights,
24 d. exterior doors, and

1 e. any metal roof installed on a residential property,
2 but only if such roof has appropriate pigmented
3 coatings which are specifically and primarily designed
4 to reduce the heat gain of such dwelling unit and
5 which meet Energy Star program requirements;

6 2. "Contractor" means the taxpayer who constructed the
7 residential property or manufactured home, or if more than one
8 taxpayer qualifies as the contractor, the primary contractor; and

9 3. "Eligible energy efficient residential property" means a
10 newly constructed residential property or manufactured home property
11 which is located in the State of Oklahoma and substantially complete
12 after December 31, 2005, and which is two thousand (2,000) square
13 feet or less:

14 a. for the credit provided pursuant to paragraph 1 of
15 subsection A of this section, which is certified by an
16 accredited Residential Energy Services Network
17 Provider using the Home Energy Rating System to have:

18 (1) a level of annual heating and cooling energy
19 consumption which is at least forty percent (40%)
20 below the annual level of heating and cooling
21 energy consumption of a comparable residential
22 property constructed in accordance with the
23 standards of Chapter 4 of the 2003 International
24

1 Energy Conservation Code, as such code is in
2 effect on the effective date of this act,

3 (2) heating and cooling equipment efficiencies which
4 correspond to the minimum allowed under the
5 regulations established by the Department of
6 Energy pursuant to the National Appliance Energy
7 Conservation Act of 1987 and in effect at the
8 time of construction of the property, and

9 (3) building envelope component improvements which
10 account for at least one-fifth of the reduced
11 annual heating and cooling energy consumption
12 levels,

13 b. for the credit provided pursuant to paragraph 2 of
14 subsection A of this section, which is certified by an
15 accredited Residential Energy Services Network
16 Provider using the Home Energy Rating System to have:

17 (1) a level of annual heating and cooling energy
18 consumption which is between twenty percent (20%)
19 and thirty-nine percent (39%) below the annual
20 level of heating and cooling energy consumption
21 of a comparable residential property constructed
22 in accordance with the standards of Chapter 4 of
23 the 2003 International Energy Conservation Code,

24

1 as such code is in effect on the effective date
2 of this act,

3 (2) heating and cooling equipment efficiencies which
4 correspond to the minimum allowed under the
5 regulations established by the Department of
6 Energy pursuant to the National Appliance Energy
7 Conservation Act of 1987 and in effect at the
8 time of construction of the property, and

9 (3) building envelope component improvements which
10 account for at least one-third of the reduced
11 annual heating and cooling energy consumption
12 levels.

13 C. The credit provided for in subsection A of this section may
14 only be claimed once for the contractor of any eligible residential
15 energy efficient property during the taxable year when the property
16 is substantially complete.

17 D. If the credit allowed pursuant to this section exceeds the
18 amount of income taxes due or if there are no state income taxes due
19 on the income of the taxpayer, the amount of credit allowed but not
20 used in any taxable year may be carried forward as a credit against
21 subsequent income tax liability for a period not exceeding four (4)
22 years following the qualified expenditures.

1 E. For credits earned on or after the effective date of this
2 act, the credits authorized by this section shall be freely
3 transferable to subsequent transferees.

4 F. The Oklahoma Tax Commission shall promulgate rules necessary
5 to implement this act.

6 G. No credit otherwise authorized by the provisions of this
7 section may be claimed for any event, transaction, investment,
8 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
9 for which the credit would otherwise be allowable. ~~The provisions~~
10 ~~of this subsection shall cease to be operative on July 1, 2012.~~
11 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
12 ~~claimed for any event, transaction, investment, expenditure or other~~
13 ~~act occurring on or after July 1, 2012, according to the provisions~~
14 ~~of this section.~~ The credit authorized by this section shall not be
15 utilized for any period after June 30, 2014, unless the Legislature
16 passes a measure, enacted into law in the manner prescribed by the
17 Oklahoma Constitution, to reauthorize the ability to claim the
18 credit for any event, transaction, investment or expenditure
19 occurring on or after July 1, 2014.

20 SECTION 17. AMENDATORY 68 O.S. 2011, Section 2357.47, is
21 amended to read as follows:

22 Section 2357.47 A. 1. Except as otherwise provided in
23 subsection D of this section, for tax years beginning after December
24 31, 2005, there shall be allowed against the tax imposed by Section

1 2355 of this title, a credit for eligible wages paid by an employer
2 to an employee. The amount of the credit shall be ten percent (10%)
3 of the amount of the gross wages paid to the employee for a period
4 not to exceed ninety (90) days but in no event shall the credit
5 exceed Five Thousand Dollars (\$5,000.00) for each employee of each
6 taxpayer. In no event shall the total credit claimed exceed Twenty-
7 five Thousand Dollars (\$25,000.00) in any one year for any taxpayer.

8 2. Except as otherwise provided by subsection D of this
9 section, for tax years beginning after December 31, 2005, there
10 shall be allowed against the tax imposed by Section 2355 of this
11 title, a credit for eligible modification expenses of an employer.
12 The amount of the credit shall be fifty percent (50%) of the amount
13 of the funds expended for eligible modification expenses or new
14 tools or equipment but in no event shall the credit exceed One
15 Thousand Dollars (\$1,000.00) for eligible modification expenses
16 incurred for any single employee. In no event shall the total
17 credit claimed exceed Ten Thousand Dollars (\$10,000.00) in any year
18 for any taxpayer.

19 3. As used in this section:

- 20 a. "employee", "employer", "maximum medical improvement",
21 "treating physician", and "wages" shall be defined as
22 in Section 3 of Title 85 of the Oklahoma Statutes,
23 b. "eligible wages" means gross wages paid by an employer
24 to an employee who is injured as a result of an injury

1 which is compensable under the Workers' Compensation
2 Act and which are paid beginning when the employee
3 returns to work with restricted duties as provided by
4 the employee's treating physician or an independent
5 medical examiner before the employee has reached
6 maximum medical improvement, and ending after ninety
7 (90) days or when the employee has reached maximum
8 medical improvement, and

9 c. "eligible modification expenses" means expenses
10 incurred by an employer to modify a workplace, tools
11 or equipment or to obtain new tools or equipment and
12 which are incurred by an employer solely to enable a
13 specific injured employee who is injured as a result
14 of an injury which is compensable under the Workers'
15 Compensation Act to return to work with restricted
16 duties as provided by the employee's treating
17 physician or an independent medical examiner before
18 the employee has reached maximum medical improvement,
19 and which workplace, tools or equipment are used
20 primarily by the injured employee.

21 B. In no event shall the amount of the credit(s) exceed the
22 amount of any tax liability of the taxpayer.
23
24

1 C. The Oklahoma Tax Commission shall have the authority to
2 promulgate rules necessary to effectuate the purposes of this
3 section.

4 D. No credit otherwise authorized by the provisions of this
5 section may be claimed for any event, transaction, investment,
6 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
7 for which the credit would otherwise be allowable. ~~The provisions~~
8 ~~of this subsection shall cease to be operative on July 1, 2012.~~

9 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
10 ~~claimed for any event, transaction, investment, expenditure or other~~
11 ~~act occurring on or after July 1, 2012, according to the provisions~~
12 ~~of this section. The credit authorized by this section shall not be~~
13 ~~utilized for any period after June 30, 2014, unless the Legislature~~
14 ~~passes a measure, enacted into law in the manner prescribed by the~~
15 ~~Oklahoma Constitution, to reauthorize the ability to claim the~~
16 ~~credit for any event, transaction, investment or expenditure~~
17 ~~occurring on or after July 1, 2014.~~

18 SECTION 18. AMENDATORY 68 O.S. 2011, Section 2357.59, is
19 amended to read as follows:

20 Section 2357.59 A. Except as otherwise provided by subsection
21 F of this section, if any person, firm, corporation, partnership or
22 other legal entity has made application or filed an information
23 report on forms prescribed by the Oklahoma Tax Commission to receive
24 a credit against the tax imposed by Section 2355 of this title or

1 Section 624 of Title 36 of the Oklahoma Statutes pursuant to the
2 provisions of Sections 2357.23, 2357.51, 2357.52, 2357.53, 2357.54,
3 2357.55, 2357.56, 2357.57 or 2357.58 of this title on or before July
4 1, 1993, such credit may be received notwithstanding the provisions
5 of Section 51 of Senate Bill No. 459 of the 1st Session of the 44th
6 Oklahoma Legislature or that the other requirements for allowance of
7 such credit are not established until after July 1, 1993.

8 B. Except as provided in this section, no person, firm,
9 corporation, partnership or other legal entity shall qualify to
10 receive any such credit after July 1, 1993.

11 C. For any person, firm, corporation, partnership or other
12 legal entity or its successor who has filed the information report
13 specified in subsection A of this section, for taxable years
14 beginning after December 31, 1995, and ending on or before December
15 31, 2000, there shall be allowed a credit against the tax imposed by
16 Section 2355 of this title for fifteen percent (15%) of the
17 investment cost of a new qualified recycling facility. A person,
18 firm, corporation, partnership or other legal entity or its
19 successor which has withdrawn its application or information report
20 specified in subsection A of this section shall not be eligible for
21 such credit. For purposes of this subsection, a "qualified
22 recycling facility" shall mean buildings, land, improvements,
23 machinery and equipment located in Oklahoma and used in
24 manufacturing as defined by the Standard Industrial Classification

1 Code and at which facility is produced a qualified finished product,
2 provided that up to ten percent (10%) of the square feet of a
3 building may be devoted to office space used to provide clerical
4 support for the manufacturing operation. Such ten percent (10%) may
5 be in a separate building as long as it is part of the same
6 contiguous tract of property on which the manufacturing facility is
7 located. For purposes of this subsection, a "qualified finished
8 product" shall mean a marketable product or component thereof which
9 has economic value to the consumer and ninety percent (90%) of which
10 is composed of materials which have been separated, diverted or
11 removed from the waste stream and incorporated into the finished
12 product by any means or method.

13 D. The credit provided for in subsection C of this section
14 shall be subject to the following limitations:

15 1. The credit shall apply to investment in a qualified
16 recycling facility only if construction or on-site installation of
17 the facility commences on or after January 1, 1996, and before
18 December 31, 1999;

19 2. The credit shall only be available if the total cost of the
20 new qualified recycling facility exceeds Twenty Million Dollars
21 (\$20,000,000.00) and employs at least seventy-five new full-time-
22 equivalent employees, as certified by the Oklahoma Employment
23 Security Commission;

24

1 3. The credit shall be initially allowed for the tax year in
2 which the qualified recycling facility is placed in service.
3 However, any credit allowed but not used in any tax year due to the
4 limitation provided in paragraph 4 of this subsection shall be
5 carried over in order, but used only once, to each of the fourteen
6 (14) years following the year of initial allowance; and

7 4. The credit shall not be utilized in any tax year to reduce
8 the income tax liability of the owner of the qualified recycling
9 facility for such year by more than fifty percent (50%) of the tax
10 liability calculated from the income of the qualified recycling
11 facility. For purposes of subsections C and D of this section, the
12 "owner" shall include the user of a qualified recycling facility
13 under a lease with a term of five (5) years or more.

14 E. The Oklahoma Tax Commission may promulgate rules in order to
15 implement the provisions of this section including requirements to
16 submit any additional information as deemed necessary to implement
17 and administer this credit.

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

1 ~~act occurring on or after July 1, 2012, according to the provisions~~
2 ~~of this section. The credit authorized by this section shall not be~~
3 ~~utilized for any period after June 30, 2014, unless the Legislature~~
4 ~~passes a measure, enacted into law in the manner prescribed by the~~
5 ~~Oklahoma Constitution, to reauthorize the ability to claim the~~
6 ~~credit for any event, transaction, investment or expenditure~~
7 ~~occurring on or after July 1, 2014.~~

8 SECTION 19. AMENDATORY 68 O.S. 2011, Section 2357.66, is
9 amended to read as follows:

10 Section 2357.66 A. Except as otherwise provided by subsection
11 H of this section, for tax years beginning after December 31, 2003,
12 and before January 1, 2013, there shall be allowed a credit against
13 the tax imposed by Section 2355 of this title, and against the tax
14 imposed by Section 2370 of this title, and against the taxes imposed
15 by Sections 624 and 628 of Title 36 of the Oklahoma Statutes and
16 actually paid to and placed into the General Revenue Fund for any
17 ethanol facility which is in production at the rate of at least
18 twenty-five percent (25%) of its name plate design capacity for the
19 production of ethanol, before denaturing, on or before December 31,
20 2010. The completion of the construction of such facilities must be
21 after July 1, 2003. The credit shall be in the amount of twenty
22 cents (\$0.20) per gallon of ethanol produced and shall be allowed
23 for up to sixty (60) months beginning with the first month for which
24 the facility is eligible to receive such credit and ending not later

1 than December 31, 2012. The credit may only be claimed if the
2 ethanol facility maintains an average production rate of at least
3 twenty-five percent (25%) of its name plate design capacity for at
4 least six (6) months after the first month for which it is eligible
5 to receive such credit.

6 B. As used in this section:

7 1. "Ethanol facility" means a plant or facility primarily
8 engaged in the production of ethanol or ethyl alcohol derived from
9 grain components, coproducts, or byproducts; and

10 2. "Name plate design capacity" means the original designed
11 capacity of an ethanol facility. Capacity may be specified as
12 bushels of grain ground or gallons of ethanol produced per year.

13 C. Any ethanol facility eligible for a tax credit under
14 subsection A of this section shall also receive a credit against the
15 tax imposed by Section 2355 of this title in the amount of twenty
16 cents (\$0.20) per gallon of ethanol produced in excess of the
17 original name plate design capacity which results from expansion of
18 the facility completed on or after July 1, 2003, and before December
19 31, 2008. Such tax credit shall be allowed for up to sixty (60)
20 months beginning with the first month for which production from the
21 expanded facility is eligible to receive such tax credit and ending
22 not later than December 31, 2012.

23 D. 1. Beginning January 1, 2013, an ethanol facility shall
24 receive a credit against the tax imposed by Section 2355 of this

1 title in the amount of seven and one-half cents (\$0.075) per gallon
2 of ethanol, before denaturing, for new production for a period not
3 to exceed thirty-six (36) consecutive months.

4 2. For purposes of this subsection, "new production" means
5 production which results from a new facility, a facility which has
6 not received credits prior to January 1, 2013, or the expansion of
7 the capacity of an existing facility by at least two million
8 (2,000,000) gallons first placed into service after January 1, 2013,
9 as certified by the design engineer of the facility to the Oklahoma
10 Tax Commission.

11 3. For expansion of the capacity of an existing facility, "new
12 production" means annual production in excess of twelve times the
13 monthly average of the highest three (3) months of ethanol
14 production at an ethanol facility during the twenty-four-month
15 period immediately preceding certification of the facility by the
16 design engineer.

17 4. No credits shall be allowed under this subsection for
18 expansion of the capacity of an existing facility until production
19 is in excess of twelve times the three-month average amount
20 determined under this subsection during any twelve-consecutive-month
21 period beginning no sooner than January 1, 2013.

22 5. The amount of a credit granted pursuant to this section
23 based on new production shall be approved by the Tax Commission
24

1 based on such ethanol production records as may be necessary to
2 reasonably determine the level of new production.

3 E. 1. The credits described in this section shall be given
4 only for ethanol produced at a plant in this state at which all
5 fermentation, distillation, and dehydration takes place. No credit
6 shall be given on ethanol produced or sold for use in the production
7 of distilled spirits.

8 2. Not more than twenty-five million (25,000,000) gallons of
9 ethanol produced annually at any single ethanol facility nor more
10 than seventy-five million (75,000,000) gallons of ethanol produced
11 annually at all ethanol facilities in this state shall be eligible
12 for the credits in subsections A and C of this section, and the
13 credits may only be claimed by a producer for the periods specified
14 in subsections A and C of this section.

15 3. Not more than ten million (10,000,000) gallons of ethanol
16 produced during any twelve-consecutive-month period at any single
17 ethanol facility nor more than thirty million (30,000,000) gallons
18 of ethanol produced annually at all ethanol facilities in this state
19 shall be eligible for the credit described in subsection D of this
20 section, and the credit may only be claimed by a producer for the
21 periods specified in subsection D of this section.

22 4. Not more than one hundred twenty-five million (125,000,000)
23 gallons of ethanol produced at an ethanol facility by the end of the
24 sixty-month period set forth in subsection A or C of this section

1 shall be eligible for the credit under such subsection. An ethanol
2 facility which receives a credit for ethanol produced under
3 subsection A or C of this section shall not receive a credit under
4 subsection D of this section until its eligibility to receive a
5 credit under subsection A or C of this section has been completed.

6 F. The Tax Commission shall prescribe an application form and
7 promulgate rules for claiming credits under this section.

8 G. For purposes of ascertaining the correctness of any
9 application for claiming a credit provided in this section, the Tax
10 Commission may examine or cause to have examined, by any agent or
11 representative designated for that purpose, any books, papers,
12 records, or memoranda bearing upon such matters.

13 H. No credit otherwise authorized by the provisions of this
14 section may be claimed for any event, transaction, investment,
15 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
16 for which the credit would otherwise be allowable. ~~The provisions~~
17 ~~of this subsection shall cease to be operative on July 1, 2012.~~
18 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
19 ~~claimed for any event, transaction, investment, expenditure or other~~
20 ~~act occurring on or after July 1, 2012, according to the provisions~~
21 ~~of this section.~~ The credit authorized by this section shall not be
22 utilized for any period after June 30, 2014, unless the Legislature
23 passes a measure, enacted into law in the manner prescribed by the
24 Oklahoma Constitution, to reauthorize the ability to claim the

1 credit for any event, transaction, investment or expenditure
2 occurring on or after July 1, 2014.

3 SECTION 20. AMENDATORY 68 O.S. 2011, Section 2357.67, is
4 amended to read as follows:

5 Section 2357.67 A. Except as otherwise provided by subsection
6 I of this section, for tax years beginning after December 31, 2004,
7 and before January 1, 2013, there shall be allowed a credit against
8 the tax imposed by Section 2355 of this title for any biodiesel
9 facility which is in production at the rate of at least twenty-five
10 percent (25%) of its name plate design capacity for the production
11 of biodiesel, on or before December 31, 2008. The completion of the
12 construction of such facilities must be after the date of this act.
13 The credit shall be in the amount of twenty cents (\$0.20) per gallon
14 of biodiesel produced and shall be allowed for sixty (60) months
15 beginning with the first month for which the facility is eligible to
16 receive such credit and ending not later than December 31, 2012.
17 The credit may only be claimed if the biodiesel facility maintains
18 an average production rate of at least twenty-five percent (25%) of
19 its name plate design capacity for at least six (6) months after the
20 first month for which it is eligible to receive such credit.

21 B. As used in this section:

22 1. "Biodiesel facility" means a plant or facility located
23 within the State of Oklahoma and primarily engaged in the production
24

1 of biodiesel derived from animal fats, grain components, coproducts,
2 or byproducts; and

3 2. "Name plate design capacity" means the original designed
4 capacity of a biodiesel facility. Capacity may be specified as
5 gallons of biodiesel produced per year.

6 C. Any biodiesel facility eligible for a tax credit under
7 subsection A of this section shall also receive a credit against the
8 tax imposed by Section 2355 of this title in the amount of twenty
9 cents (\$0.20) per gallon of biodiesel produced in excess of the
10 original name plate design capacity which results from expansion of
11 the facility completed on or after the effective date of this act
12 and before December 31, 2008. Except as otherwise provided by
13 subsection I of this section, such tax credit shall be allowed for
14 sixty (60) months beginning with the first month for which
15 production from the expanded facility is eligible to receive such
16 tax credit and ending not later than December 31, 2012.

17 D. 1. Beginning January 1, 2013, a biodiesel facility shall
18 receive a credit against the tax imposed by Section 2355 of this
19 title in the amount of seven and one-half cents (\$0.075) per gallon
20 of biodiesel, for new production for a period not to exceed thirty-
21 six (36) consecutive months.

22 2. For purposes of this subsection, "new production" means
23 production which results from a new facility, a facility which has
24 not received credits prior to January 1, 2013, or the expansion of

1 the capacity of an existing facility by at least two million
2 (2,000,000) gallons first placed into service after January 1, 2013,
3 as certified by the design engineer of the facility to the Oklahoma
4 Tax Commission.

5 3. For expansion of the capacity of an existing facility, "new
6 production" means annual production in excess of twelve times the
7 monthly average of the highest three (3) months of biodiesel
8 production at a biodiesel facility during the twenty-four-month
9 period immediately preceding certification of the facility by the
10 design engineer.

11 4. No credits shall be allowed under this subsection for
12 expansion of the capacity of an existing facility until production
13 is in excess of twelve times the three-month average amount
14 determined under this subsection during any twelve-consecutive-month
15 period beginning no sooner than January 1, 2013.

16 5. The amount of a credit granted pursuant to this section
17 based on new production shall be approved by the Tax Commission
18 based on such biodiesel production records as may be necessary to
19 reasonably determine the level of new production.

20 E. 1. The credits described in this section shall be given
21 only for biodiesel produced at a plant in this state at which all
22 biodiesel esterification takes place.

23 2. Not more than twenty-five million (25,000,000) gallons of
24 biodiesel produced annually at a biodiesel facility shall be

1 eligible for the credits in subsections A and C of this section, and
2 the credits may only be claimed by a producer for the periods
3 specified in subsections A and C of this section.

4 3. Not more than ten million (10,000,000) gallons of biodiesel
5 produced during any twelve-consecutive-month period at a biodiesel
6 facility shall be eligible for the credit described in subsection D
7 of this section, and the credit may only be claimed by a producer
8 for the periods specified in subsection D of this section.

9 4. Not more than one hundred twenty-five million (125,000,000)
10 gallons of biodiesel produced at a biodiesel facility by the end of
11 the sixty-month period set forth in subsection A or C of this
12 section shall be eligible for the credit under such subsection. A
13 biodiesel facility which receives a credit for biodiesel produced
14 under subsection A or C of this section shall not receive a credit
15 under subsection D of this section until its eligibility to receive
16 a credit under subsection A or C of this section has been completed.

17 F. The Tax Commission shall prescribe an application form and
18 promulgate rules for claiming credits under this section.

19 G. For purposes of ascertaining the correctness of any
20 application for claiming a credit provided in this section, the Tax
21 Commission may examine or cause to have examined, by any agent or
22 representative designated for that purpose, any books, papers,
23 records, or memoranda bearing upon such matters.

24

1 H. If the credit allowed pursuant to this section exceeds the
2 amount of income taxes due or if there are no state income taxes due
3 on the income of the taxpayer, the amount of the credit allowed but
4 not used in any tax year may be carried forward as a credit against
5 subsequent income tax liability for a period not exceeding five (5)
6 years.

7 I. No credit otherwise authorized by the provisions of this
8 section may be claimed for any event, transaction, investment,
9 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
10 for which the credit would otherwise be allowable. ~~The provisions~~
11 ~~of this subsection shall cease to be operative on July 1, 2012.~~
12 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
13 ~~claimed for any event, transaction, investment, expenditure or other~~
14 ~~act occurring on or after July 1, 2012, according to the provisions~~
15 ~~of this section.~~ The credit authorized by this section shall not be
16 utilized for any period after June 30, 2014, unless the Legislature
17 passes a measure, enacted into law in the manner prescribed by the
18 Oklahoma Constitution, to reauthorize the ability to claim the
19 credit for any event, transaction, investment or expenditure
20 occurring on or after July 1, 2014.

21 SECTION 21. AMENDATORY 68 O.S. 2011, Section 2357.81, is
22 amended to read as follows:

23 Section 2357.81 A. Subject to the limitation imposed pursuant
24 to subsection C of Section 842 of Title 62 of the Oklahoma Statutes

1 and except as otherwise provided by subsection F of this section,
2 for taxable years beginning after December 31, 2000, there shall be
3 allowed as a credit against the tax imposed pursuant to Section 2355
4 of Title 68 of the Oklahoma Statutes, an amount equal to one hundred
5 percent (100%) of the amount of ad valorem taxes exempted pursuant
6 to the provisions of Section 860 of Title 62 of the Oklahoma
7 Statutes for an enterprise locating a new facility within or
8 expanding an existing facility within an enterprise zone as
9 designated pursuant to Section 690.2 of Title 68 of the Oklahoma
10 Statutes if such facility is also located within an incentive
11 district.

12 B. The income tax credit authorized by this section shall only
13 be available, to the extent otherwise allowable and except as
14 otherwise provided by subsection F of this section, for ad valorem
15 taxes for which an exemption has been provided pursuant to Section
16 860 of Title 62 of the Oklahoma Statutes on or after January 1,
17 2001. The county assessor of the county in which the facility is
18 located, or any part of the facility, shall provide an annual
19 certification to the Oklahoma Tax Commission not later than January
20 31 of each calendar year as to the amount of ad valorem taxes which
21 would have been payable by the owner of the facility without the
22 exemption provided by Section 860 of Title 62 of the Oklahoma
23 Statutes.

24

1 C. In order to claim the credit authorized by this section, the
2 taxpayer shall obtain a certification from the local governing body
3 approving the incentive district which shall be acknowledged by the
4 chief elected official of the local governing body. The
5 certification shall be signed by the Director of the Oklahoma
6 Department of Commerce or designee, that the facility is located
7 within an enterprise zone. The signature required by this
8 subsection shall be acknowledged in the manner provided by law.

9 D. The credit authorized by this section shall be allowable
10 only to the extent of ad valorem taxes which would have been levied
11 upon the taxable value of real property and improvements physically
12 attached to real property constituting the eligible facility without
13 the exemption provided by Section 860 of Title 62 of the Oklahoma
14 Statutes and shall not be allowable to the extent that the credit is
15 claimed for ad valorem taxes which would have been levied upon the
16 taxable value of personal property of the enterprise even if the
17 incentive granted by the participating governmental entities in the
18 incentive district includes personal property.

19 E. If the tax credit authorized by this section exceeds the
20 amount of taxes due or if there are no state taxes due of the
21 taxpayer, the amount of the claim not used as an offset against the
22 taxes of a taxable year may be carried forward for a period not to
23 exceed ten (10) years.

24

1 F. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
4 for which the credit would otherwise be allowable. ~~The provisions~~
5 ~~of this subsection shall cease to be operative on July 1, 2012.~~
6 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
7 ~~claimed for any event, transaction, investment, expenditure or other~~
8 ~~act occurring on or after July 1, 2012, according to the provisions~~
9 ~~of this section.~~ The credit authorized by this section shall not be
10 utilized for any period after June 30, 2014, unless the Legislature
11 passes a measure, enacted into law in the manner prescribed by the
12 Oklahoma Constitution, to reauthorize the ability to claim the
13 credit for any event, transaction, investment or expenditure
14 occurring on or after July 1, 2014.

15 SECTION 22. AMENDATORY 68 O.S. 2011, Section 2357.100,
16 is amended to read as follows:

17 Section 2357.100 A. For taxable years beginning after December
18 31, 2004, and ending on or before December 31, 2009, there shall be
19 allowed a credit against the tax imposed by Section 2355 of this
20 title for the purchase and transportation of poultry litter.
21 Subject to the limitations provided in subsection C of this section,
22 the credit shall be available to the purchaser of the poultry litter
23 and shall equal Five Dollars (\$5.00) per ton purchased and
24 transported.

1 B. Except as provided in subsection F of this section, for
2 taxable years beginning after December 31, 2009, and ending on or
3 before December 31, 2013, there shall be allowed a credit against
4 the tax imposed by Section 2355 of this title for the purchase and
5 transportation of poultry litter. Subject to the limitations
6 provided in subsection C of this section, the credit shall be
7 available to the purchaser of the poultry litter and shall equal Ten
8 Dollars (\$10.00) per ton purchased and transported.

9 C. 1. The total of the credits authorized by this section
10 shall not exceed Three Hundred Seventy-five Thousand Dollars
11 (\$375,000.00) annually. The amount of the credit for each purchaser
12 shall be adjusted annually so that the total estimate of the credits
13 authorized by this section does not exceed Three Hundred Seventy-
14 five Thousand Dollars (\$375,000.00). The formula to be used for the
15 percentage adjustment shall be Three Hundred Seventy-five Thousand
16 Dollars (\$375,000.00) divided by the credits claimed in the
17 preceding year. In no event shall the credit be claimed more than
18 once by a taxpayer each taxable year.

19 2. In the event the total tax credits authorized by this
20 section exceed Three Hundred Seventy-five Thousand Dollars
21 (\$375,000.00) in any calendar year, the Oklahoma Tax Commission
22 shall permit any excess over Three Hundred Seventy-five Thousand
23 Dollars (\$375,000.00) but shall factor such excess into the
24 percentage adjustment formula for subsequent years.

1 D. In order to qualify for the credit provided for in
2 subsections A and B of this section:

3 1. The poultry litter shall only be purchased from an Oklahoma-
4 based poultry operation registered with the State Board of
5 Agriculture and located within an environmentally sensitive and
6 nutrient-limited watershed area as defined in the most recent
7 Oklahoma Water Quality Standards;

8 2. The poultry litter shall be used or spread in a watershed
9 that is not environmentally sensitive and nutrient-limited as
10 defined in the most recent Oklahoma Water Quality Standards; and

11 3. The poultry litter shall be applied by a certified poultry
12 waste applicator as defined by Section 10-9.1 of Title 2 of the
13 Oklahoma Statutes and in accordance with the provisions of Sections
14 10-9.16 through 10-9.21 of Title 2 of the Oklahoma Statutes and any
15 rules promulgated by the Oklahoma Department of Agriculture, Food,
16 and Forestry.

17 E. The credit allowed by this section shall be available to the
18 taxpayer in the year in which the poultry litter was purchased and
19 transported, provided the taxpayer is found by the Oklahoma
20 Department of Agriculture, Food, and Forestry to have applied the
21 poultry litter in a manner consistent with an Animal Waste
22 Management Plan, as defined in Section 10-9.1 of Title 2 of the
23 Oklahoma Statutes, specifically designed to restore and protect
24 beneficial uses from impairment from nutrients. If the credit

1 exceeds the amount of income taxes due or if there are no state
2 income taxes due on the income of the taxpayer, the amount of the
3 credit not used as an offset against the income taxes for a year may
4 be carried forward as a credit against subsequent income tax
5 liability for a period not to exceed five (5) years.

6 F. No credit otherwise authorized by the provisions of this
7 section may be claimed for any event, transaction, investment,
8 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
9 for which the credit would otherwise be allowable. ~~The provisions~~
10 ~~of this subsection shall cease to be operative on July 1, 2012.~~
11 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
12 ~~claimed for any event, transaction, investment, expenditure or other~~
13 ~~act occurring on or after July 1, 2012, according to the provisions~~
14 ~~of this section.~~ The credit authorized by this section shall not be
15 utilized for any period after June 30, 2014, unless the Legislature
16 passes a measure, enacted into law in the manner prescribed by the
17 Oklahoma Constitution, to reauthorize the ability to claim the
18 credit for any event, transaction, investment or expenditure
19 occurring on or after July 1, 2014.

20 SECTION 23. AMENDATORY 68 O.S. 2011, Section 2357.101,
21 is amended to read as follows:

22 Section 2357.101 A. Except as otherwise provided in subsection
23 E of this section, for taxable years beginning after December 31,
24 2004, there shall be allowed against the tax imposed by Section 2355

1 of Title 68 of the Oklahoma Statutes, a credit equal to twenty-five
2 percent (25%) of the amount of profit made by a taxpayer from
3 investment in an existing Oklahoma film or music project with a
4 production company to pay for production costs that is reinvested by
5 the taxpayer with the production company to pay for the production
6 cost of the production company for a new Oklahoma film or music
7 project.

8 B. In no event shall the amount of the credit provided for in
9 subsection A of this section for an eligible taxpayer exceed the tax
10 liability of the taxpayer in a calendar year.

11 C. The Oklahoma Tax Commission shall have the authority to
12 prescribe forms for purposes of claiming the credit authorized in
13 subsection A of this section. The forms shall include, but not be
14 limited to, requests for information that prove who the investment
15 was with, the amount of the original investment and the amount of
16 the profit realized from the investment.

17 D. As used in this section:

18 1. "Film" means a professional single media, multimedia program
19 or feature, which is not child pornography as defined in subsection
20 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
21 material as defined in paragraph 1 of subsection B of Section 1024.1
22 of Title 21 of the Oklahoma Statutes including, but not limited to,
23 national advertising messages that are broadcast on a national
24 affiliate or cable network, fixed on film or digital video, which

1 can be viewed or reproduced and which is exhibited in theaters,
2 licensed for exhibition by individual television stations, groups of
3 stations, networks, cable television stations or other means or
4 licensed for home viewing markets;

5 2. "Music project" means a professional recording released on a
6 national or international level, whether via traditional
7 manufacturing or distributing or electronic distribution, using
8 technology currently in use or future technology including, but not
9 limited to, music CDs, radio commercials, jingles, cues, or
10 electronic device recordings;

11 3. "Production company" means a person who produces a film or
12 music project for exhibition in theaters, on television or
13 elsewhere;

14 4. "Total production cost" includes, but is not limited to:

- 15 a. wages or salaries of persons who have earned income
16 from working on a film or music project in this state,
17 including payments to personal services corporations
18 with respect to the services of qualified performing
19 artists, as determined under Section 62(a)(A) of the
20 Internal Revenue Code,
- 21 b. the cost of construction and operations, wardrobe,
22 accessories and related services,
- 23 c. the cost of photography, sound synchronization,
24 lighting and related services,

- d. the cost of editing and related services,
- e. rental of facilities and equipment, and
- f. other direct costs of producing a film or music project;

5. "Existing Oklahoma film or music project" means a film or music project produced after July 1, 2005;

6. "Profit" means the amount made by the taxpayer to be determined as follows:

- a. the gross revenues less gross expenses, including direct production, distribution and marketing costs and an allocation of indirect overhead costs, of the film or music project shall be multiplied by,
- b. a ratio, the numerator of which is Oklahoma production costs, as defined in paragraph 7 of this subsection, and the denominator of which is total production costs, as defined in paragraph 4 of this subsection, which shall be multiplied by,
- c. the percent of the taxpayer's taxable income allocated to Oklahoma in a taxable year, and
- d. subtract from the result of the formula calculated pursuant to subparagraphs a through c of this paragraph the profit made by a taxpayer from investment in an existing Oklahoma film or music

1 project in previous taxable years. Profit shall
2 include either a net profit or net loss;

3 7. "Oklahoma production cost" means that portion of total
4 production costs which are incurred with any qualified vendor;

5 8. a. "Qualified vendor" means an Oklahoma entity which
6 provides goods or services to a production company and
7 for which:

8 (1) fifty percent (50%) or more of its employees are
9 Oklahoma residents, and

10 (2) fifty percent (50%) or more of gross wages, as
11 reported on Internal Revenue Service Form W-2 or
12 Form 1099, are paid to Oklahoma residents.

13 b. For purposes of this paragraph, an employee shall
14 include a self-employed individual reporting income
15 from a qualified vendor on Internal Revenue Service
16 Form 1040.

17 c. The Oklahoma Tax Commission shall prescribe forms by
18 which an entity may be certified to a production
19 company as a qualified vendor for purposes of this
20 section; and

21 9. "Investment" means costs associated with the original
22 production company. Film or music projects acquired from an
23 original production company do not qualify as investment under
24 subsection A of this section.

1 E. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
4 for which the credit would otherwise be allowable. ~~The provisions~~
5 ~~of this subsection shall cease to be operative on July 1, 2012.~~
6 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
7 ~~claimed for any event, transaction, investment, expenditure or other~~
8 ~~act occurring on or after July 1, 2012, according to the provisions~~
9 ~~of this section.~~ The credit authorized by this section shall not be
10 utilized for any period after June 30, 2014, unless the Legislature
11 passes a measure, enacted into law in the manner prescribed by the
12 Oklahoma Constitution, to reauthorize the ability to claim the
13 credit for any event, transaction, investment or expenditure
14 occurring on or after July 1, 2014.

15 SECTION 24. AMENDATORY 68 O.S. 2011, Section 2357.102,
16 is amended to read as follows:

17 Section 2357.102 A. Except as otherwise provided by subsection
18 G of this section, for taxable years beginning after December 31,
19 2005, there shall be allowed a credit against the tax imposed by
20 Section 2355 of Title 68 of the Oklahoma Statutes for the cost of
21 the purchase of a dry fire hydrant or the cost to provide an
22 acceptable means of water storage for such dry fire hydrant
23 including a pond, tank, or other storage facility with the primary
24 purpose of fire protection within the State of Oklahoma. The credit

1 shall be equal to fifty percent (50%) of the purchase price of the
2 dry fire hydrant or the actual expenditure for any new water storage
3 construction, equipment, development and installation of the dry
4 hydrant, including pipes, valves, hydrants, and labor for each
5 installation of a dry hydrant or new water storage facility but in
6 no event shall the amount of the credit exceed Five Thousand Dollars
7 (\$5,000.00) for each taxpayer.

8 B. In order to qualify for the tax credit provided for in
9 subsection A of this section, the dry fire hydrant or new water
10 storage facility must meet the following minimum requirements:

11 1. Each body of water or water storage structure must be able
12 to provide two hundred fifty (250) gallons per minute for a
13 continuous two-hour period during a fifty-year drought or freeze at
14 a vertical lift of eighteen (18) feet;

15 2. Each dry fire hydrant must be located within twenty-five
16 (25) feet of an all-weather roadway and must be accessible to fire
17 protection equipment; and

18 3. Dry fire hydrants shall be located a reasonable distance
19 from other dry or pressurized hydrants.

20 C. In no event shall the amount of the credit exceed the amount
21 of any tax liability of the taxpayer.

22 D. Any credits allowed but not used in any tax year may be
23 carried over, in order, to each of the four (4) years following the
24 year of qualification.

1 E. The Oklahoma Tax Commission and the State Fire Marshal
2 Commission shall promulgate rules to establish the requirements for
3 the construction of a dry fire hydrant or new water storage facility
4 and permit verification of eligibility of a dry fire hydrant or new
5 water storage facility for the credit provided for in subsection A
6 of this section.

7 F. As used in this section, "dry fire hydrant" means
8 nonpressurized pipes permanently installed in lakes, farm ponds, and
9 streams that provide a ready means of drawing water.

10 G. No credit otherwise authorized by the provisions of this
11 section may be claimed for any event, transaction, investment,
12 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
13 for which the credit would otherwise be allowable. ~~The provisions~~
14 ~~of this subsection shall cease to be operative on July 1, 2012.~~
15 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
16 ~~claimed for any event, transaction, investment, expenditure or other~~
17 ~~act occurring on or after July 1, 2012, according to the provisions~~
18 ~~of this section.~~ The credit authorized by this section shall not be
19 utilized for any period after June 30, 2014, unless the Legislature
20 passes a measure, enacted into law in the manner prescribed by the
21 Oklahoma Constitution, to reauthorize the ability to claim the
22 credit for any event, transaction, investment or expenditure
23 occurring on or after July 1, 2014.

24

1 SECTION 25. AMENDATORY 68 O.S. 2011, Section 2357.104,
2 is amended to read as follows:

3 Section 2357.104 A. Except as otherwise provided by subsection
4 G of this section, for taxable years beginning after December 31,
5 2005, there shall be allowed a credit against the tax imposed by
6 Section 2355 of this title equal to fifty percent (50%) of an
7 eligible taxpayer's qualified railroad reconstruction or replacement
8 expenditures.

9 B. 1. Except as provided in paragraph 2 of this subsection,
10 the amount of the credit shall be limited to the product of Five
11 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars
12 (\$2,000.00) for tax year 2008 and subsequent tax years and the
13 number of miles of railroad track owned or leased within this state
14 by the eligible taxpayer as of the close of the taxable year.

15 2. In tax year 2009 and subsequent tax years, a taxpayer may
16 elect to increase the limit provided in paragraph 1 of this
17 subsection to an amount equal to three times the limit specified in
18 paragraph 1 of this subsection for qualified expenditures made in
19 the tax year, provided the taxpayer may only claim one third (1/3)
20 of the credit in any one taxable period.

21 C. The credit allowed pursuant to subsection A of this section
22 but not used shall be freely transferable, by written agreement, to
23 subsequent transferees at any time during the five (5) years
24 following the year of qualification. An eligible transferee shall

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

24

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

5 E. A taxpayer who elects to increase the limitation on the
6 credit under paragraph 2 of subsection B of this section shall not
7 be granted additional credits under subsection A of this section
8 during the period of such election.

9 F. As used in this section:

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

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

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

17 a. reconstruction or replacement of railroad
18 infrastructure including track, roadbed, bridges,
19 industrial leads and track-related structures owned or
20 leased by a Class II or Class III railroad as of
21 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 G. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
4 for which the credit would otherwise be allowable. ~~The provisions~~
5 ~~of this subsection shall cease to be operative on July 1, 2012.~~
6 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
7 ~~claimed for any event, transaction, investment, expenditure or other~~
8 ~~act occurring on or after July 1, 2012, according to the provisions~~
9 ~~of this section.~~ The credit authorized by this section shall not be
10 utilized for any period after June 30, 2014, unless the Legislature
11 passes a measure, enacted into law in the manner prescribed by the
12 Oklahoma Constitution, to reauthorize the ability to claim the
13 credit for any event, transaction, investment or expenditure
14 occurring on or after July 1, 2014.

15 SECTION 26. AMENDATORY 68 O.S. 2011, Section 2357.201,
16 is amended to read as follows:

17 Section 2357.201 A. As used in this act:

18 1. "Qualified business enterprise" means an entity or
19 affiliated group of entities electing to file a consolidated
20 Oklahoma income tax return:

21 a. organized as a corporation, partnership, limited
22 liability company or other entity having limited
23 liability pursuant to the laws of the State of Oklahoma
24 or the laws of another state, if such entity is

1 registered to do business within the state, a general
2 partnership, limited liability partnership, limited
3 liability limited partnership or other legal entity
4 having the right to conduct lawful business within the
5 state,

6 b. whose principal business activities are described by
7 the North American Industry Classification System by
8 Industry No. 514210, or Industry No. 541512 or Industry
9 No. 541519 as reflected in the 1997 edition of such
10 publication,

11 c. that makes at least seventy-five percent (75%) of its
12 sales to out-of-state customers or buyers which shall
13 be determined in the same manner as provided for
14 purposes of the Oklahoma Quality Jobs Program Act,

15 d. that is a high-speed processing facility in Oklahoma
16 utilizing systems such as TPF, zTPF or other advanced
17 technical systems,

18 e. that, as of July 1, 2005, maintains an Oklahoma annual
19 payroll of at least Eighty-five Million Dollars
20 (\$85,000,000.00), and

21 f. that, as of July 1, 2005, maintains an Oklahoma labor
22 force of one thousand (1,000) or more persons;

23 2. "Qualified capital expenditures" means those costs incurred
24 by the qualified business enterprise for acquisition of personal

1 property to be used in business operations within the state that
2 qualifies for depreciation and/or amortization pursuant to the
3 Internal Revenue Code of 1986, as amended, during the taxable year
4 for which the credit authorized by this section is claimed, or costs
5 incurred to refurbish, repair or maintain any existing personal
6 property located within the state;

7 3. "Qualified wages" means compensation, including any
8 employer-paid health care benefits, to full-time or part-time
9 employees of the qualified business enterprise if such employees are
10 full-time residents of the state; and

11 4. "Qualified training expenses" means those costs, whether or
12 not deductible as a business expense pursuant to the Internal
13 Revenue Code of 1986, as amended, incurred to locate, interview,
14 hire and educate an employee of the enterprise who has not
15 previously been employed by the enterprise and who is a resident of
16 the state.

17 B. For taxable years beginning after December 31, 2005, and
18 ending not later than December 31, 2013, there shall be allowed as a
19 credit against the tax imposed by Section 2355 of this title,
20 subject to the limitations imposed by subsection C of this section,
21 an amount equal to fifteen percent (15%) of:

- 22 1. Qualified capital expenditures; or
- 23 2. Qualified wages; or
- 24 3. Qualified training expenses; or

1 4. The sum of any of the expenses identified in paragraphs 1
2 through 3 of this subsection, in any combination.

3 C. For purposes of computing the credit amount prescribed by
4 subsection B of this section, the expenses described by paragraphs
5 1, 2 and 3 of subsection B of this section may be added together or
6 considered independently, but the total credit amount shall not
7 exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) each year
8 for the fiscal year ending June 30, 2007, the fiscal year ending
9 June 30, 2008, the fiscal year ending June 30, 2009, and for all
10 subsequent fiscal years.

11 D. For purposes of the expenditures described by subsection B
12 of this section a qualified business enterprise may incur
13 expenditures beginning January 1, 2005, through December 31, 2013,
14 for purposes of computing the credit amount. The claim for such
15 credits earned for the fiscal year ending June 30, 2007, shall not
16 be filed earlier than July 1, 2006, and the claims for each
17 subsequent taxable year may be filed no earlier than July 1 of each
18 of the applicable succeeding years.

19 E. For purposes of the limitation on the credit amount that may
20 be claimed by a qualified business enterprise, an extension of time
21 for filing of an income tax return shall not extend the time period
22 for purposes of claiming the credit authorized by this section.

23 F. If the amount of the credit allowable is in excess of the
24 tax liability, the amount of the credit not used shall be refunded

1 to the taxpayer subject to the total limit of Three Hundred Fifty
2 Thousand Dollars (\$350,000.00) each year for the fiscal year ending
3 June 30, 2007, the fiscal year ending June 30, 2008, the fiscal year
4 ending June 30, 2009, and each of the applicable subsequent fiscal
5 years.

6 G. No credit for any fiscal year as otherwise authorized by
7 this section shall be based upon any qualified expenditure used to
8 compute a credit amount for any preceding taxable year.

9 H. The credit authorized by the provisions of this section
10 shall not be transferable.

11 I. The Tax Commission may prescribe forms for purposes of
12 claiming the credit authorized by this section and for verifying
13 eligibility for the credit.

14 J. No credit otherwise authorized by the provisions of this
15 section may be claimed for any event, transaction, investment,
16 expenditure or other act occurring on or after July 1, 2012, for
17 which the credit would otherwise be allowable. The credit
18 authorized by this section shall not be utilized for any period
19 after June 30, 2014, unless the Legislature passes a measure,
20 enacted into law in the manner prescribed by the Oklahoma
21 Constitution, to reauthorize the ability to claim the credit for any
22 event, transaction, investment or expenditure occurring on or after
23 July 1, 2014.

24

1 SECTION 27. AMENDATORY 68 O.S. 2011, Section 2357.203,
2 is amended to read as follows:

3 Section 2357.203 A. As used in this section:

4 1. "Nonqualified operating expenditures" means labor costs,
5 salary and other compensation, whether direct or indirect, paid to
6 directors, officers, limited liability company members, limited
7 liability company managers, partners or other principals or
8 employees of the business entity;

9 2. "Qualified direct costs" means expenditures, other than
10 nonqualified operating expenditures, to construct dog kennels,
11 fences, pens, training areas for canines, structures for office
12 space or other improvements to real property necessary for the
13 proper training of a specially trained canine, including the cost of
14 food, water, veterinary expenses and other costs directly related to
15 the operation of the training facility; and

16 3. "Specially trained canines" means dogs that are raised by a
17 person who is officially licensed as a dog breeder by the United
18 States Department of Agriculture.

19 B. Except as provided in subsection F of this section, for
20 taxable years beginning after December 31, 2005, there shall be
21 allowed a credit against the tax imposed pursuant to Section 2355 of
22 Title 68 of the Oklahoma Statutes in the amount of fifty percent
23 (50%) of the qualified direct costs associated with the operation of
24

1 a business enterprise the principal purpose of which is the rearing
2 of specially trained canines.

3 C. The provisions of this section shall not be applicable to
4 nonqualified operating expenditures.

5 D. The credit authorized by this section shall not be used to
6 reduce the tax liability of the taxpayer to less than zero (0). Any
7 credits authorized by this section claimed for a taxable year which
8 are unable to be used may be carried over, in order, to each of the
9 five (5) subsequent taxable years.

10 E. The Oklahoma Tax Commission shall be authorized to prescribe
11 such forms as may be necessary in order to administer the tax credit
12 authorized by this section. The Tax Commission may request such
13 additional documentation as may be required from the taxpayer in
14 order to verify the eligibility for the credit authorized by this
15 section.

16 F. 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~~ 2012,
19 for which the credit would otherwise be allowable. ~~The provisions~~
20 ~~of 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.~~ The credit authorized by this section shall not be

1 utilized for any period after June 30, 2014, unless the Legislature
2 passes a measure, enacted into law in the manner prescribed by the
3 Oklahoma Constitution, to reauthorize the ability to claim the
4 credit for any event, transaction, investment or expenditure
5 occurring on or after July 1, 2014.

6 SECTION 28. AMENDATORY 68 O.S. 2011, Section 2370, is
7 amended to read as follows:

8 Section 2370. A. For taxable years beginning after December
9 31, 1989, for the privilege of doing business within this state,
10 every state banking association, national banking association and
11 credit union organized under the laws of this state, located or
12 doing business within the limits of the State of Oklahoma shall
13 annually pay to this state a privilege tax at the rate of six
14 percent (6%) of the amount of the taxable income as provided in this
15 section.

16 B. 1. The privilege tax levied by this section shall be in
17 addition to the Business Activity Tax levied in Section 1218 of this
18 title and the franchise tax levied in Article 12 of this title and
19 in lieu of the tax levied by Section 2355 of this title and in lieu
20 of all taxes levied by the State of Oklahoma, or any subdivision
21 thereof, upon the shares of stock or personal property of any
22 banking association or credit union subject to taxation under this
23 section.

24

1 2. Nothing in this section shall be construed to exempt the
2 real property of any banking associations or credit unions from
3 taxation to the same extent, according to its value, as other real
4 property is taxed. Nothing herein shall be construed to exempt an
5 association from payment of any fee or tax authorized or levied
6 pursuant to the banking laws.

7 3. Personal property which is subject to a lease agreement
8 between a bank or credit union, as lessor, and a nonbanking business
9 entity or individual, as lessee, is not exempt from personal
10 property ad valorem taxation. Provided further, that it shall be
11 the duty of the lessee of such personal property to return sworn
12 lists or schedules of their taxable property within each county to
13 the county assessor of such county as provided in Sections 2433 and
14 2434 of this title.

15 C. Any tax levied under this section shall accrue on the last
16 day of the taxable year and be payable as provided in Section 2375
17 of this title. The accrual of such tax for the first taxable year
18 to which this act applies, shall apply notwithstanding the prior
19 accrual of a tax in the same taxable year based upon the net income
20 of the next preceding taxable year; provided, however, any
21 additional deduction enuring to the benefit of the taxpayer shall be
22 deducted in accordance with the optional transitional deduction
23 procedures in Section 2354 of this title.

1 D. The basis of the tax shall be United States taxable income
2 as defined in paragraph 10 of Section 2353 of this title and any
3 adjustments thereto under the provisions of Section 2358 of this
4 title with the following adjustments:

5 1. There shall be deducted all interest income on obligations
6 of the United States government and agencies thereof not otherwise
7 exempted and all interest income on obligations of the State of
8 Oklahoma or political subdivisions thereof, including public trust
9 authorities, not otherwise exempted under the laws of this state;
10 and

11 2. Expense deductions claimed in arriving at taxable income
12 under paragraph 10 of Section 2353 of this title shall be reduced by
13 an amount equal to fifty percent (50%) of excluded interest income
14 on obligations of the United States government or agencies thereof
15 and obligations of the State of Oklahoma or political subdivisions
16 thereof.

17 E. 1. Except as otherwise provided in paragraph 2 of this
18 subsection, there shall be allowed a credit against the tax levied
19 in subsection A of this section in an amount equal to the amount of
20 taxable income received by a participating financial institution as
21 defined in Section 90.2 of Title 62 of the Oklahoma Statutes
22 pursuant to a loan made under the Rural Economic Development Loan
23 Act. Such credit shall be limited each year to five percent (5%) of
24 the amount of annual payroll certified by the Oklahoma Rural

1 Economic Development Loan Program Review Board pursuant to the
2 provisions of paragraph 3 of subsection B of Section 90.4 of Title
3 62 of the Oklahoma Statutes with respect to the loan made by the
4 participating financial institution and may be claimed for any
5 number of years necessary until the amount of total credits claimed
6 is equal to the total amount of taxable income received by the
7 participating financial institution pursuant to the loan. Any
8 credit allowed but not used in a taxable year may be carried forward
9 for a period not to exceed five (5) taxable years. In no event
10 shall a credit allowed pursuant to the provisions of this subsection
11 be transferable or refundable.

12 2. No credit otherwise authorized by the provisions of this
13 subsection may be claimed for any event, transaction, investment,
14 expenditure or other act occurring on or after July 1, ~~2010~~ 2012 for
15 which the credit would otherwise be allowable. ~~The provisions of~~
16 ~~this paragraph shall cease to be operative on July 1, 2012.~~
17 ~~Beginning July 1, 2012, the credit authorized by this subsection may~~
18 ~~be claimed for any event, transaction, investment, expenditure or~~
19 ~~other act occurring on or after July 1, 2012, according to the~~
20 ~~provisions of this subsection.~~ The credit authorized by this
21 section shall not be utilized for any period after June 30, 2014,
22 unless the Legislature passes a measure, enacted into law in the
23 manner prescribed by the Oklahoma Constitution, to reauthorize the

24

1 ability to claim the credit for any event, transaction, investment
2 or expenditure occurring on or after July 1, 2014.

3 SECTION 29. AMENDATORY 68 O.S. 2011, Section 2370.3, is
4 amended to read as follows:

5 Section 2370.3 A. There shall be allowed a credit against the
6 tax imposed by Section 2370 of Title 68 of the Oklahoma Statutes for
7 any state banking association, national banking association, or
8 credit union domiciled in this state for the amount of the
9 origination fee paid by the banking association or credit union to
10 the United States Department of Education pursuant to the "Stafford"
11 loan guaranty program for an Oklahoma resident.

12 B. Except as provided in subsection F of this section, the
13 credit authorized by this section may be claimed for origination
14 fees paid on or after July 1, 2007.

15 C. No credit may be claimed pursuant to this section if,
16 pursuant to the agreement between the banking association or credit
17 union and the student to which proceeds are made available, the
18 banking association or credit union adds the amount of the U.S.
19 Department of Education origination fee to the amount financed by
20 the borrower or in any other way recovers the origination fee amount
21 from the borrower.

22 D. The credit authorized by this section may be claimed, and if
23 not fully used in the initial year for which the credit is claimed,
24 may be carried over, in order, to each of the five (5) succeeding

1 taxable years. The credit authorized by this section may not be
2 used to reduce the tax liability of the credit claimant below zero
3 (0).

4 E. The Oklahoma Tax Commission shall prepare a report regarding
5 the amount of tax credits claimed as authorized by this section.
6 The report shall be submitted to the Speaker of the House of
7 Representatives and to the President Pro Tempore of the Senate not
8 later than March 31 of each year.

9 F. No credit otherwise authorized by the provisions of this
10 section may be claimed for any event, transaction, investment,
11 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
12 for which the credit would otherwise be allowable. ~~The provisions~~
13 ~~of this subsection shall cease to be operative on July 1, 2012.~~
14 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
15 ~~claimed for any event, transaction, investment, expenditure or other~~
16 ~~act occurring on or after July 1, 2012, according to the provisions~~
17 ~~of this section.~~ The credit authorized by this section shall not be
18 utilized for any period after June 30, 2014, unless the Legislature
19 passes a measure, enacted into law in the manner prescribed by the
20 Oklahoma Constitution, to reauthorize the ability to claim the
21 credit for any event, transaction, investment or expenditure
22 occurring on or after July 1, 2014.

23 SECTION 30. AMENDATORY 68 O.S. 2011, Section 54006, is
24 amended to read as follows:

1 Section 54006. A. Except as provided in subsection F of this
2 section, for taxable years beginning after December 31, 1992, and
3 before January 1, 2003, and for taxable years beginning after
4 December 31, 2005, there shall be allowed a credit against the tax
5 imposed by Section 2355 of this title for a net increase in the
6 number of full-time-equivalent employees engaged in computer
7 services, data processing or research and development as defined in
8 Section 54003 of this title, in this state including employees
9 engaged in support services.

10 B. The credit provided for in subsection A of this section
11 shall be allowed in each of the four (4) subsequent years only if
12 the level of new employees is maintained in the subsequent year;
13 provided, such credit shall be allowed in each of the eight (8)
14 subsequent years only if the level of new employees is maintained in
15 the subsequent year and if the credit is taken for taxable years
16 beginning after December 31, 2005. In calculating the credit by the
17 number of new employees, only those employees whose paid wages or
18 salary were at least Thirty-five Thousand Dollars (\$35,000.00)
19 during each year the credit is claimed shall be included in the
20 calculation. The number of new employees shall be determined by
21 comparing the monthly average number of full-time employees subject
22 to Oklahoma income tax withholding for the final quarter of the
23 taxable year with the corresponding period of the prior taxable
24

1 year, as substantiated by such reports as may be required by the Tax
2 Commission.

3 C. For credits taken for taxable years beginning after December
4 31, 1992, and before January 1, 2003, in order to be eligible to
5 receive the credit provided for in subsection A of this section, a
6 new or expanding business shall not include the existing employee
7 positions of any business enterprise that is directly or
8 beneficially owned by a corporation, trust, joint venture,
9 proprietorship, or partnership doing business in this state as of
10 January 1, 1992. For credits taken for taxable years beginning
11 after December 31, 2005, in order to be eligible to receive the
12 credit provided for in subsection A of this section, a new or
13 expanding business shall not include the existing employee positions
14 of any business enterprise that is directly or beneficially owned by
15 a corporation, trust, joint venture, proprietorship, or partnership
16 doing business in this state as of January 1, 2005.

17 D. The credit allowed by subsection A of this section shall be
18 Five Hundred Dollars (\$500.00) for each new employee, but not to
19 exceed fifty new employees.

20 E. Any credits allowed but not used in any taxable year may be
21 carried over in order to each of the four (4) years following the
22 year of qualification and to the extent not used in those years in
23 order to each of the five (5) years following the initial five-year
24 period.

1 F. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, ~~2010~~ 2012,
4 for which the credit would otherwise be allowable. ~~The provisions~~
5 ~~of this subsection shall cease to be operative on July 1, 2012.~~
6 ~~Beginning July 1, 2012, the credit authorized by this section may be~~
7 ~~claimed for any event, transaction, investment, expenditure or other~~
8 ~~act occurring on or after July 1, 2012, according to the provisions~~
9 ~~of this section.~~ The credit authorized by this section shall not be
10 utilized for any period after June 30, 2014, unless the Legislature
11 passes a measure, enacted into law in the manner prescribed by the
12 Oklahoma Constitution, to reauthorize the ability to claim the
13 credit for any event, transaction, investment or expenditure
14 occurring on or after July 1, 2014.

15 SECTION 31. This act shall become effective July 1, 2012.

16 SECTION 32. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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