1 HOUSE OF REPRESENTATIVES - FLOOR VERSION 2 STATE OF OKLAHOMA 3 2nd Session of the 59th Legislature (2024) COMMITTEE SUBSTITUTE 4 FOR 5 HOUSE BILL NO. 2949 By: McCall 6 7 8 COMMITTEE SUBSTITUTE 9 An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 2355, as last amended by Section 10 1, Chapter 27, 1st Extraordinary Session of the 59th Oklahoma Legislature, O.S.L. 2023, which relates to income tax rates for individuals and other entities; 11 modifying income tax rate for designated tax year; providing for reductions in income tax rates based 12 upon certain determination with respect to tax 1.3 collections; providing for further reductions in income tax rates using prescribed formula; amending 14 68 O.S. 2021, Section 2355.1P-4, which relates to the Pass Through-Entity Tax Act; modifying reference to 15 income tax rate; defining terms; imposing tax on renewable power production; establishing amount of 16 tax per megawatt-hour; making tax applicable after certain date; establishing timeline for remittance of 17 tax and filing of reports; requiring the prescription of certain forms; providing fine and penalty for 18 filing and remittance failures; requiring certain annual reporting; providing for apportionment of 19 monies; providing for codification; and providing effective dates. 20 2.1 22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA: 23 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2355, as 24 last amended by Section 1, Chapter 27, 1st Extraordinary Session,

1	O.S.L. 2023 (68 O.S. Supp. 2023, Section 2355), is amended to read	
2	as follows:	
3	Section 2355. A. Individuals. For all taxable years beginning	
4	after December 31, 1998, and before January 1, 2006, a tax is hereby	
5	imposed upon the Oklahoma taxable income of every resident or	
6	nonresident individual, which tax shall be computed at the option of	
7	the taxpayer under one of the two following methods:	
8	1. METHOD 1.	
9	a. Single individuals and married individuals filing	
10	separately not deducting federal income tax:	
11	(1) 1/2% tax on first \$1,000.00 or part thereof,	
12	(2) 1% tax on next \$1,500.00 or part thereof,	
13	(3) 2% tax on next \$1,250.00 or part thereof,	
14	(4) 3% tax on next \$1,150.00 or part thereof,	
15	(5) 4% tax on next \$1,300.00 or part thereof,	
16	(6) 5% tax on next \$1,500.00 or part thereof,	
17	(7) 6% tax on next \$2,300.00 or part thereof, and	
18	(8) (a) for taxable years beginning after December	
19	31, 1998, and before January 1, 2002, 6.75%	
20	tax on the remainder,	
21	(b) for taxable years beginning on or after	
22	January 1, 2002, and before January 1, 2004,	
23	7% tax on the remainder, and	
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1	(c) for taxable years beginning on or after
2	January 1, 2004, 6.65% tax on the remainder.
3	b. Married individuals filing jointly and surviving
4	spouse to the extent and in the manner that a
5	surviving spouse is permitted to file a joint return
6	under the provisions of the Internal Revenue Code and
7	heads of households as defined in the Internal Revenue
8	Code not deducting federal income tax:
9	(1) 1/2% tax on first \$2,000.00 or part thereof,
10	(2) 1% tax on next \$3,000.00 or part thereof,
11	(3) 2% tax on next \$2,500.00 or part thereof,
12	(4) 3% tax on next \$2,300.00 or part thereof,
13	(5) 4% tax on next \$2,400.00 or part thereof,
14	(6) 5% tax on next \$2,800.00 or part thereof,
15	(7) 6% tax on next \$6,000.00 or part thereof, and
16	(8) (a) for taxable years beginning after December
17	31, 1998, and before January 1, 2002, 6.75%
18	tax on the remainder,
19	(b) for taxable years beginning on or after
20	January 1, 2002, and before January 1, 2004,
21	7% tax on the remainder, and
22	(c) for taxable years beginning on or after
23	January 1, 2004, 6.65% tax on the remainder.
24	2. METHOD 2.

1	a. Si	ingle individuals and married individuals filing
2	Se	eparately deducting federal income tax:
3	(2	1) 1/2% tax on first \$1,000.00 or part thereof,
4	(2	2) 1% tax on next \$1,500.00 or part thereof,
5	(3	3) 2% tax on next \$1,250.00 or part thereof,
6	(4	4) 3% tax on next \$1,150.00 or part thereof,
7	(!	5) 4% tax on next \$1,200.00 or part thereof,
8	(1)	6) 5% tax on next \$1,400.00 or part thereof,
9	(**	7) 6% tax on next \$1,500.00 or part thereof,
10	(8	8) 7% tax on next \$1,500.00 or part thereof,
11	(9	9) 8% tax on next \$2,000.00 or part thereof,
12	(10	0) 9% tax on next \$3,500.00 or part thereof, and
13	(12	1) 10% tax on the remainder.
14	b. Ma	arried individuals filing jointly and surviving
15	sı	pouse to the extent and in the manner that a
16	SI	urviving spouse is permitted to file a joint return
17	uı	nder the provisions of the Internal Revenue Code and
18	he	eads of households as defined in the Internal Revenue
19	Co	ode deducting federal income tax:
20	(2	1) $1/2\%$ tax on the first \$2,000.00 or part thereof,
21	(2	2) 1% tax on the next \$3,000.00 or part thereof,
22	(3	3) 2% tax on the next \$2,500.00 or part thereof,
23	(4	4) 3% tax on the next \$1,400.00 or part thereof,
24		5) 4% tax on the next \$1,500.00 or part thereof,

1	(6) 5% tax on the next \$1,600.00 or part thereof,	
2	(7) 6% tax on the next \$1,250.00 or part thereof,	
3	(8) 7% tax on the next \$1,750.00 or part thereof,	
4	(9) 8% tax on the next \$3,000.00 or part thereof,	
5	(10) 9% tax on the next \$6,000.00 or part thereof, and	
6	(11) 10% tax on the remainder.	
7	B. Individuals. For all taxable years beginning on or after	
8	January 1, 2008, and ending any tax year which begins after December	
9	31, 2015, for which the determination required pursuant to Sections	
10	4 and 5 of this act is made by the State Board of Equalization, a	
11	tax is hereby imposed upon the Oklahoma taxable income of every	
12	resident or nonresident individual, which tax shall be computed as	
13	follows:	
14	1. Single individuals and married individuals filing	
15	separately:	
16	(a) $1/2\%$ tax on first \$1,000.00 or part thereof,	
17	(b) 1% tax on next \$1,500.00 or part thereof,	
18	(c) 2% tax on next \$1,250.00 or part thereof,	
19	(d) 3% tax on next \$1,150.00 or part thereof,	
20	(e) 4% tax on next \$2,300.00 or part thereof,	
21	(f) 5% tax on next \$1,500.00 or part thereof,	
22	(g) 5.50% tax on the remainder for the 2008 tax year and	
23	any subsequent tax year unless the rate prescribed by	
24	subparagraph (h) of this paragraph is in effect, and	

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- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.
- 2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:
 - (a) 1/2% tax on first \$2,000.00 or part thereof,
 - (b) 1% tax on next \$3,000.00 or part thereof,
 - (c) 2% tax on next \$2,500.00 or part thereof,
 - (d) 3% tax on next \$2,300.00 or part thereof,
 - (e) 4% tax on next \$2,400.00 or part thereof,
 - (f) 5% tax on next \$2,800.00 or part thereof,
 - (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
 - (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by

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this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

- C. Individuals. For all taxable years beginning on or after January 1, 2024, and except as provided pursuant to the provisions of subsection D of this section, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:
- 1. Single individuals and married individuals filing separately:
 - (a) 0.25% tax on first \$1,000.00 or part thereof,
 - (b) 0.75% tax on next \$1,500.00 or part thereof,
 - (c) 1.75% tax on next \$1,250.00 or part thereof,
 - (d) 2.75% tax on next \$1,150.00 or part thereof,
 - (e) 3.75% tax on next \$2,300.00 or part thereof,
- (f) 4.75% 4.4% tax on the remainder.;
 - 2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:
 - (a) 0.25% tax on first \$2,000.00 or part thereof,
 - $\frac{\text{(b)}}{\text{0.75}\%}$ tax on next \$3,000.00 or part thereof,

1	(c) 1.75% tax on next \$2,500.00 or part thereof,
2	(d) 2.75% tax on next \$2,300.00 or part thereof,
3	(e) 3.75% tax on next \$4,600.00 or part thereof,
4	$\frac{\text{(f)}}{\text{4.75\%}}$ $\frac{4.4\%}{\text{ax on the remainder}}$.
5	The tax levied pursuant to this subsection shall be levied only
6	upon the amounts of Oklahoma taxable income in excess of:
7	1. Ten Thousand Dollars (\$10,000.00) for taxpayers having a
8	single or married filing separate filing status; or
9	2. Twenty Thousand Dollars (\$20,000.00) for taxpayers having a
10	married joint return filing status, head of household or qualifying
11	widow filing status.
12	No deduction for federal income taxes paid shall be allowed to
13	any taxpayer to arrive at taxable income.
14	D. <u>Individuals. 1. Except as otherwise provided by this</u>
15	subsection, for all taxable years beginning on or after January 1,
16	2025, a tax is hereby imposed upon the Oklahoma taxable income of
17	every resident or nonresident individual, which tax shall be four
18	and four-tenths percent (4.4%) reduced by 0.233333, for purposes of
19	any reduction, for any income tax year beginning on the January 1
20	date immediately succeeding a fiscal year ending on the preceding
21	June 30 for which the State Board of Equalization makes a
22	certification, at its December meeting, that total tax collections
23	for such fiscal year exceeded the total tax collections for the

immediately preceding fiscal year by Four Hundred Million Dollars

(\$400,000,000.00) or more. Subject to the determinations regarding the increase in total tax collections as prescribed by this paragraph, the reductions prescribed by this paragraph shall be made for all applicable income tax years until the rate of individual income tax equals three percent (3.0%). After the sixth reduction in the rate of four and four-tenths percent (4.4%), the tax rate shall be deemed to be three percent (3.0%) for purposes of this subsection.

2. If the individual income tax rate reaches three percent (3.0%) as provided by paragraph 1 of this subsection, such income tax rate shall be in effect for the income tax year beginning on the January 1 date immediately following the income tax year for which the rate of income tax was 3.23335 percent, and the rate of three percent (3.0%) shall be reduced each succeeding income tax year by 0.3, such subtraction to be made from the whole number three (3). Such reduction shall be made for each of the ten (10) succeeding income tax years, each beginning January 1, until the rate of individual income tax equals zero percent (0%).

E. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such

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nonresident aliens as determined under the provision of the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and the payee's Social Security account number, if any, the total amount paid subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

E. F. Corporations. For all taxable years beginning after

December 31, 2021, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or

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deriving income from sources within this state in an amount equal to four percent (4%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

F oup G. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection P F of this section, for all taxable years beginning after December 31, 2021, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of four percent (4%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to four percent (4%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to

each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and the payee's Social Security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

G. H. Fiduciaries. A tax is hereby imposed upon the Oklahoma taxable income of every trust and estate at the same rates as are provided in subsection B $\frac{\text{or}}{L}$ C, or D of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

H- I. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A, B ex. C. or D of this section, as applicable there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A, B ex. C, or D of this section.

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For purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 2. AMENDATORY 68 O.S. 2021, Section 2355.1P-4,

is amended to read as follows:

Section 2355.1P-4 A. For tax years beginning on or after January 1, 2022, there is hereby levied on each electing pass-through entity the pass-through entity tax which shall be calculated as follows:

- 1. With regard to each member of an electing pass-through entity, the electing pass-through entity shall multiply such member's Oklahoma distributive share of the electing pass-through entity's Oklahoma net entity income for the tax year by:
 - a. the highest Oklahoma marginal income tax rate levied on the taxable income of natural persons pursuant to Section 2355 of this title if the member is an individual, trust, or estate,
 - b. four percent (4%) if the member is classified as a corporation pursuant to the Internal Revenue Code, and is not classified as an S corporation,
 - c. four percent (4%) if the member is a pass-through entity,

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- d. four percent (4%) if the member is a financial institution subject to tax imposed pursuant to the provisions of Section 2370 of this title, and
- e. the highest Oklahoma marginal income tax rate that would be applicable to any item of the electing pass—through entity's income or gain without the election made pursuant to subsection F of this section, if the member is an organization described in Section 2359 of this title; and
- 2. The electing pass-through entity shall aggregate the amounts determined with respect to all members pursuant to paragraph 1 of this subsection and the pass-through entity tax for the applicable tax year shall be equal to such aggregated tax amount for the tax year with respect to which the election has been made.
- B. Sections 2385.29, 2385.30 and 2385.31 of this title shall not be applicable to an electing pass-through entity.
- C. The pass-through entity tax shall be due and payable on the same date as provided for the filing of the electing pass-through entity's Oklahoma income tax return, and for tax years beginning on or after January 1, 2020, estimated tax payments shall be required as provided in Section 2385.9 of this title.
- D. If the pass-through entity election results in a net entity loss for Oklahoma income tax purposes in any tax year, the net entity loss may be carried back and carried forward by the electing

- pass-through entity for Oklahoma income tax purposes as set forth in subparagraph b of paragraph 3 of subsection A of Section 2358 of this title.
- E. Notwithstanding paragraph 2 of subsection C of Section 2368 of this title, a nonresident individual who is a member of an electing pass-through entity is not required to file an Oklahoma income tax return, if, for the taxable year, the only source of income allocable or apportionable to this state for the member, or, if a joint income tax return is filed, the member and his or her spouse, is from one or more electing pass-through entities, and each electing pass-through entity files and pays the taxes due under this section.
- F. Any entity required to file an Oklahoma partnership income tax return or an Oklahoma S corporation income tax return may elect to become an electing pass-through entity. The election shall be made on such form and in such manner as the Oklahoma Tax Commission may prescribe, and any election under this subsection shall have priority over and revoke any election to file a composite Oklahoma partnership return or requirement of a Subchapter S corporation to report and pay tax on behalf of a nonresident shareholder for the same tax year.
- G. Pursuant to procedures prescribed by the Tax Commission, if the amount of tax required to be paid by a pass-through entity pursuant to the provisions of this section is not paid when due, the

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- Oklahoma Tax Commission may revoke the pass-through entity's election under subsection F of this section effective for the first year for which the tax is not paid.
- 4 The election authorized by the provisions of this section Η. 5 shall be made pursuant to procedures prescribed by the Tax 6 Commission and shall be filed (i) within sixty (60) days of 7 enactment and pursuant to procedures prescribed by the Oklahoma Tax 8 Commission for any income tax year beginning on or after January 1, 9 2019, and prior to January 1, 2020, or (ii) for any income tax year 10 beginning on or after January 1, 2020, at any time during the 11 preceding tax year or two (2) months and fifteen (15) days after the 12 beginning of the tax year. Any such election shall be binding until 13 revoked pursuant to procedures prescribed by the Tax Commission. 14 The effective date of a revocation (i) made within two (2) months 15 and fifteen (15) days of the electing pass-through entity's taxable 16 year shall be the first day of such taxable year and (ii) made 17 during the electing pass-through entity's taxable year but after 18 such fifteenth day shall be effective on the first day of the 19 following taxable year. No election made by a pass-through entity 20 with respect to income tax to be paid by such entity using the 21 calculations prescribed by this section shall be binding on any 22 other pass-through entity, and each pass-through entity shall be 23 able to make an election under the provisions of this act 24 independently.

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SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6701 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

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- 1. "Megawatt-hour" means the energy equivalent of one million (1,000,000) watts consumed within a period of one (1) hour;
- 2. "Renewable power" means the production of electricity from a source that is not depleted when used, including but not limited to wind power, solar power, geothermal energy, biomass, and hydroelectric power; and
- 3. "Renewable power business" means any for-profit business enterprise engaged in the wholesale production of electricity by means of renewable power.
- SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6702 of Title 68, unless there is created a duplication in numbering, reads as follows:
- A. Effective January 1, 2025, there shall be imposed a levy of One Dollar (\$1.00) per megawatt-hour upon electricity produced by a renewable power business within the state.
- B. The tax shall be due and owing not later than the fifteenth day of the month immediately following the month during which the electricity was produced.
- C. The Oklahoma Tax Commission shall prescribe a form for use in reporting the tax imposed pursuant to the provisions of this act.

- D. The renewable power business shall timely file the report and make remittance of the tax as required by this section. Failure to timely file the report shall result in a fine of One Hundred Dollars (\$100.00) per day for each day the return remains unfiled not to exceed a maximum of sixty (60) days.
- E. Failure to remit the tax to the Tax Commission as required pursuant to the provisions of this section shall result in a penalty equal to ten percent (10%) of the principal amount of the monthly tax amount due and owing. The penalty shall become part of the principal amount of the tax due and owing.
- SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6703 of Title 68, unless there is created a duplication in numbering, reads as follows:
- A. Any renewable power business subject to the tax imposed pursuant to the provisions of this act shall be required to file an annual report with the Oklahoma Tax Commission which summarizes the total amount of electric power produced from any and all renewable power facilities owned by the renewable power business within the state for the period of January 1 through December 31 of the year prior to the year in which the report is filed as required by this section. The summary shall include the amount of electric power produced each month by each renewable power facility device owned by the renewable power business in the state.

1	B. The Oklahoma Tax Commission shall prescribe a form for the
2	report required by this section. The report shall be filed with the
3	Oklahoma Tax Commission not later than February 15 each year
4	covering the electric power produced by renewable power facilities
5	owned by a renewable power business located in the state for the
6	preceding calendar year.
7	SECTION 6. NEW LAW A new section of law to be codified
8	in the Oklahoma Statutes as Section 6704 of Title 68, unless there
9	is created a duplication in numbering, reads as follows:
10	The monies derived from taxes, fines, and penalties imposed
11	pursuant to the provisions of this act shall be apportioned to the
12	General Revenue Fund.
13	SECTION 7. Sections 1 and 2 of this act shall become effective
14	January 1, 2024.
15	SECTION 8. Sections 3 through 6 of this act shall become
16	effective November 1, 2024.
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18	COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/26/2024 - DO PASS, As Amended.
19	As Amended.
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