

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1501

By: Paxton

AS INTRODUCED

An Act relating to income tax credit; creating the Oklahoma Geothermal Investment Affordability Act; providing short title; defining terms; providing tax credit for qualified geothermal projects; specifying credit amounts; limiting credit amount; providing for transfer of credit earned by nontaxable entities; requiring allocation of credit to certain members of entity; exempting certain entities from retaliatory tax; allowing the carry forward of unused credit for certain period; requiring submission of certain information to verify eligibility; requiring the recapture of certain credits; authorizing the Oklahoma Tax Commission to require certain application to determine eligibility; directing the Commission to promulgate rules; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.407 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Geothermal Investment Affordability Act".

B. As used in this section:

1 1. "Federal geothermal energy tax credit" means the federal tax
2 credit provided in Section 26 U.S.C. Section 48E as applied to
3 eligible geothermal projects as described in Section 26 U.S.C.
4 Section 48, as amended;

5 2. "Oklahoma Geothermal Investment Affordability Tax Credit"
6 means the tax credit created by this section;

7 3. "Qualified geothermal project" means a project related to
8 energy property which uses the ground or groundwater as a thermal
9 energy source to heat a structure or as a thermal energy sink to
10 cool a structure; and

11 4. "Taxpayer" means a person, firm, or corporation subject to
12 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes
13 or an insurance company subject to the tax imposed by Sections 624
14 and 628 of Title 36 of the Oklahoma Statutes or other financial
15 institution subject to the tax imposed by Section 2370 of Title 68
16 of the Oklahoma Statutes.

17 C. 1. There is hereby created for tax years 2025 through 2034,
18 a tax credit for qualified projects placed in service in this state
19 increasing geothermal capacity, as follows:

20 a. a base credit amount equal to Five Hundred Dollars
21 (\$500.00) per ton of increased geothermal capacity,

22 and

23 b. credit enhancements as follows:
24
25

1 (1) an additional Five Hundred Dollars (\$500.00) per
2 ton of increased geothermal capacity for projects
3 where forty percent (40%) or more of the
4 materials and manufactured products of the
5 project were produced in this state,

6 (2) an additional Five Hundred Dollars (\$500.00) per
7 ton of increased geothermal capacity for projects
8 located on tribal land, and

9 (3) an additional Five Hundred Dollars (\$500.00) per
10 ton of increased geothermal capacity for projects
11 located in a low-income community. For purposes
12 of this paragraph, "low-income community" means:

13 (a) any population census tract where the
14 poverty rate for such tract is twenty
15 percent (20%) or greater,

16 (b) in the case of a tract not located within a
17 metropolitan area, the median family income
18 for such tract does not exceed eighty
19 percent (80%) of the statewide median
20 income, or

21 (c) in the case of a tract located within a
22 metropolitan area, the median family income
23 for such tract does not exceed eighty
24 percent (80%) of the greater of the

1 statewide median family income or the
2 metropolitan area median family income.

3 2. For qualified projects placed in service after the effective
4 date of this act, the amount of total state tax credits utilized
5 under the provisions of this act shall not exceed Twenty Million
6 Dollars (\$20,000,000.00).

7 D. Any nontaxable entities, including agencies of the State of
8 Oklahoma or political subdivisions thereof, shall be eligible to
9 establish a transferable tax credit in the amount provided in
10 subsection C of this section. The tax credit shall be a property
11 right available to a state agency or political subdivision of this
12 state to transfer to the contractor associated with the applicable
13 qualified geothermal project, who may subsequently utilize the tax
14 credits, whether individual or corporate, and who shall have an
15 actual or anticipated income tax liability under Section 2355 of
16 Title 68 of the Oklahoma Statutes. These tax credit provisions are
17 authorized as an incentive to this state and its agencies and
18 political subdivisions to encourage the expenditure of funds in the
19 development, construction, and utilization of geothermal projects as
20 described in this act.

21 E. A taxpayer owning an interest in an investment in a
22 qualified project shall be allowed the credit provided in this
23 section for tax year 2025 and subsequent tax years, which tax
24 credits shall be allocated among some or all of the partners,

1 members, or shareholders of the taxpayer owning such interest in any
2 manner agreed to by such partners, members, or shareholders. Such
3 taxpayer may assign its interest in the investment.

4 F. An insurance company claiming a credit against state premium
5 tax or retaliatory tax or any other tax imposed by Section 624 or
6 628 of Title 36 of the Oklahoma Statutes shall not be required to
7 pay any additional retaliatory tax under Section 628 of Title 36 of
8 the Oklahoma Statutes as a result of claiming the credit. The
9 credit may fully offset any retaliatory tax imposed by Section 628
10 of Title 36 of the Oklahoma Statutes.

11 G. Any credit claimed but not used in a taxable year may be
12 carried forward two (2) subsequent taxable years.

13 H. The owner of a qualified project eligible for the credit
14 authorized by this section shall submit, at the time of filing, the
15 tax return with the Oklahoma Tax Commission, along with any
16 additional information requested by the Oklahoma Tax Commission to
17 determine eligibility for credits offered under the provisions of
18 this act.

19 I. If under Section 42 of the Internal Revenue Code of 1986, as
20 amended, a portion of any related federal geothermal energy tax
21 credits taken on a qualified project is required to be recaptured
22 during the first ten (10) years after a project is placed in
23 service, the taxpayer claiming the credits with respect to such
24 project shall also be required to recapture a portion of such

1 credits. The amount of Oklahoma Geothermal Investment Affordability
2 Tax Credits subject to recapture shall be proportionally equal to
3 the amount of federal geothermal energy tax credits subject to
4 recapture.

5 J. The Oklahoma Tax Commission may require the filing of an
6 application for prequalification or request additional documentation
7 necessary to determine the accuracy and eligibility for a tax credit
8 claimed under the provisions of this act.

9 K. The Oklahoma Tax Commission shall promulgate rules as
10 necessary to administer the provisions of this act, including, but
11 not limited to, implementation of an advanced allocation
12 prequalification application process in order to administer the cap
13 on total credits as established in paragraph 2 of subsection C of
14 this section.

15 SECTION 2. This act shall become effective November 1, 2024.

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