

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 484

By: Paxton of the Senate

and

McDugle of the House

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9 COMMITTEE SUBSTITUTE

10 [revenue and taxation - Oklahoma Geothermal

11 Investment Affordability Act - tax credit -

12 effective date]

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

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

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

22 B. As used in this section:

23 1. "Federal geothermal energy tax credit" means the federal tax
24 credit provided in Section 26 U.S. Code Section 48E as applied to

1 eligible geothermal projects as described in Section 26 U.S. Code
2 Section 48, as amended;

3 4. "Oklahoma Geothermal Investment Affordability Tax Credit"
4 means the tax credit created by this section;

5 5. "Qualified geothermal project" means a project related to
6 energy property which uses the ground or ground water as a thermal
7 energy source to heat a structure or as a thermal energy sink to
8 cool a structure; and

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

15 C. 1. There is hereby created for state tax years beginning on
16 or after January 1, 2024, and ending no later than December 31,
17 2033, a tax credit for qualified projects placed in service in this
18 state. Such credit shall be equal to Five Hundred Dollars (\$500.00)
19 per ton of increased geothermal capacity resulting from a qualified
20 project.

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

1 D. Any nontaxable entities, including agencies of the State of
2 Oklahoma or political subdivisions thereof, shall be eligible to
3 establish a transferable tax credit in the amount provided in
4 subsection C of this section. Such tax credit shall be a property
5 right available to a state agency or political subdivision of this
6 state to transfer or sell to a taxable entity, whether individual or
7 corporate, who shall have an actual or anticipated income tax
8 liability under Section 2355 of Title 68 of the Oklahoma Statutes.
9 These tax credit provisions are authorized as an incentive to the
10 State of Oklahoma, its agencies and political subdivisions to
11 encourage the expenditure of funds in the development, construction
12 and utilization of geothermal projects as described in this act.

13 E. A taxpayer owning an interest in an investment in a
14 qualified project shall be allowed Oklahoma Geothermal Investment
15 Affordability Tax Credits under this section for tax years beginning
16 on or after January 1, 2024, which tax credits shall be allocated
17 among some or all of the partners, members, or shareholders of the
18 taxpayer owning such interest in any manner agreed to by such
19 partners, members or shareholders. Such taxpayer may assign its
20 interest in the investment.

21 F. An insurance company claiming a credit against state premium
22 tax or retaliatory tax or any other tax imposed by Sections 624 or
23 628 of Title 36 of the Oklahoma Statutes shall not be required to
24 pay any additional retaliatory tax under Section 628 of Title 36 of

1 the Oklahoma Statutes as a result of claiming the credit. The
2 credit may fully offset any retaliatory tax imposed by Section 628
3 of Title 36 of the Oklahoma Statutes.

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

6 H. The owner of a qualified project eligible for the credit
7 authorized by this section shall submit, at the time of filing the
8 tax return with the Oklahoma Tax Commission, along with any
9 additional information requested by the Oklahoma Tax Commission to
10 determine eligibility for credits offered under the provisions of
11 this act.

12 I. If under Section 42 of the Internal Revenue Code of 1986, as
13 amended, a portion of any related federal geothermal energy tax
14 credits taken on a qualified project is required to be recaptured
15 during the first ten (10) years after a project is placed in
16 service, the taxpayer claiming Oklahoma Geothermal Investment
17 Affordability Tax Credits with respect to such project shall also be
18 required to recapture a portion of such credits. The amount of
19 Oklahoma Geothermal Investment Affordability Tax Credits subject to
20 recapture shall be proportionally equal to the amount of federal
21 geothermal energy tax credits subject to recapture.

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

3 K. The Oklahoma Tax Commission shall promulgate rules as
4 necessary to administer the provisions of this act; including but
5 not limited to, implementation of an advanced allocation
6 prequalification application process in order to administer the cap
7 on total credits as established in subsection C of this section.

8 SECTION 2. This act shall become effective January 1, 2024.

9 59-1-8287 JM 04/20/23
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