

EHB 2159

THE STATE SENATE
Thursday, March 23, 2006

ENGROSSED

House Bill No. 2159

As Amended

ENGROSSED HOUSE BILL NO. 2159 - By: ADKINS, DORMAN, MILLER (Ray), SMITHSON, BRANNON, WALKER and BROWN of the House and CORN of the Senate.

[revenue and taxation - amending 68 O.S., Section 2357.11 - Oklahoma Coal Production Incentive Act - effective date - emergency]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.11, as last amended by Section 5, Chapter 413, O.S.L. 2005 (68 O.S. Supp. 2005, Section 2357.11), is amended to read as follows:

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

B. For tax years beginning on or after January 1, 1993, and ending on or before December 31, 2007, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state furnishing water, heat, light or power to the state or its citizens, or for every person in

1 this state burning coal to generate heat, light or power for use in
2 manufacturing operations located in this state. The credit shall be
3 in the amount of Two Dollars (\$2.00) per ton for each ton of
4 Oklahoma-mined coal purchased by such person.

5 C. For tax years beginning on or after January 1, 1995, ~~and~~
6 ~~ending on or before December 31, 2007,~~ there shall be allowed, in
7 addition to the credits allowed pursuant to subsection B of this
8 section, a credit against the tax imposed by Section 1803 or Section
9 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma
10 Statutes for every person in this state which:

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

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

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

19 D. Except as otherwise provided in subsection E of this
20 section, for tax years beginning on or after January 1, 2001, there
21 shall be allowed a credit against the tax imposed by Section 1803 or
22 Section 2355 of this title or Section 624 or 628 of Title 36 of the
23 Oklahoma Statutes for every person in this state primarily engaged

1 in mining, producing or extracting coal, and holding a valid permit
2 issued by the Oklahoma Department of Mines in the amount of ninety-
3 five cents (\$0.95) per ton for each ton of coal mined, produced or
4 extracted in this state by such person on or after January 1, 2001.

5 E. In addition to the credit allowed pursuant to the provisions
6 of subsection D of this section and except as otherwise provided in
7 subsection F of this section, for tax years beginning on or after
8 January 1, 2001, there shall be allowed a credit against 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 for every person in this
11 state primarily engaged in mining, producing or extracting coal, and
12 holding a valid permit issued by the Oklahoma Department of Mines in
13 the amount of ninety-five cents (\$0.95) per ton for each ton of coal
14 mined, produced or extracted from thin seams in this state by such
15 person; provided, the credit shall not apply to such coal sold to
16 any consumer who purchases at least seven hundred fifty thousand
17 (750,000) tons of Oklahoma-mined coal per year.

18 F. In addition to the credit allowed pursuant to the provisions
19 of subsection D of this section and except as otherwise provided in
20 subsection G of this section, for tax years beginning on or after
21 January 1, 2005, there shall be allowed a credit against the tax
22 imposed by Section 1803 or Section 2355 of this title or that
23 portion of the tax imposed by Section 624 or 628 of Title 36 of the

1 Oklahoma Statutes, which is actually paid to and placed into the
2 General Revenue Fund, in the amount of ninety-five cents (\$0.95) per
3 ton for each ton of coal mined, produced or extracted from thin
4 seams in this state by such person on or after July 1, 2005.

5 G. The credits provided in subsections D and E of this section
6 shall not be allowed for coal mined, produced or extracted in any
7 month in which the average price of coal is Forty-five Dollars
8 (\$45.00) or more per ton, excluding freight charges, as determined
9 by the Oklahoma Tax Commission.

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

1 years for which the credit may be claimed. The Tax Commission may
2 promulgate rules to permit verification of the validity and
3 timeliness of a tax credit claimed upon a tax return pursuant to
4 this subsection but shall not promulgate any rules which unduly
5 restrict or hinder the transfers of such tax credit.

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

1 promulgate any rules which unduly restrict or hinder the transfers
2 of such tax credit.

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

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

12 SECTION 2. This act shall become effective July 1, 2006.

13 SECTION 3. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-21-06 - DO PASS,
18 As Amended.