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THE STATE SENATE  
Monday, April 10, 2006

ENGROSSED  
House Bill No. 2469  
As Amended

ENGROSSED HOUSE BILL NO. 2469 - By: CASE, COVEY, LINDLEY, BLACKBURN,  
McCARTER, DORMAN, WALKER, BLACKWELL and ARMES of the House and BASS,  
EASLEY and CAPPS of the Senate.

[ revenue and taxation - amending 68 O.S., Section 2357.32A  
- Oklahoma income tax credits - zero-emission facilities -  
effective date ]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.32A, as  
amended by Section 2, Chapter 313, O.S.L. 2002 (68 O.S. Supp. 2005,  
Section 2357.32A), is amended to read as follows:

Section 2357.32A A. For tax years beginning on or after  
January 1, 2003, there shall be allowed a credit against the tax  
imposed by Section 2355 of this title to a taxpayer for the  
taxpayer's production and sale to an unrelated person of electricity  
generated by zero-emission facilities located in this state. As  
used in this section:

1. "Electricity generated by zero-emission facilities" means  
electricity that is exclusively produced by any facility located in  
this state with a rated production capacity of ~~fifty megawatts (50~~  
~~mw)~~ one megawatt (1 mw) or greater, constructed for the generation

1 of electricity and placed in operation after June 4, 2001, which  
2 utilizes eligible renewable resources as its fuel source. The  
3 construction and operation of such facilities shall result in no  
4 pollution or emissions that are or may be harmful to the  
5 environment, pursuant to a determination by the Department of  
6 Environmental Quality; and

7 2. "Eligible renewable resources" means resources derived from:

- 8 a. wind,
- 9 b. moving water,
- 10 c. sun, or
- 11 d. geothermal energy.

12 B. For facilities placed in operation on or after January 1,  
13 2003, and before January 1, 2006, the electricity generated on or  
14 after January 1, 2003, but prior to January 1, 2004, the amount of  
15 the credit shall be seventy-five one hundredths of one cent  
16 (\$0.0075) for each kilowatt-hour of electricity generated by zero-  
17 emission facilities. For electricity generated on or after January  
18 1, 2004, but prior to January 1, 2007, the amount of the credit  
19 shall be fifty one hundredths of one cent (\$0.0050) per kilowatt-  
20 hour for electricity generated by zero-emission facilities. For  
21 electricity generated on or after January 1, 2007, but prior to  
22 January 1, 2012, the amount of the credit shall be twenty-five one  
23 hundredths of one cent (\$0.0025) per kilowatt-hour of electricity

1 generated by zero-emission facilities. For facilities placed in  
2 operation on or after January 1, 2006, and before January 1, 2016,  
3 for the electricity generated by these facilities the amount of the  
4 credit shall be fifty one hundredths of one cent (\$0.0050) for each  
5 kilowatt hour of electricity generated by zero-emission facilities.

6 C. Credits may be claimed with respect to electricity generated  
7 on or after January 1, 2003, during a ten-year period following the  
8 date that the facility is placed in operation on or after June 4,  
9 2001.

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

16 E. Any nontaxable entities, including agencies of the State of  
17 Oklahoma or political subdivisions thereof, shall be eligible to  
18 establish a transferable tax credit in the amount provided in  
19 subsection B of this section. Such tax credit shall be a property  
20 right available to a state agency or political subdivision of this  
21 state to transfer or sell to a taxable entity, whether individual or  
22 corporate, who shall have an actual or anticipated income tax  
23 liability under Section 2355 of this title. These tax credit

1 provisions are authorized as an incentive to the State of Oklahoma,  
2 its agencies and political subdivisions to encourage the expenditure  
3 of funds in the development, construction and utilization of  
4 electricity from zero-emission facilities as defined in subsection A  
5 of this section.

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

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

8 G. For electricity generation produced and sold 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 2355 of this title on or after July 1 of the  
13 following calendar year.

14 SECTION 2. This act shall become effective January 1, 2007.

15 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-4-06 - DO PASS,  
16 As Amended and Coauthored.