

3 Senate Bill No. 1082  
4 As Amended

5 SENATE BILL NO. 1082 - By: CORN of the Senate and ADKINS of the  
6 House.

7 [ revenue and taxation - Oklahoma Coal Production Incentive  
8 Act - deleting expiration date - effective date -  
9 emergency ]

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

11 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.11, as  
12 last amended by Section 5, Chapter 413, O.S.L. 2005 (68 O.S. Supp.  
13 2005, Section 2357.11), is amended to read as follows:

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

18 B. For tax years beginning on or after January 1, 1993, ~~and~~  
19 ~~ending on or before December 31, 2007,~~ there shall be allowed a  
20 credit against the tax imposed by Section 1803 or Section 2355 of  
21 this title or Section 624 or 628 of Title 36 of the Oklahoma  
22 Statutes for every person in this state furnishing water, heat,  
23 light or power to the state or its citizens, or for every person in  
24 this state burning coal to generate heat, light or power for use in  
25 manufacturing operations located in this state. The credit shall be

1 in the amount of Two Dollars (\$2.00) per ton for each ton of  
2 Oklahoma-mined coal purchased by such person.

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

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

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

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

17 D. Except as otherwise provided in subsection E of this  
18 section, for tax years beginning on or after January 1, 2001, there  
19 shall be allowed a credit against the tax imposed by Section 1803 or  
20 Section 2355 of this title or Section 624 or 628 of Title 36 of the  
21 Oklahoma Statutes for every person in this state primarily engaged  
22 in mining, producing or extracting coal, and holding a valid permit  
23 issued by the Oklahoma Department of Mines in the amount of ninety-

1 five cents (\$0.95) per ton for each ton of coal mined, produced or  
2 extracted in this state by such person on or after January 1, 2001.

3 E. In addition to the credit allowed pursuant to the provisions  
4 of subsection D of this section and except as otherwise provided in  
5 subsection F of this section, for tax years beginning on or after  
6 January 1, 2001, there shall be allowed a credit against the tax  
7 imposed by Section 1803 or Section 2355 of this title or Section 624  
8 or 628 of Title 36 of the Oklahoma Statutes for every person in this  
9 state primarily engaged in mining, producing or extracting coal, and  
10 holding a valid permit issued by the Oklahoma Department of Mines in  
11 the amount of ninety-five cents (\$0.95) per ton for each ton of coal  
12 mined, produced or extracted from thin seams in this state by such  
13 person; provided, the credit shall not apply to such coal sold to  
14 any consumer who purchases at least seven hundred fifty thousand  
15 (750,000) tons of Oklahoma-mined coal per year.

16 F. In addition to the credit allowed pursuant to the provisions  
17 of subsection D of this section and except as otherwise provided in  
18 subsection G of this section, for tax years beginning on or after  
19 January 1, 2005, there shall be allowed a credit against the tax  
20 imposed by Section 1803 or Section 2355 of this title or that  
21 portion of the tax imposed by Section 624 or 628 of Title 36 of the  
22 Oklahoma Statutes, which is actually paid to and placed into the  
23 General Revenue Fund, in the amount of ninety-five cents (\$0.95) per

1 ton for each ton of coal mined, produced or extracted from thin  
2 seams in this state by such person on or after July 1, 2005.

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

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

1 timeliness of a tax credit claimed upon a tax return pursuant to  
2 this subsection but shall not promulgate any rules which unduly  
3 restrict or hinder the transfers of such tax credit.

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

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-21-06 - DO PASS,  
16 As Amended and Coauthored.