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February 26, 2024

AS AMENDED

SENATE BILL NO. 1501

By: Paxton

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[ income tax credit - geothermal projects -
eligibility - application - rules - codification -
effective date ]
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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. "Federal geothermal energy tax credit" means the federal tax credit provided in Section 26 U.S.C. Section 48E as applied to eligible geothermal projects as described in Section 26 U.S.C. Section 48, as amended;

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

3. "Qualified geothermal project" means a project related to energy property which uses the ground or groundwater as a thermal

1 energy source to heat a structure or as a thermal energy sink to
2 cool a structure; and

3 4. "Taxpayer" means a person, firm, or corporation subject to
4 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes
5 or an insurance company subject to the tax imposed by Sections 624
6 and 628 of Title 36 of the Oklahoma Statutes or other financial
7 institution subject to the tax imposed by Section 2370 of Title 68
8 of the Oklahoma Statutes.

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

12 a. a base credit amount equal to Five Hundred Dollars
13 (\$500.00) per ton of increased geothermal capacity,
14 and

15 b. credit enhancements as follows:

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

21 (2) an additional Five Hundred Dollars (\$500.00) per
22 ton of increased geothermal capacity for projects
23 located on tribal land, and
24

1 (3) an additional Five Hundred Dollars (\$500.00) per
2 ton of increased geothermal capacity for projects
3 located in a low-income community. For purposes
4 of this paragraph, "low-income community" means:
5 (a) any population census tract where the
6 poverty rate for such tract is twenty
7 percent (20%) or greater,
8 (b) in the case of a tract not located within a
9 metropolitan area, the median family income
10 for such tract does not exceed eighty
11 percent (80%) of the statewide median
12 income, or
13 (c) in the case of a tract located within a
14 metropolitan area, the median family income
15 for such tract does not exceed eighty
16 percent (80%) of the greater of the
17 statewide median family income or the
18 metropolitan area median family income.

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

23 D. Any nontaxable entities, including agencies of the State of
24 Oklahoma or political subdivisions thereof, shall be eligible to

1 establish a transferable tax credit in the amount provided in
2 subsection C of this section. The tax credit shall be a property
3 right available to a state agency or political subdivision of this
4 state to transfer to the contractor associated with the applicable
5 qualified geothermal project, who may subsequently utilize the tax
6 credits, whether individual or corporate, and who shall have an
7 actual or anticipated income tax liability under Section 2355 of
8 Title 68 of the Oklahoma Statutes. These tax credit provisions are
9 authorized as an incentive to this state and its agencies and
10 political subdivisions to encourage the expenditure of funds in the
11 development, construction, and utilization of geothermal projects as
12 described in this act.

13 E. A taxpayer owning an interest in an investment in a
14 qualified project shall be allowed the credit provided in this
15 section for tax year 2025 and subsequent tax years, which tax
16 credits shall be allocated among some or all of the partners,
17 members, or shareholders of the taxpayer owning such interest in any
18 manner agreed to by such partners, members, or shareholders. Such
19 taxpayer may assign its interest in the investment.

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

1 credit may fully offset any retaliatory tax imposed by Section 628
2 of Title 36 of the Oklahoma Statutes.

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

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

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

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

1 K. The Oklahoma Tax Commission shall promulgate rules as
2 necessary to administer the provisions of this act, including, but
3 not limited to, implementation of an advanced allocation
4 prequalification application process in order to administer the cap
5 on total credits as established in paragraph 2 of subsection C of
6 this section.

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

8 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
9 February 26, 2024 - DO PASS AS AMENDED
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