

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1234

By: McBride

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; enacting the
8 Oklahoma Zero-Emission Facility Energy Tax Act of
9 2019; stating purpose of tax pursuant to Section 19
10 of Article X of the Oklahoma Constitution; defining
11 terms; imposing levy of tax on certain electrical
12 power production; providing levy in addition to and
13 not in lieu of certain other taxes; providing
14 exemption from tax for certain wind turbines;
15 requiring remittance of tax; specifying persons or
16 entities required to remit; providing for monthly
17 remittance; providing for penalty; providing for
18 imposition of interest; providing for apportionment
19 of revenue to the General Revenue Fund; and providing
20 for codification.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6201 of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

Sections 1 through 8 of this act shall be known and may be cited
as the "Oklahoma Zero-Emission Facility Energy Tax Act of 2019".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6202 of Title 68, unless there
is created a duplication in numbering, reads as follows:

1 As required by Section 19 of Article X of the Oklahoma
2 Constitution, the purpose of the levy imposed pursuant to the
3 provisions of this act is to provide revenue for general government
4 functions.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6203 of Title 68, unless there
7 is created a duplication in numbering, reads as follows:

8 As used in this act:

9 1. "Commercial wind turbine" means a device manufactured for
10 the purpose of producing electric power by means of wind energy and
11 which converts the energy from naturally occurring winds into
12 mechanical energy through the rotation of blades or rotors and the
13 production of an electric current and which has a nameplate capacity
14 of more than fifty kilowatts (50 kw); and

15 2. "Manufacturer nameplate capacity" means the maximum amount
16 of electric power capable of being produced by a commercial wind
17 turbine according to information affixed to a wind turbine or its
18 associated structures and which nameplate is installed or affixed by
19 the business entity which manufactured the wind turbine.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6204 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 A. There is hereby levied upon the production of electricity by
24 each commercial wind turbine in this state which is a zero-emission

1 facility, and any other zero-emission facility as defined by Section
2 2357.32A of Title 68 of the Oklahoma Statutes, a tax of One Dollar
3 (\$1.00) for each megawatt hour, or portion thereof, which is
4 produced in this state from and after the effective date of this
5 section. The tax shall be paid by the person or entity producing
6 such electricity from a commercial wind turbine or other zero-
7 emission facility as defined by Section 2357.32A of Title 68 of the
8 Oklahoma Statutes.

9 B. The tax levied pursuant to this section is in addition to,
10 and is not in lieu of, any other taxes or fees currently levied or
11 assessed, or levied or assessed in the future, on each commercial
12 wind turbine in the state which is a zero-emission facility, or any
13 other zero-emission facility as defined by Section 2357.32A of Title
14 68 of the Oklahoma Statutes including, but not limited to, ad
15 valorem taxes.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6205 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. No wind turbine with a nameplate capacity of less than fifty
20 kilowatts (50 kw) shall be subject to the tax imposed pursuant to
21 the provisions of Section 4 of this act.

22 B. No wind turbine located on the private property of one or
23 more natural persons which is attached to a single-family
24 residential dwelling or located in close proximity to the single-

1 family residential dwelling and used, in whole or in part, to supply
2 electric power to the dwelling and its occupants shall be subject to
3 the tax imposed pursuant to Section 4 of this act if the wind
4 turbine has a manufacturer nameplate capacity of less than fifty
5 kilowatts (50 kw).

6 C. No wind turbine located on the property of a for-profit
7 business entity, other than a business entity engaged in the
8 production of electric power by wind and having the North American
9 Industry Classification Code (NAICS) 221115, which is attached to
10 improvements used by the business entity to conduct its primary
11 business activity or in close proximity to such improvements and the
12 electric power from which is used, in whole or in part, by the
13 business entity to conduct its for-profit business activity shall be
14 subject to the tax imposed pursuant to the provisions of Section 4
15 of this act if the wind turbine has a nameplate capacity of less
16 than fifty kilowatts (50 kw).

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6206 of Title 68, unless there
19 is created a duplication in numbering, reads as follows:

20 The tax imposed pursuant to the provisions of this act shall be
21 remitted by the owner of the commercial wind turbine or other zero-
22 emission facility as defined by Section 2357.32A of Title 68 of the
23 Oklahoma Statutes. The tax shall be remitted monthly and shall be
24 due not later than the twentieth day of the month following the

1 month during which electric power was produced. The tax shall be
2 remitted to the Oklahoma Tax Commission on such form as the Tax
3 Commission may prescribe for such purpose.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6207 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 If not paid by the delinquent date, there shall be imposed a
8 penalty equal to ten percent (10%) of the principal amount of tax
9 due and owing and interest computed as provided in Section 217 of
10 Title 68 of the Oklahoma Statutes until the accrued liability is
11 paid.

12 SECTION 8. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6208 of Title 68, unless there
14 is created a duplication in numbering, reads as follows:

15 All revenues derived from the tax imposed pursuant to the
16 provisions of this act shall be apportioned to the General Revenue
17 Fund of the State Treasury.

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