

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 423

Introduced by Nordquist, 7; Davis, 43; Haar, 21; Kolowski, 31.

Read first time January 16, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-27,235, Revised Statutes Cumulative Supplement, 2014; to change a
- 3 renewable energy tax credit; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-27,235, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 77-27,235 (1) For purposes of this section, renewable electric
4 generation facility means an electrical generating facility that is
5 located in this state and qualifies as a community-based energy
6 development project as defined in section 70-1903.

7 (2) Any producer of electricity generated by a new renewable
8 electric generation facility shall earn a renewable energy tax credit.
9 The credit shall be calculated under one of the following two methods:

10 (a) A credit of 1.5 cents for each kilowatt-hour of electricity
11 generated by a renewable electric generation facility that begins
12 commercial operation on or after the effective date of this act. The
13 credit allowed under this subdivision shall be earned for electricity
14 generated during the first ten years of commercial operation of the
15 renewable electric generation facility; or

16 (b) A one-time credit equal to thirty percent of the total cost of
17 construction of any renewable electric generation facility that begins
18 commercial operation on or after the effective date of this act. The
19 credit allowed under this subdivision shall not exceed two million
20 dollars.

21 (3) The producer earning the credit shall select which of the
22 methods described in subsection (2) of this section will be used to
23 calculate the credit, and such selection must be made within the time
24 limitations prescribed in subsection (4) of this section. The producer
25 shall notify the Department of Revenue of its selection.

26 (4) In order to be valid, a selection of the method described in
27 subdivision (2)(a) of this section must be made before the renewable
28 electric generation facility completes its first ten years of commercial
29 operation and a selection of the method described in subdivision (2)(b)
30 of this section must be made within one year after the renewable electric
31 generation facility begins commercial operation.

1 ~~For electricity generated on or after July 14, 2006, and before~~
2 ~~October 1, 2007, the credit shall be .075 cent for each kilowatt-hour of~~
3 ~~electricity generated by a new renewable electric generation facility.~~
4 ~~For electricity generated on or after October 1, 2007, and before January~~
5 ~~1, 2010, the credit shall be .1 cent for each kilowatt-hour of~~
6 ~~electricity generated by a new renewable electric generation facility.~~
7 ~~For electricity generated on or after January 1, 2010, and before January~~
8 ~~1, 2013, the credit shall be .075 cent per kilowatt-hour for electricity~~
9 ~~generated by a new renewable electric generation facility. For~~
10 ~~electricity generated on or after January 1, 2013, the credit shall be .~~
11 ~~05 cent per kilowatt-hour for electricity generated by a new renewable~~
12 ~~electric generation facility. The credit may be earned for production of~~
13 ~~electricity for ten years after the date that the facility is placed in~~
14 ~~operation on or after July 14, 2006.~~

15 ~~(2) For purposes of this section:~~

16 ~~(a) Electricity generated by a new renewable electric generation~~
17 ~~facility means electricity that is exclusively produced by a new~~
18 ~~renewable electric generation facility;~~

19 ~~(b) Eligible renewable resources means wind, moving water, solar,~~
20 ~~geothermal, fuel cell, methane gas, or photovoltaic technology; and~~

21 ~~(c) New renewable electric generation facility means an electrical~~
22 ~~generating facility located in this state that is first placed into~~
23 ~~service on or after July 14, 2006, which utilizes eligible renewable~~
24 ~~resources as its fuel source.~~

25 ~~(5 3) The credit allowed under this section may be used to reduce~~
26 ~~the producer's Nebraska income tax liability under the Nebraska Revenue~~
27 ~~Act of 1967, franchise tax liability under sections 77-3801 to 77-3807,~~
28 ~~or premium and related retaliatory tax liability imposed by section~~
29 ~~44-150 or 77-908 or to obtain a refund of state sales and use taxes paid~~
30 ~~by the producer of electricity generated by a new renewable electric~~
31 ~~generation facility. A claim to use the credit for refund of the state~~

1 ~~sales and use taxes paid, either directly or indirectly, by the producer~~
2 ~~may be filed quarterly for electricity generated during the previous~~
3 ~~quarter by the twentieth day of the month following the end of the~~
4 ~~calendar quarter. The credit may be used to obtain a refund of state~~
5 ~~sales and use taxes paid during the quarter immediately preceding the~~
6 ~~quarter in which the claim for refund is made, except that the amount~~
7 ~~refunded under this subsection shall not exceed the amount of the state~~
8 ~~sales and use taxes paid during the quarter.~~

9 (6) The credit allowed under this section may be transferred, sold,
10 pledged, or assigned multiple times, either in whole or in part, by or to
11 any person or legal entity. The holder of the credit may carry forward
12 any unused portion of the credit for up to seven years after the credit
13 is first earned.

14 (7) A renewable electric generation facility may generate
15 electricity using fuel sources other than those listed in subdivision (1)
16 of section 70-1903, but only electricity generated from the fuel sources
17 listed in such subdivision shall be eligible for the credit allowed under
18 this section.

19 ~~(8 4) The Department of Revenue may adopt and promulgate rules and~~
20 ~~regulations to carry out this section permit verification of the validity~~
21 ~~and timeliness of any renewable energy tax credit claimed.~~

22 ~~(5) The total amount of renewable energy tax credits that may be~~
23 ~~used by all taxpayers shall be limited to fifty thousand dollars without~~
24 ~~further authorization from the Legislature.~~

25 ~~(6) The credit allowed under this section may not be claimed by a~~
26 ~~producer who received a sales tax exemption under section 77-2704.57 for~~
27 ~~the new renewable electric generation facility.~~

28 Sec. 2. Original section 77-27,235, Revised Statutes Cumulative
29 Supplement, 2014, is repealed.