SB 1267 as introduced proposed to amend 68 O.S. § 2357.22 which relates to the Credit for Conversion to Clean Burning Motor Vehicle Fuel Property. Under the introduced version of the proposal, the credit for investments in qualified electric motor vehicle property would only be available for investments made through December 31, 2010. It also limited the hydrogen fuel cell portion of the credit to tax year 2010.

The Floor Substitute moves the language relating to the Credit for Conversion to Clean Burning Motor Vehicle Fuel Property to section 3 of the bill and amends a variety of sections of law as follows:

Section 1 amends O.S. 68 § 1001, modifying the sunset date for each of the gross production tax rebates which are currently set to expire July 1, 2011, for certain deep wells, and July 1, 2012, for the remaining rebate projects. The Floor Substitute proposes to change the sunset date to July 1, 2010, for all projects.

The sunset date represents the expiration period for a well to meet the required criteria for an operator to qualify a project for the tax rebate. Upon being qualified, projects are eligible for the rebate of tax for production periods that may extend beyond the sunset date and range from twenty-eight (28) to sixty (60) months, depending on the type of project.

Amending the sunset date to July 1, 2010, will not have an affect upon gross production tax revenues until fiscal year 2013 at the earliest. Determining a revenue impact associated with this amendment is beyond the scope of the current revenue forecast and therefore, unknown at this time.

Section 2 amending 68 O.S. § 2357.22, contains language from the introduced version relating to the Credit for Conversion to Clean Burning Motor Vehicle Fuel Property. The only change is that the credit expires for investments in the vehicle upon the effective date of the act which is upon passage and approval. In the introduced version the credit for investments in qualified electric motor vehicle property would only be available for investments made through December 31, 2010.

It is estimated for tax year 2010 that approximately $10.8 million in credits will be claimed for certain electric vehicles[1] and $4.8 million in credits will be claimed for hybrid vehicles[2] for a total of $15.6 million in credits for qualified electric motor vehicle property. For purposes of this

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[1]Estimate of December 12, 2009. This estimate is based on receiving a favorable ruling from the Oklahoma Supreme Court for litigation that was pending at that time. The OTC did receive a favorable ruling. It must be noted that we anticipate further challenges to the OTC's limitation of the credit for certain vehicles to be made through the Administrative Hearing Process. The estimate based on an unfavorable ruling could go as high as $15.4 million for tax year 2010.

[2]The U.S. state average is .87 new hybrids per 1,000 residents. (December 2009 Dashboard: Year-End Tally - Published January 20, 2010. http://www.hybridcars.com/hybrid-sales-dashboard/december-2009-dashboard.html) Oklahoma's population for 2009 was 3,687,050, (The 2009 Population Estimate for Oklahoma. http://factfinder.census.gov) so the estimated new hybrids in Oklahoma would be approximately 3,208.

analysis, it is assumed that the measure will be effective June 1, 2010. Electric vehicles purchased after this date will therefore not be eligible to claim the credit on 2010 income tax returns filed in 2011. Assuming equal monthly sales results in approximately $6.5 million of credits for tax year 2010. (5/12 x $15.6 million = $6.5 million). Subtracting $6.5 million from the $15.6 million estimate of the credit under current law results in a potential positive impact of $9.1 million for tax year 2010 for eliminating the qualified electric motor vehicle property credit (including hybrids).

An analysis of the filing patterns of income tax returns is used to convert the tax year 2010 impact to a fiscal year impact. Generally, two-thirds (2/3) of the credit is claimed by the April 15th deadline and the remaining one-third (1/3) is claimed by the October 15th extended due date deadline. Tax year 2010 returns are due to be filed in 2011. For this reason, it is estimated that the impact for FY11 is $6.06 million (2/3 of $9.1 million). Full impact of a positive $15.6 million should occur in FY12.

Sections 3 and 4 - The bill proposes to amend 68 O.S. §§ 2357.62 and 2357.63 of the Small Business Capital Formation Incentive Act, moving the sunset date up from January 1, 2012 to January 1, 2011.

An analysis of the filing patterns of income tax returns is used to convert the tax year 2011 impact to a fiscal year impact. Generally, two-thirds (2/3) of the credit is claimed by the April 15th deadline and the remaining one-third (1/3) is claimed by the October 15th extended due date deadline. Tax year 2011 returns are due to be filed in 2012. For this reason, it is estimated that the impact for FY12 is $6.3 million (2/3 of $9.5 million), and the full impact of $9.5 million in FY13.

Sections 5 and 6 - The bill proposes to amend 68 O.S. §§ 2357.73 and 2357.74 of the Rural Venture Capital Formation Incentive Act, moving the sunset date up from January 1, 2012 to January 1, 2011.

An analysis of the filing patterns of income tax returns is used to convert the tax year 2011 impact to a fiscal year impact. Generally, two-thirds (2/3) of the credit is claimed by the April 15th deadline and the remaining one-third (1/3) is claimed by the October 15th extended due date deadline. Tax year 2011 returns are due to be filed in 2012. For this reason, it is estimated that the impact for FY12 is $21.4 million (2/3 of $32.1 million), and the full impact of $32.1 million in FY13**.**

Section 7 modifies — applicable to exemption applications filed on or after January 1, 2011 — the definition of manufacturing facilities in Section 2902 of Title 68 to include only those facilities engaged in the mechanical or chemical transformation of materials or substances into new products and which are defined or classified in the NAICS Manual under Industry Sector Nos. 31, 32 and 33. Section 7 also strikes the payroll requirement waiver provisions, and the exceptional exemption qualification language for automotive final assembly facilities, computer

data processing, data preparation or information processing services providers[3], and wind electric generation facilities.[4] Further, Section 7 removes the language relating to the sequencing of the five year ad valorem exemption for certain qualifying computer services and data processing facilities[5] receiving an exemption, abatement or incentive through a tax incentive district[6] and removes all references to Section 2902.1 of Title 68.

The estimated impact of the effects of the proposed amendments to Section 2902 of Title 68 on future exemption applications is unknown. However, 2009 exemption claim amounts attributable to facilities qualified under the stricken provisions represent approximately $10,100,000 to be paid in 2010 from the Ad Valorem Reimbursement Fund.

Section 8 amends 68 O.S. § 5013 which relates to the Sales Tax Relief Credit. Specifically this proposal allows for all claims for this credit to be filed by October 15 of the year following the year in which sales tax was paid.

Under current law, those taxpayers with an income tax filing requirement can file their claim for the Sales Tax Relief Credit with an extension (through October 15th). This measure would allow those persons not required to file an income tax return to file for the credit through October 15th, (current deadline is June 30th). It is anticipated that allowing all claimants of the Sales Tax Relief Credit to have an October 15th deadline would have a minimal negative revenue impact in FY11.

Section 9 repeals the duplicate section of Section 2902 of Title 68[7] and therefore there is no estimated revenue impact associated with this Section.

Section 10 repeals Section 2902.1 relating to requirements for applications filed for the five year manufacturing exemption pursuant to subsection C of 2902. There is no estimated revenue impact associated with the repeal of Section 2902.1.

Section 11 repeals Section 2902.3, which waives payroll requirements for certain aircraft manufacturers when specific qualifications are met. There are no outstanding balances to be paid. As the initial application by a qualified aircraft manufacturer is required to be made by September 1, 2005, the language contained in Section 2902.3 is obsolete. There is no estimated revenue impact associated with the repeal of Section 11.

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[3] Classified in Industrial Group Number 7374 of the SIC Manual and U.S. Industry Number 514210 of the NAICS Manual.

[4] As described by NAICS Number 22119.

[5] As defined under Industrial Group Numbers 5112 and 5415, and U.S. Industry Number 334611 and 519130 of the NAICS Manual and which derive at least fifty percent of their annual gross revenues from the sale of a product or services to an out-of-state buyer or consumer, and as defined under Industrial Group Number 5142 of the NAICS Manual which derive at least eighty percent of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

[6] Created pursuant to the Local Development Act by a county having a population of at least five hundred thousand.

[7] Laws 2009, c. 387 § 2.

Section 12 repeals Section 2902.4, which modifies the payroll requirements for certain facilities, engaged in pulp, paper, tissue, and paper board manufacturing adding an investment threshold. Other applicants have qualified pursuant to this Section with existing approved exemption applications as of December 31, 2009, as follows:

County	Company	Exemption	Reimbursement June 2010
Comanche County	Facility #1	XM-1 & 2	$ 91,917.00
Muskogee County	Facility #2	XM-1, 2 & 3	$ 860,076.00
Tulsa County	Facility #3	XM-1, 2 & 3	$ 422,159.00
			$1,374,152.00

The 2009 exemption claim amounts attributable to facilities qualified under Section 2902.4 of Title 68 represent $1,374,152 to be paid in 2010 from the Ad Valorem Reimbursement Fund.