

OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
FIRST REGULAR SESSION, FIFTY-FIFTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 3, 2015

BILL NUMBER: HB 1554 STATUS AND DATE OF BILL: Engrossed Bill 3/2/15

AUTHORS: House Sears Senate Mazzei

TAX TYPE (S): Income Tax SUBJECT: Credit

PROPOSAL: New Law and Amendatory

HB 1554 proposes to amend provisions relating to the Credit for Electricity Generated by Zero-Emission Facilities (68 O.S. §2357.32A) and enact a new law, 68 O.S. §2357.32A-1. This measure also proposes to amend Oklahoma Investment/New Jobs Credit (68 O.S. § 2357.4) by prohibiting the claiming of this credit by an entity that claims any Credit for Electricity Generated by Zero-Emission Facilities.

EFFECTIVE DATE: January 1, 2016

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 16: Unknown positive impact (See attached)

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 16: No additional cost or savings to the Tax Commission due to this proposed legislation.

Mar. 5, 2015
DATE

Rick Miller
DIVISION DIRECTOR

mck

3-5-15
DATE

Reece Womack
REECE WOMACK, ECONOMIST

3/6/15
DATE

[Signature]
FOR THE COMMISSION

HB 1554 proposes to amend provisions relating to the Credit for Electricity Generated by Zero-Emission Facilities (68 O.S. §2357.32A) and enacting a new law, 68 O.S. §2357.32A-1. This measure also proposes to amend Oklahoma Investment/New Jobs Credit (68 O.S. § 2357.4) by prohibiting the claiming of this credit by an entity that claims any Credit for Electricity Generated by Zero-Emission Facilities.

Credit for Electricity Generated by Zero-Emission Facilities

Under current law an income tax credit is allowed based on the amount of electricity generated by a qualified zero-emission facility. Credits earned prior to January 1, 2014, are transferable and any unused credit may be carried over for a period of ten (10) years. For credits earned on or after January 1, 2014, any credit earned but not used shall be refunded at an amount equal to eighty-five percent (85%) of the amount of the credit. The credit is fifty one-hundredths of one cent (\$0.0050) for each kilowatt-hour of electricity generated by zero-emission facilities and is available for a period of ten years.

This measure proposes to amend 68 O.S. § 2357.32A by limiting this credit for facilities placed in operation on or before December 31, 2015. Zero emission facilities that initially become operational and produce electricity on or after January 1, 2016 would be eligible for a new credit authorized under 68 O.S. §2357.32A-1.

The proposed new law defines zero emission facilities the same as under 68 O.S. § 2357.32A. The new language proposes a non-transferable income tax credit based on the amount of electricity generated by a qualified zero-emission facility. Any credit earned but not used will be refunded at an amount equal to eighty-five percent (85%) of the amount of the credit. This credit will be available for tax years 2016 through 2025. The new credit will be \$0.0015 for each kilowatt-hour of electricity generated by zero-emission facilities. This credit would not be available for any electricity generated by a zero emission facility after December 31, 2025.

Oklahoma Investment New Jobs Credit

Under current law an income tax credit is allowed for either an investment in depreciable property used in a manufacturing or processing facility or for a net increase in average levels of employment in said facilities. The credit is for five years and is generally the greater of \$2,500 per new job or 5% of the amount of investment in qualified depreciable property¹. A zero emission facility qualifies as a manufacturer and is therefore eligible for this credit.

Under this proposal, the claiming of Oklahoma Investment New Jobs Credit by an entity that also claims the Credit for Electricity Generated by Zero-Emission Facilities is prohibited if:

- 1) The qualified depreciable property is substantially the same assets used to produce the electric power for which the Credit for Electricity Generated by Zero-Emission Facilities is claimed; or
- 2) The increase in new jobs occurs as a result of the same business activity which produces electric power for which the Credit for Electricity Generated by Zero-Emission Facilities is claimed.

Fiscal Impact

Credit for Electricity Generated by Zero-Emission Facilities

This measure decreases the amount of the credit (from \$0.0050 for each kilowatt-hour to \$0.0015 for each kilowatt-hour) and, for facilities placed in service on or after January 1,

¹ Under certain conditions, the credit is for five years and is generally the greater of \$5,000 per new job or 10% of the investment in qualified depreciable property.

2016, the credits can no longer be claimed for a 10 year period. (For facilities placed in service on or before December 31, 2015, the credits can be claimed for a 10 year period following the date the facility was placed in operation).

Most, if not all, facilities that qualify for the Credit for Electricity Generated by Zero-Emission Facilities are wind farms. Data from the Kansas Energy Information Network² suggests as of February 2014, seven (7) new wind farms are under construction and an additional eight (8) are classified as proposed, for a total of fifteen (15) wind farms. It is difficult to estimate the volume of electricity which will be generated, or when the electricity will be generated, so predicting the amount of credit is speculative at best. Potential changes to estimated tax and withholding for tax year 2016 would impact FY16.

The table below provides an overview of the usage of this credit since 2008.

Tax Year	<u>CLAIMED</u> Total Amount	<u>USED</u> Total Amount
2008	\$2,704,400	\$2,433,977
2009	\$3,242,906	\$2,454,206
2010	\$3,698,962	\$2,916,536
2011	\$3,128,895	\$2,318,605
2012	\$42,910,343	\$18,181,467
2013 ³	\$27,146,314	\$19,395,529

Oklahoma Investment New Jobs Credit

Currently, entities that have claimed the Credit for Electricity Generated by Zero-Emission Facilities have not used the Oklahoma Investment New Jobs Credit to reduce their Oklahoma income tax.

² *Oklahoma Wind Farms* - Kansas Energy Information Network; www.kansasenergy.org/wind_projects_OK.htm

³ Tax Year 2013 is preliminary based on tax returns processed through February 5, 2015.