

BILL SUMMARY
1st Session of the 55th Legislature

Bill No.:	HB 1554
Version:	INT
Request Number:	5309
Author:	Rep. Sears
Date:	2/18/2015
Impact:	Tax Commission:
	FY-17: Unknown Positive Impact

Research Analysis

Introduced HB1554 sunsets the existing tax credit for electricity generated by zero emission facilities on December 31, 2015 and establishes a new credit structure for assets placed in operation on or after January 1, 2016. The credit amount will be based on the calendar year that electricity is generated by a qualified facility as outlined below:

\$.005 per kilowatt for electricity generated during calendar 2016
\$.004 per kilowatt for electricity generated during calendar 2017
\$.003 per kilowatt for electricity generated during calendar 2018
\$.002 per kilowatt for electricity generated during calendar 2019
\$.001 per kilowatt for electricity generated during calendar 2020

After December 31, 2020, any credits offered under the new structure will cease to exist.

Prepared By: Quyen Do

Fiscal Analysis

From the Tax Commission:

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 tax years ending 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 2020 and computed as follows:

- Five-tenths of one cent (\$0.005) per kilowatt hour for electricity generated during calendar year 2016
- Four-tenths of one cent (\$0.004) per kilowatt hour for electricity generated during calendar year 2017
- Three-tenths of one cent (\$0.003) per kilowatt hour for electricity generated during calendar year 2018
- Two-tenths of one cent (\$0.002) per kilowatt hour for electricity generated during calendar year 2019
- One-tenth of one cent (\$0.001) per kilowatt hour for electricity generated during calendar year 2020.

This credit would not be available for any electricity generated by a zero emission facility after December 31, 2020.

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 computed as generally the greater of \$500 per new job or 1% of the 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

The new credit proposed by this measure decreases the amount of the credit and reduces the number of years the credit is available.

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 2017 would impact FY17.

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.

¹ Under certain conditions, the credit can be the greater of \$1,000 per new job or 2% of the investment in qualified depreciable property.

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.

Prepared By: Mark Tygret

Other Considerations

None.