

BILL SUMMARY
2nd Session of the 56th Legislature

Bill No.:	HB 2854
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Request Number:	9997
Author:	Rep. Caldwell
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Impact:	Tax Commission: Positive Revenue

Research Analysis

The proposed committee substitute for HB2854 creates the Oklahoma Energy Content Tax Act of 2018 to provide revenue for general government functions. The measure imposes the following new taxes on petroleum refineries, natural gas processing plants, electric power generation facilities and lawfully recognized businesses engaged in the production of electricity by means of solar energy or wind power. The tax is based on the energy content of a qualified energy source.

- \$1.20057 per barrel of oil used by a refinery in a refinery process or a source of fuel for an electric power generation facility;
- \$0.21777 per one thousand cubic feet (mcf) of natural gas used by a petroleum refinery in a refinery process, used by a natural gas processing plant or used as a source of fuel for an electric power generation facility;
- \$4.02066 per short ton of coal used by an electric power generation facility;
- \$0.716 per megawatt hour (MWH) of electric power produced by a public service corporation;
- \$0.716 per MWH of electric power produced by an exempt wholesale generator;
- \$0.716 per MWH of electric power produced by means of wind or solar energy by a business described pursuant to Industry No. 221114 and 221115 of the North American Industry Classification System; and
- \$0.716 per MWH of electric power produced by a commercial zero emission facility that is not already subject to one of the aforementioned energy content taxes;

The measure provide that the proposed taxes are not applicable to oil and gas produced at point of extraction or electricity produced by a wind turbine with a nameplate capacity of less than 50 kilowatts. Furthermore, the taxes are not applicable when a qualified energy source is in the possession of a common carrier, oil pipeline company, natural gas pipeline company, or business principally engaged in the business of transporting crude oil or natural gas.

The measure direct the Oklahoma Tax Commission to establishes processes to report and remit the taxes and provides that there is to be a 10 percent penalty of the principal amount if the tax is not remitted by the 20th day following the month that a taxable activity occurred.

Prepared By: Quyen Do

Fiscal Analysis

From the Tax Commission (preliminary memo):

The Act proposes a tax on the energy content¹ of qualified energy sources² as measured by British Thermal Units³ to be imposed as follows:

- One Dollar and twenty-thousand and fifty seven one hundred thousandths cents (\$1.20057) per barrel of oil at the time the oil has been delivered to a qualified tax remitter⁴ and is ready for consumption by combustion or other processes or for input as feedstock into a petroleum refinery located in the state.
- Twenty-one thousand seven hundred seventy-seven one hundred thousandths cents (\$0.21777) per one thousand cubic feet (MCF) of natural gas when delivered to a qualified tax remitter and ready for consumption by combustion or other processes or for input into a natural gas processing facility located in the state.
- Four Dollars and two thousand sixty-six hundred thousandths cents (\$4.02066) per short ton of coal when ready for conversion by a combustion process to produce electric power by an electric power generation facility.
- Seven hundred sixteen thousandth cents (\$0.716) per megawatt hour on electrical energy produced at a facility located in this state by:
 - an exempt wholesale generator facility.
 - means of wind by a business classified under NAICS 221115.
 - by means of solar radiation by a business classified under NAICS 221114
 - a zero emission facility eligible to claim a tax credit pursuant to Section 2357.32A of Title 68 unless subject to another tax levy.

The remaining Sections explain the application of the tax, the manner and timeframe for tax remittance and the imposition of interest and penalty on delinquent tax payments.

¹ The Act defines “energy content” to mean the ability of a substance or compound to produce heat as measured by British Thermal Units (BTUs).

² Qualified energy sources include:

- a. Petroleum used by a refinery in a refinery process or a source of fuel for an electric power generation facility,
- b. Natural gas used by a petroleum refinery in a refinery process, used by a natural gas processing plant or used as a source of fuel for an electric power generation facility,
- c. Coal used by an electric power generation facility,
- d. Electric power produced by a public service corporation
- e. Electric power produced by an exempt wholesale generator,
- f. Electric power produced by means of wind, and
- g. Electric power produced by means of solar energy.

³ British Thermal Unit means the amount of heat energy required to increase the temperature of one pound of water by one degree Fahrenheit if the water is at its maximum density using an assumed temperature of 39 degrees Fahrenheit.

⁴ “Qualified tax remitter means a petroleum refinery, a natural gas processing plant, an electric power generation facility, or businesses under NAICS 221114 and 221115.

Energy Content Tax	Tax Rate		Taxable Unit of Measure	Taxable Applicable Volumes per year	Revenue
Oil	\$1.20057	per	Barrel	160,965,000	\$193,249,750
Natural Gas	\$0.21777	per	MCF	556,210,000	\$121,125,852
Coal	\$4.02066	per	Short Ton	12,169,671	\$48,930,109
Electricity (produced by a public service corp, wholesale generator facility, wind, solar, zero emission facility)	\$0.716	per	Megawatt	61,516,554	\$44,045,853
Total					\$407,351,564

Prepared By: Mark Tygret

Other Considerations

None.