

## MEMORANDUM

---

**OKLAHOMA TAX COMMISSION**  
TAX POLICY AND RESEARCH

DATE: April 27, 2018

SUBJECT: HB 3716 – Proposed Committee Substitute (Req. No. 10488)

TO: Joe Gappa, Deputy Director

FROM: Michael C. Kaufmann, Tax Policy Analyst

---

The Proposed Committee Substitute for HB 3716 (Req. No. 10488) proposes to amend 68 O.S. §2357.32A relating to the Credit for Electricity Generated by Zero-Emission Facilities by 1) eliminating the refundable aspect of the credit beginning with tax year 2019, 2) making the refundable portion of the credit discretionary for tax year 2017 and 2018<sup>1</sup>, and 3) increasing the time period to carryover unused credits to twenty (20) years.

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<sup>2</sup> 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.

Preliminary calendar year 2016 data for this credit shows \$70.3 million was refunded and \$3.7 million was used to offset tax. An analysis of the preliminary 2016 refunds shows that \$6.9 million in refund claims were processed prior to July 1, 2017. Assuming similar refundable tax credit amounts and filing date patterns for tax year 2019 most of the impact for tax year 2019 will occur on or after July 1, 2020. Therefore, there is a projected increase in income tax collections of \$5.0 million in FY19<sup>3</sup>, \$11.9 million in FY20 and the full impact of an estimated increase in income tax collections of \$70.3 million should occur in FY21.

---

<sup>1</sup> For tax year 2017 and 2018 taxpayers could elect to forego the refund and carryover that portion of the credit to future tax years.

<sup>2</sup> This measure also removes outdated language regarding nontaxable entities, including agencies of the State of Oklahoma or political subdivisions thereof and the ability to transfer this tax credit.

<sup>3</sup> The impact of the discretionary refund would only affect FY19 - FY21.