

MEMORANDUM

OKLAHOMA TAX COMMISSION
TAX POLICY AND RESEARCH

DATE: February 17, 2017

SUBJECT: SB 118 Committee Substitute *RAM*

TO: Joe Gappa, Deputy Director

FROM: Michael C. Kaufmann, Tax Policy Analyst

The Committee Substitute for SB 118 proposes to amend 68 O.S. §2357.32A relating to the Credit for Electricity Generated by Zero-Emission Facilities by changing the date the facility must be placed in service from before January 1, 2021 to before January 1, 2018 and also provides for caps on the amount of credits that may be used to reduce tax or be refunded beginning with tax year 2017.

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 the amount of credits generated prior to January 1, 2014 that may be used to offset tax to not exceed \$2 million per year beginning with tax year 2017 and credits generated after January 1, 2014 that may be used to offset tax or refunded may not exceed \$10 million per year beginning with tax year 2017¹.

¹ Beginning with tax year 2017, all returns claiming Credit for Electricity Generated by Zero-Emission Facilities must be filed no later than October 1 for credits generated the preceding tax year. The caps in this legislation are specified to begin with FY19.

Preliminary calendar year 2015 data for this credit shows that \$54.3 million was refunded and \$10.9 million was used to offset tax. An estimate of the impact of the proposed cap is in table 1 below.

TABLE 1 -\$2 million offset cap & \$10 million refund cap by using % reduction factor			
	Offset	Refunded	Total
Estimated Tax Year 2017 Zero Emission Tax Expenditure ² (current law)	\$10,907,182	\$54,287,020	\$65,194,202
Estimated Tax Year 2017 Zero Emission Tax Expenditure (after reduction % applied)	\$2,000,000	\$10,000,000	\$12,000,000
Tax Year 2017 Potential Increase in Income Tax Collections	\$8,907,182	\$44,287,020	\$53,194,202

The combination of tax year and fiscal year limitation requires that the Tax Commission adjust all tax year 2017 claims for this credit in FY19 so that the caps are not exceeded; therefore the total projected tax year 2017 savings of \$53,194,202 would occur in FY19.

The acceleration of the date to place the facility in service should have no short term impact.

² No growth factored into calculating 2017 estimate of credits. Tax year 2017 and 2018 is assumed to equal tax year 2015.