OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT
FIRST REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 9, 2021

BILL NUMBER: SB 594 **STATUS AND DATE OF BILL:** Engrossed 3/3/21

AUTHORS: House Pfeiffer Senate McCortney, Hall and Kirt

TAX TYPE (S): Income Tax **SUBJECT:** Credit

PROPOSAL: Amendatory

Engrossed SB 594 proposes to amend 68 O.S. § 2357.4 which relates to the *Investment / New Jobs Income Tax Credit*. This measure proposes to eliminate the tax credit for the addition of full-time equivalent employees, increase the minimum annual investment amounts, reduce the credit percentage for the cost of qualified machinery, equipment or fixtures, implement a statewide cap of $25 million, and reduce the number of years unused credits may be carried forward.

EFFECTIVE DATE: November 1, 2021

REVENUE IMPACT:

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

FY 22: None.
FY 23: Potential increase in income tax collections of $22 million.

ADMINISTRATIVE IMPACT:

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

FY 22: Administrative cost to the OTC is unknown.

Mar. 10, 2021
DATE

Rick Miller
DIVISION DIRECTOR

mck

3/10/2021
DATE

Huan Gong
HUAN GONG, ECONOMIST

3/11/21
DATE

FOR THE COMMISSION

The estimated revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

Engrossed SB 594 proposes to amend 68 O.S. § 2357.4 which relates to the *Investment / New Jobs Income Tax Credit*. This measure proposes to eliminate the tax credit for the addition of full-time equivalent employees, increase the minimum annual investment amounts, reduce the credit percentage for the cost of qualified machinery, equipment or fixtures, implement a statewide cap of $25 million, and reduce the number of years unused credits may be carried forward.

Current Law:
Under current law, manufacturers, entities engaged in aircraft maintenance, and web search portal firms are eligible for a non-refundable income tax credit for either an investment in depreciable property or for the addition of full-time equivalent employees.[1] In order to qualify for the investment component, the minimum annual investment must be $50,000 in qualified depreciable property. In order to qualify for the job component (net increase in employment), the annual salary or wages of full-time equivalent employees must be in excess of $7,000.

Generally, the credit is 1% of the amount of investment in depreciable property or $500 per new job.[2] The credit is allowed for the tax year the investment is made or when the increase in jobs occurs and is also allowed in each of the 4 subsequent years if the level of new employees is maintained or the qualified property is not sold, disposed of or transferred. Any credit allowed but not used may be carried over in order to each of the 4 years following the year of qualification and, to the extent not used in those years, in order to each of the 15 years following the initial 5-year period. To the extent not used, any credit from qualified depreciable property placed in service on or after January 1, 2000, may be utilized in subsequent tax years after the initial 20-year period. Effective for tax years 2016 through 2018, there was a statewide cap of $25 million.

Proposed Law:
This measure would eliminate the tax credit for the addition of full-time equivalent employees and increase the minimum annual investment amount from $50,000 to $500,000 in qualified depreciable property. Effective January 1, 2023, the minimum annual investment amount required would be increased annually by a percentage equal to the previous year's Consumer Price Index.[3]

The credit is further modified by reducing the credit from 1% to 0.5% of the cost of qualified machinery, equipment or fixtures; the cost of buildings and substantial improvements to buildings will still be eligible for a 1% credit. For entities with an initial investment greater than $40 million, the credit will be reduced from 2% to 1% of the cost of qualified machinery, equipment or fixtures; the cost of buildings and substantial improvements to buildings will still be eligible for a 2% credit.

The carryover period for unused credits will be reduced to 5 years for all credits earned for tax year 2022 and subsequent tax years.

This measure would also apply a statewide cap of $25 million effective for tax year 2022 and subsequent tax years, with credits based on qualified property placed in service 10 years prior to the current tax year capped at a maximum of $1 million; the remaining $24 million annual cap is applicable to property placed in service less than 10 years prior to the current tax year and unused credits based on the jobs portion of the credit.[4]

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[1] Web Search Portal firms are only eligible for the investment component of this credit.

[2] Credits double (2% of the amount of investment in depreciable property or $1,000 per new job) if the entity is located in an enterprise zone or if the initial investment is in excess of $40 million.

[3] The Oklahoma Department of Commerce is required to determine the increase by January 1 of each year.

[4] The administration of the split cap is problematic. The Tax Commission will annually calculate and publish a percentage by which the credits are to be reduced so the total amount of credits used to offset tax does not exceed $25 million per year, with the caveat that credits originating from qualified property placed into service 10 years

Revenue Impact:
A review of tax years 2014 - 2018 data[5] indicates that on average approximately $615 million tax credits were available to be claimed. The average annual newly-generated credit amount was $72.9 million. It is estimated that over $491 million[6] in unused credits are still available to be claimed after tax year 2018.

Aggregate data relating to the jobs portion[7] of the credit versus the investment portion of the credit is not available, and to ascertain the revenue impact of eliminating the jobs part of the credit and amending the investment amounts would require a review of over 950 income tax returns. There will be some decrease in tax credits generated, but due to the large amount of unused credit available, the tax expenditure of this credit should not change as a result of eliminating the jobs part of the credit and amending the investment percentages.

The average amount used to offset tax for tax years 2014 - 2018 was $43.9 million – approximately 7% of the total credits available. The proposed changes to the carryover provisions would have no impact on Oklahoma income tax collections in the short term.

Capping the credit beginning with tax year 2022 would result in a potential increase in income tax collection of $22 million.[8] Estimated tax payments and withholding remittances are not expected to change; the full impact should occur in FY23 when the 2022 income tax returns are filed.

Administrative Impact:
Associated costs to the OTC for administering the credit cap split (credits originating from qualified property placed into service 10 years before the current tax year are limited to no more than $1 million of the $25 million annual limit) are unknown.

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before the current tax year are limited to no more than $1 million of the $25 million annual limit. The formula to be used for the percentage adjustment shall be $25 million divided by the credits used to offset tax in the second preceding year.

[5] Tax year 2019 tax credit data is incomplete and is still being reviewed.

[6] While this is a significant number, there is no expectation that a substantial portion of these will be claimed in the short term.

[7] Capital investment cost for manufacturers is high so the credit for this portion likely outweighs the jobs portion. The jobs portion of the credit is likely a minimal amount of the total credit.

[8] This estimate is based on the credit used to offset tax for tax year 2018 which was approximately $47 million.