OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-NINTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: January 12, 2024

BILL NUMBER: SB 1506 **STATUS AND DATE OF BILL**: Introduced 12/15/23

AUTHORS: House: n/a Senate: Paxton

TAX TYPE(S): None **SUBJECT:** Oklahoma Reliable Power Rebate

PROPOSAL: New and Repealer
SB 1506 creates the Oklahoma Reliable Power Rebate (ORPR), a rebate of 5% on the year-over-year excess sales of natural gas to Oklahoma electric generation facilities; creates the ORPR Fund and establishes that the fund shall consist of monies from appropriations or transfers. The Oklahoma Tax Commission (OTC) will administer the rebate program. SB 1506 proposes to repeal the Large-scale Economic Activity and Development Act of 2022 (LEAD)[1]. SB 1506 creates an appropriation of $698,020,000 to the ORPR Fund from any monies not otherwise appropriated from the General Revenue Fund (GRF) from FY 23.

EFFECTIVE DATE: Emergency – July 1, 2024

REVENUE IMPACT:
SB 1506 will have no impact on tax revenue to the State. The funds used to pay the rebates are allocated by Legislative appropriation and transfers, and any interest earned on the funds. The proposed appropriation of $698.02 million would pull from pre-existing monies in the GRF that was not otherwise appropriated in FY 23.

FY 25: None.
FY 26: None.

ADMINISTRATIVE IMPACT:
The OTC anticipates the program can be administered with pre-existing staff. Initial system development may take approximately 3-4 weeks, with an estimated administrative cost in FY 25 of **$31,000.**

1/19/24 Marie Schuble caj
DATE MARIE SCHUBLE, DIVISION DIRECTOR

1/18/24 Huan Gong
DATE HUAN GONG, ECONOMIST

1/22/2024 Joseph P. Gappa
DATE JOSEPH P. GAPPA, FOR THE COMMISSION

The 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.

[1] The LEAD Fund (68 O.S. §§ 3645.1-3646.6) is funded by legislative appropriation.

ATTACHMENT TO REVENUE IMPACT – SB 1506 [Introduced] Prepared: [1/12/24]

CURRENT LAW:

The Large-scale Economic Activity and Development Act of 2022 (LEAD) is outlined in 68 O.S. §§ 3645.1-3646.6. It authorizes establishments to apply to the Oklahoma Department of Commerce to receive rebates based on capital investment and job creation thresholds. Commerce approves the rebates, and the OTC issues the rebates from the LEAD Fund (appropriated monies).

PROPOSED AMENDMENTS:

Section 1 proposes to name this law the “Oklahoma Reliable Power Act” (ORPA).

Section 2 provides definitions for “Commission”, “Electric generation facility” (EGF), “Gas”, and “Public Utility” as they are used in the ORPA.

Section 3 creates the “Oklahoma Reliable Power Rebate Fund” (ORPR Fund) and designates that the fund shall consist of all monies received by the OTC from appropriations and transfers. Interest earned by the investment of monies in the fund shall be retained in the fund. All monies designated to this fund shall be used for implementing the ORPA.

Section 4 outlines the administration of the ORPA and requirements for eligibility. The rebate is equal to 5% of the purchase price of gas purchased by EGF to be consumed in the generation of electricity. The ORPA shall be administered by the OTC, and applicants shall use forms and documentation required by the OTC. Applications shall be submitted no later than two years after the date in which the sale to the EGF was made.

The may to seek payment of the rebate directly from OTC, or the seller may apply and must provide documentation that the rebate has been paid or credited to the public utility customer.

The OTC must approve or disapprove all claims and issue payments to approved claims. All payments of rebate claims shall be limited to the balance of the ORPR Fund.

Rebate payments shall be for gas purchased by a public utility for the generation of electric power in excess of the amount of gas purchased in the previous calendar year.

Section 5 creates an appropriation of $698,020,000 to the ORPR Fund from any monies not otherwise appropriated from the General Revenue Fund (GRF) from FY 23.

Section 6 proposes to repeal all sections of the LEAD Act (68 O.S. §§ 3645.1-3646.6).

ANTICIPATED IMPACT:

SB 1506 will have no impact on tax revenue to the State. The funds used to pay the rebates are allocated by Legislative appropriation and transfers and any interest earned on the fund. This may result in a reallocation of state funds dependent upon whether and how the Legislature makes an appropriation or transfer. The appropriations of $698.02 million, as proposed under SB 1506, would pull from pre-existing monies in the GRF that was not otherwise appropriated in FY 23.

ADMINISTRATIVE IMPACT AND CONCERNS:

As this is a new rebate, administrative resources will be required to develop the program. This will include development of forms and related software. Initial system development may take approximately 3-4 weeks, with an estimated administrative cost between $21,600 – $30,960. After the initial program development, it is anticipated the program can be administered with pre-existing staff.

SB 1506 allows either the seller or the purchaser to claim the rebate, but not both. Allowing either party to claim the rebate, rather than just one, may cause challenges with reconciliation for the OTC and the applicant. OTC would have to ensure rebates are only claimed by one party through a reconciliation or audit process. Further, SB 1506 requires the seller to provide documentation that the rebate has been paid or credited to the EGF in advance of receiving approval and in advance of receiving the rebate. Should the rebate be disapproved or adjusted, the seller would have to reconcile that difference with the purchaser.

SB 1506 proposes that the rebate application must be submitted no more than two (2) years after the date in which the sale to the EGF was made. The rebate is calculated based on the excess natural gas sold for power generation compared to the previous calendar year. Ideally, the proposal should clarify that no rebate shall be claimed until after the end of the calendar year and no rebate shall be filed more than two (2) years after the first day of the calendar year the refund becomes available.

Finally, multiple new entities would have to be added to our system for tracking rebate applications and payments. The proposed legislation is not restricted to natural gas produced in Oklahoma. Therefore, any company producing natural gas and selling to Oklahoma EGF would be eligible for the rebate and would need to be incorporated into our system. Most Oklahoma companies are already integrated into OTC systems as pre-existing taxpayers.