

*Energy Credits***Gone With the Wind: Oklahoma May Nix Existing Tax Credits**

Oklahoma's wind tax credit on existing projects would come to an end under proposed legislation set to greet state lawmakers Feb. 5.

The proposal to end zero-emission tax credits arrives against the backdrop of an anticipated \$780 million revenue blueprint proposed by business coalition Step Up Oklahoma, which urges tax hikes for oil and gas, fuel, cigarettes, and wind.

The legislative measure (H.B. 2908), introduced by Rep. Bobby Cleveland (R), would repeal a 2001 law (S.B. 440) allowing zero-emission energy facilities to collect tax credits beginning in tax year 2002. Gov. Mary Fallin (R) signed H.B. 2298 in April 2017, accelerating the credit's sunset provision from 2021 to July 2017.

Created to entice wind projects into Oklahoma, the credit allowing 0.5 cents per kilowatt hour of energy produced is 85 percent refundable and transferable for up to a decade.

Under the current landscape, the last year that any project could qualify for zero emission tax credits is July 2027, Mark Yates, Oklahoma director of the Wind Coalition told Bloomberg Tax Jan. 30.

"We still have legislators and other folks outside of the capitol that are pushing to either cap and/or eliminate those credits for existing projects," Yates said.

"What Representative Cleveland is attempting to do would be to eliminate these credits altogether and basically yank the carpet out from underneath the investors that were recruited and brought to this state to bring in an industry to the state of Oklahoma," he said.

'Not Your Sugar Daddy' However, Cleveland said "it's time we do away with this costly tax credit."

"The government is not your sugar daddy, no matter how hard the wind industry may wish," Cleveland said in a news release after his bill's Jan. 17 filing.

The credit cost the state \$66.8 million in tax year 2015, according to Cleveland's estimate. Oklahoma Sierra Club Director Johnson Bridgwater told Bloomberg Tax in 2017 that the incentive's annual value was \$50 million.

"There has been plenty of talk about raising taxes on everyday Oklahomans recently, including efforts by major Oklahoma businesses to advance the cause," Cleveland said.

Revenue Proposals Revenue bills, including proposed tax measures related to Step Up Oklahoma's platform, may materialize as soon as the first full week of February, a source with knowledge of the proceedings told Bloomberg Tax in a Jan. 30 email.

Designed as a pathway to address the state's shortfall for the current fiscal year, Step Up Oklahoma's revenue platform has Fallin's broad support.

According to a Jan. 22 release from the governor's office, Fallin called on lawmakers to consider raising the oil and gas gross production tax to 4 percent from its current 2 percent. All future wells would begin at 4 percent for the first 36 months and move to 7 percent thereafter, generating an estimated \$133.5 million in annual revenue.

Potential Economic Impact "Before we tax our citizens to death, lawmakers must seriously consider scaling back tax credits available to billion-dollar industries," Cleveland said. "Wind companies are no longer in their infancy, and the industry is stable enough to stand on its own feet."

However, Yates warned that Cleveland's proposed measure, if enacted, would deal a blow to the state's economic profile.

"To go back on the state's word and to either yank or eliminate those incentives from existing projects or even to discuss capping those in some way is very problematic and hurtful for the investor climate in the state of Oklahoma," he said.

"The financial agreements, the Power Purchase Agreements, many of these projects they've already sold their power on a fixed price, so a lot of the financing and all of the numbers and contracts with this are baked in with regards to knowing that they're going to qualify for these incentives that were offered by the state of Oklahoma," Yates said.

"To arbitrarily now go back and undo those is detrimental to existing projects," he added.

Cleveland didn't immediately respond to a request for comment. The governor's office didn't confirm whether Fallin would support Cleveland's legislation.

By PAUL STINSON

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□ Text of H.B. 2908 is at <http://src.bna.com/v25>.

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