Fiscal Highlights

High Cost Infrastructure Tax Credit - Brian Wikle

The Legislature appropriated $85,000 in the 2015 General Session from the General Fund, ongoing beginning in FY 2015, to the Office of Energy Development (OED) to pay the Office of the Attorney General (OAG) for legal support associated with incentives and contracts. The amount of work OAG did in behalf of OED during FY 2015 turned out to be significantly less than anticipated. As explained on page 123 of Fiscal Note and Budget Item Follow-up Report, OED expended approximately 30 percent of the appropriation. However, the office expects that future costs for legal support will increase due to enactment of S.B. 216, 2015 General Session, "High Cost Infrastructure Tax Credits". In connection with S.B. 216, OED expects to request nonlapsing authority for the unused portion of the FY 2015 funding and that the ongoing appropriation for legal support remain in place.
The new tax credit is designed to incentivize business investment in the state. In order to qualify for the credit, an entity must complete a project

- that creates new industrial, mining, manufacturing, or agriculture activity, or that brings at least $50 million of new investment in one of these sectors;
- that requires or is directly facilitated by infrastructure construction; and,
- for which the infrastructure cost is at least 10 percent of the total project cost or $10 million.

The Legislature specified that eligible infrastructure includes construction or expansion of fuel processing facilities to comply with federal standards, fuel delivery systems, railroads, roads, and water supply and removal systems.
A qualifying entity can receive tax credits for a project over multiple years. The cumulative amount of credits cannot exceed 30 percent of the cost of the infrastructure for a fuel standard compliance project or 50 percent for the cost of other project types. The fiscal note for the bill estimates that three projects will qualify for and receive the credit each year, and that the state will forgo $8 million annually in income tax revenue because of the program.