

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1451

By: Hobson

AS INTRODUCED

An Act relating to revenue and taxation; allowing income tax credit to manufacturers of advanced small wind turbines; defining terms; specifying amount of credit; specifying qualifications for receipt of credit; providing for carryforward and transferability of credits; requiring certain filing with Oklahoma Tax Commission; allowing Tax Commission to promulgate certain rules; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.32B of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning on or after January 1, 2003, and ending on or before December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes to Oklahoma manufacturers of advanced small wind turbines. As used in this section:

1. "Oklahoma manufacturers" means manufacturers who operate facilities located in this state which have the capability to manufacture small wind turbine products, including rotor blade and alternator fabrication; and

2. "Advanced small wind turbines" means wind turbines that meet the following requirements:

a. have a rated capacity not to exceed fifty kilowatts (50 kw),

- b. incorporate advanced technologies such as new airfoils, new generators, and new power electronics, variable speed, and
- c. at least one unit of each model has been installed for testing at the US-DOE National Wind Technology Center.

B. The amount of the credit shall be based on the square footage of rotor swept area of advanced small wind turbines manufactured in this state. The amount of the credit shall be Twenty-five Dollars (\$25.00) per square foot produced in calendar year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot produced in calendar year 2004, and Six Dollars and twenty-five cents (\$6.25) per square foot produced in calendar year 2005.

C. The companies claiming the credit allowed by this section shall agree in advance to allow their production and claims to be audited by the Oklahoma Tax Commission and they must be able to show that they have made economic development investments in this state over the period of time for which the credit was received that exceed the amount of credit claimed.

D. If the amount of the credits allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years.

E. The amount of the credit allowed but not used shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless

of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit.

SECTION 2. This act shall become effective November 1, 2002.

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