

ENROLLED HOUSE
BILL NO. 1605

By: Miller (Doug), Covey,
McMullen, Nations,
Rousselot, Dorman, Nance,
Adkins, Terrill, Balkman,
Blackwell, Worthen,
Hilliard, Sherrer, Shoemake
and Walker of the House

and

Wilson, Barrington, Kerr,
Wilcoxson, Bass, Easley,
Capps and Harrison of the
Senate

An Act relating to revenue and taxation; amending Section 1, Chapter 313, O.S.L. 2002 (68 O.S. Supp. 2004, Section 2357.32B), which relates to income tax credit for certain manufacturers; extending ending date of credit for manufacturers of advanced small wind turbines; modifying applicability of such credit; modifying time period and amount of such credit; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 313, O.S.L. 2002 (68 O.S. Supp. 2004, Section 2357.32B), is amended to read as follows:

Section 2357.32B A. For tax years beginning on or after January 1, 2003, and ending on or before December 31, ~~2005~~ 2007, there shall be allowed a credit against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 1803 or 2355 of Title 68 of the Oklahoma Statutes this title 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 upwind, furling wind turbines that meet the following requirements:

- a. have a rated capacity of at least one kilowatt (1 kw) but not greater than fifty kilowatts (50 kw),

- b. incorporate advanced technologies such as new airfoils, new generators, and new power electronics, variable speed,
- c. at least one unit of each model has ~~been installed for~~ undergone testing at the US-DOE National Wind Technology Center, and
- d. comply with appropriate interconnection safety standards of the Institute of Electrical and Electronics Engineers applicable to small wind turbines.

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)~~ Twenty-five Dollars (\$25.00) per square foot produced in calendar ~~year~~ years 2005 through 2007.

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 claimed that exceed the net proceeds from 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.

F. For advanced small wind turbines produced in a calendar year, the tax credit allowed by the provisions of this section, upon

election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 1803 or 2355 of Title 68 of the Oklahoma Statutes ~~this title~~ on or after July 1 of the following calendar year.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of May, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the 27th day of May, 2005.

Presiding Officer of the Senate