

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2072

By: Laughlin

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending  
8 Section 1, Chapter 313, O.S.L. 2002, as last amended  
9 by Section 14, Chapter 272, O.S.L. 2006 (68 O.S.  
10 Supp. 2007, Section 2357.32B), which relates to  
11 income tax; clarifying language relating to certain  
12 credit; and providing an effective date.

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

14 SECTION 1. AMENDATORY Section 1, Chapter 313, O.S.L.  
15 2002, as last amended by Section 14, Chapter 272, O.S.L. 2006 (68  
16 O.S. Supp. 2007, Section 2357.32B), is amended to read as follows:

17 Section 2357.32B A. For all tax years beginning on or after  
18 January 1, 2003, and ending on or before December 31, 2012, there  
19 shall be allowed a credit against the tax imposed by Section 624 or  
20 628 of Title 36 of the Oklahoma Statutes, and actually paid to and  
21 placed into the General Revenue Fund, or Section 2370 or 2355 of  
22 this title to Oklahoma manufacturers of advanced small wind  
23 turbines. As used in this section:

24 1. "Oklahoma manufacturers" means manufacturers who operate  
facilities located in this state which have the capability to

1 manufacture small wind turbine products, including rotor blade and  
2 alternator fabrication; and

3 2. "Advanced small wind turbines" means upwind, furling wind  
4 turbines that meet the following requirements:

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

7 b. incorporate advanced technologies such as new  
8 airfoils, new generators, and new power electronics,  
9 variable speed,

10 c. at least one unit of each model has undergone testing  
11 at the US-DOE National Wind Technology Center, and

12 d. comply with appropriate interconnection safety  
13 standards of the Institute of Electrical and  
14 Electronics Engineers applicable to small wind  
15 turbines.

16 B. The amount of the credit shall be based on the square  
17 footage of rotor swept area of advanced small wind turbines  
18 manufactured in this state. The amount of the credit shall be  
19 Twenty-five Dollars (\$25.00) per square foot produced in calendar  
20 year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot  
21 produced in calendar year 2004, and Twenty-five Dollars (\$25.00) per  
22 square foot produced in calendar years 2005 through 2012.

23 C. The companies claiming the credit allowed by this section  
24 shall agree in advance to allow their production and claims to be

1 audited by the Oklahoma Tax Commission and they must be able to show  
2 that they have made economic development investments in this state  
3 over the period of time for which the credit was claimed that exceed  
4 the net proceeds from the amount of credit claimed.

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

11 E. The amount of the credit allowed but not used shall be  
12 freely transferable at any time during the ten (10) years following  
13 the year of qualification. Any person to whom or to which a tax  
14 credit is transferred shall have only such rights to claim and use  
15 the credit under the terms that would have applied to the entity by  
16 whom or by which the tax credit was transferred. The provisions of  
17 this subsection shall not limit the ability of a tax credit  
18 transferee to reduce the tax liability of the transferee regardless  
19 of the actual tax liability of the tax credit transferor for the  
20 relevant taxable period. The transferor originally allowed the  
21 credit and the subsequent transferee shall jointly file a copy of  
22 the written credit transfer agreement with the Tax Commission within  
23 thirty (30) days of the transfer. The written agreement shall  
24 contain the name, address and taxpayer identification number of the

1 parties to the transfer, the amount of the credit being transferred,  
2 the year the credit was originally allowed to the transferor and the  
3 tax year or years for which the credit may be claimed. The Tax  
4 Commission may promulgate rules to permit verification of the  
5 validity and timeliness of a tax credit claimed upon a tax return  
6 pursuant to this subsection but shall not promulgate any rules that  
7 unduly restrict or hinder the transfers of such tax credit.

8 F. For advanced small wind turbines produced in a calendar  
9 year, the tax credit allowed by the provisions of this section, upon  
10 election of the taxpayer, shall be treated and may be claimed as a  
11 payment of tax, a prepayment of tax or a payment of estimated tax  
12 for purposes of Section 624 or 628 of Title 36 of the Oklahoma  
13 Statutes, and actually paid to and placed into the General Revenue  
14 Fund, or Section 2370 or 2355 of this title on or after July 1 of  
15 the following calendar year.

16 SECTION 2. This act shall become effective November 1, 2008.

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