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SENATE FILE

437

BY SIEVERS and HATCH

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act providing a wind energy production tax credit under the
 2 individual and corporate income taxes, the franchise tax, and
 3 insurance premiums tax and including an applicability date
 4 provision.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 437 WAYS & MEANS

1 Section 1. NEW SECTION. 422.11H WIND ENERGY PRODUCTION
2 TAX CREDIT.

3 The taxes imposed under this division, less the credits
4 allowed under sections 422.12 and 422.12B, shall be reduced by
5 a wind energy production tax credit allowed under chapter
6 476B.

7 Sec. 2. Section 422.33, Code 2003, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 14. The taxes imposed under this division
10 shall be reduced by a wind energy production tax credit
11 allowed under chapter 476B.

12 Sec. 3. Section 422.60, Code 2003, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 7. The taxes imposed under this division
15 shall be reduced by a wind energy production tax credit
16 allowed under chapter 476B.

17 Sec. 4. NEW SECTION. 432.12D WIND ENERGY PRODUCTION TAX
18 CREDIT.

19 The taxes imposed under this chapter shall be reduced by a
20 wind energy production tax credit allowed under chapter 476B.

21 Sec. 5. NEW SECTION. 476B.1 DEFINITIONS.

22 For purposes of this chapter, unless the context otherwise
23 requires:

24 1. "Board" means the utilities board within the utilities
25 division of the department of commerce.

26 2. "Department" means the department of revenue and
27 finance.

28 3. "Qualified electricity" means electricity produced from
29 wind at a qualified facility.

30 4. "Qualified facility" means an electrical production
31 facility that meets all of the following:

32 a. Produces electricity from wind.

33 b. Is located in Iowa.

34 c. Was originally placed in service on or after July 1,
35 2004, but before July 1, 2009.

1 Sec. 6. NEW SECTION. 276B.2 GENERAL RULE.

2 The owner of a qualified facility shall, for each kilowatt-
3 hour of qualified electricity that the owner sells during the
4 ten-year period beginning on the date the qualified facility
5 was originally placed in service, be allowed a wind energy
6 production tax credit to the extent provided in this chapter
7 against the tax imposed in chapter 422, divisions II, III, and
8 V, and chapter 432.

9 Sec. 7. NEW SECTION. 476B.3 CREDIT AMOUNT.

10 1. The wind energy production tax credit allowed under
11 this chapter equals the credit amount for the calendar year
12 multiplied by the number of kilowatt-hours of qualified
13 electricity sold by the owner during the taxable year
14 beginning in that calendar year. The credit amount equals one
15 cent for the 2004 calendar year for taxable years beginning in
16 the 2004 calendar year. The credit amount shall be adjusted
17 for inflation each calendar year for taxable years beginning
18 in that calendar year. The adjustment for inflation shall be
19 made by multiplying the credit amount for the 2004 calendar
20 year by the inflation adjustment factor for the calendar year.
21 If the adjustment amount is not a multiple of one-tenth of one
22 cent, such amount shall be rounded to the nearest one-tenth of
23 one cent.

24 2. For purposes of this section, "inflation adjustment
25 factor" means, with respect to any calendar year, a fraction,
26 the numerator of which is the gross domestic product implicit
27 price deflator for the preceding calendar year and the
28 denominator of which is the gross domestic product implicit
29 price deflator for the 2003 calendar year. The term "gross
30 domestic product implicit price deflator" means the most
31 recent revision of the implicit price deflator for the gross
32 domestic product as computed and published by the United
33 States department of commerce before March 15 of the calendar
34 year. The adjusted credit amount shall be published by the
35 board no later than April 15 of each calendar year.

1 Computation of the inflation adjustment factor and adjusted
2 credit amount by the board are not rules as defined in section
3 17A.2.

4 Sec. 8. NEW SECTION. 476B.4 LIMITATIONS.

5 1. The wind energy production tax credit shall not be
6 allowed for any kilowatt-hour of electricity produced on wind
7 energy conversion property for which the owner has claimed or
8 otherwise received for that property the benefit of special
9 valuation under section 427B.26 or section 441.21, subsection
10 8, or the exemption from retail sales tax under section
11 422.45, subsection 48.

12 2. The wind energy production tax credit shall not be
13 allowed for any kilowatt-hour of electricity that is sold to a
14 related person. For purpose of this subsection, persons shall
15 be treated as related to each other if such persons would be
16 treated as a single employer under the regulations prescribed
17 under section 52(b) of the Internal Revenue Code. In the case
18 of a corporation that is a member of an affiliated group of
19 corporations filing a consolidated return, such corporation
20 shall be treated as selling electricity to an unrelated person
21 if such electricity is sold to such a person by another member
22 of such group.

23 Sec. 9. NEW SECTION. 476B.5 APPLICATION FOR TAX CREDIT
24 CERTIFICATES.

25 1. To receive the wind energy production tax credit, an
26 owner of the qualified facility must submit an application for
27 a tax credit certificate to the board not later than thirty
28 days after the close of its taxable year. The owner's
29 application must contain, but need not be limited to, all of
30 the following information: the owner's name, tax
31 identification number, and address, the number of kilowatt-
32 hours of qualified electricity sold by the owner during the
33 preceding taxable year, the address of the qualified facility
34 at which the qualified electricity was produced, a certified
35 statement of the number, if any, of kilowatt-hours of

1 electricity produced on wind energy conversion property for
2 which the owner has claimed or otherwise received for that
3 property the benefit of special valuation under section
4 427B.26 or section 441.21, subsection 8, or the exemption from
5 the retail sales tax under section 422.45, subsection 48, and
6 the denomination that each tax credit certificate is to carry.

7 2. The board shall, in conjunction with the department,
8 prescribe appropriate forms and instructions to enable owners
9 to claim the tax credit allowed under this chapter. If the
10 board prescribes these forms and instructions, an owner's
11 application for a tax credit certificate shall not be valid
12 unless made on and in accordance with these forms and
13 instructions.

14 Sec. 10. NEW SECTION. 476B.6 ISSUANCE OF TAX CREDIT
15 CERTIFICATES.

16 1. If the owner meets the criteria for eligibility for the
17 wind energy production tax credit, the board shall issue one
18 or more tax credit certificates to the owner not later than
19 thirty days after the application is submitted to the board.
20 Each tax credit certificate must contain the owner's name,
21 address, and tax identification number, amount of tax credits,
22 and the expiration date of the tax credit certificate, which
23 shall be seven years from its date of issuance and any other
24 information required by the department. Once issued by the
25 board, the tax credit certificate shall be binding on the
26 board and the department and shall not be modified,
27 terminated, or rescinded.

28 2. If the tax credit application is filed by a
29 partnership, limited liability company, S corporation, estate,
30 trust, or other reporting entity all of the income of which is
31 taxed directly to its equity holders or beneficiaries, the tax
32 credit certificate may, at the election of the owner, be
33 issued directly to equity holders or beneficiaries of the
34 owner in proportion to their pro rata share of the income of
35 such entity. If the owner elects to have the tax credit

1 certificate issued directly to its equity holders or
2 beneficiaries, the owner must, in the application made under
3 section 476B.5, identify its equity holders or beneficiaries,
4 and the amount of such entity's income that is allocable to
5 each equity holder or beneficiary.

6 Sec. 11. NEW SECTION. 476B.7 TRANSFER OF TAX CREDIT
7 CERTIFICATES.

8 Wind energy production tax credit certificates issued under
9 this chapter may be transferred to any person or entity.
10 Within thirty days of transfer, the transferee must submit the
11 transferred tax credit certificate to the board along with a
12 statement containing the transferee's name, tax identification
13 number, and address, and the denomination that each
14 replacement tax credit certificate is to carry and any other
15 information required by the department. Within thirty days of
16 receiving the transferred tax credit certificate and the
17 transferee's statement, the board shall issue one or more
18 replacement tax credit certificates to the transferee. Each
19 replacement certificate must contain the information required
20 under section 476B.6 and must have the same expiration date
21 that appeared in the transferred tax credit certificate. Tax
22 credit certificate amounts of less than the minimum amount
23 established by rule of the board shall not be transferable. A
24 tax credit shall not be claimed by a transferee under this
25 chapter until a replacement tax credit certificate identifying
26 the transferee as the proper holder has been issued.

27 The tax credit shall only be transferred once. The
28 transferee may use the amount of the tax credit transferred
29 against the taxes imposed under chapter 422, divisions II,
30 III, and V, and chapter 432 for any tax year the original
31 transferor could have claimed the tax credit. Any
32 consideration received for the transfer of the tax credit
33 shall not be included as income under chapter 422, divisions
34 II, III, and V. Any consideration paid for the transfer of
35 the tax credit shall not be deducted from income under chapter

1 422, divisions II, III, and V.

2 Sec. 12. NEW SECTION. 476B.8 USE OF TAX CREDIT

3 CERTIFICATES.

4 To claim a wind energy production tax credit under this
5 chapter, a taxpayer must attach one or more tax credit
6 certificates to the taxpayer's tax return. The tax credit
7 certificate or certificates attached to the taxpayer's tax
8 return shall be issued in the taxpayer's name, expire on or
9 after the last day of the taxable year for which the taxpayer
10 is claiming the tax credit, and show a tax credit amount equal
11 to or greater than the tax credit claimed on the taxpayer's
12 tax return. Any tax credit in excess of the taxpayer's tax
13 liability for the taxable year may be credited to the
14 taxpayer's tax liability for the following seven taxable years
15 or until depleted, whichever is the earlier.

16 Sec. 13. NEW SECTION. 476B.9 REGISTRATION OF TAX CREDIT

17 CERTIFICATES.

18 The board shall, in conjunction with the department,
19 develop a system for the registration of the wind energy
20 production tax credit certificates issued or transferred under
21 this chapter and a system that permits verification that any
22 tax credit claimed on a tax return is valid and that transfers
23 of the tax credit certificates are made in accordance with the
24 requirements of this chapter. The tax credit certificates
25 issued under this chapter shall not be classified as a
26 security pursuant to chapter 502.

27 Sec. 14. APPLICABILITY DATE. This Act applies to tax
28 years beginning on or after January 1, 2004.

29 EXPLANATION

30 This bill provides a wind energy production tax credit to
31 be used to offset a taxpayer's tax liability under the
32 individual or corporate income tax, franchise tax, or
33 insurance premiums tax. The credit is based upon the number
34 of kilowatt-hours of electricity produced and sold by a
35 qualified facility that uses wind energy to generate

1 electricity. The credit amount is determined by multiplying
2 those kilowatt-hours by one cent. This one cent is adjusted
3 for inflation each year. A qualified facility is one located
4 in Iowa that was originally placed in operation between July
5 1, 2004, and June 30, 2009.

6 The credit is nonrefundable. However, the credit may be
7 transferred by the taxpayer to another taxpayer or any credit
8 not used by the taxpayer may be carried forward for up to
9 seven years.

10 The bill applies starting with a tax year beginning on or
11 after January 1, 2004.

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