

school age pupils enrolled in the school district or nonpublic school. Public school kindergarten programs shall and public and nonpublic school prekindergarten programs may be provided. In addition, the board of directors or governing authority may include in the educational program of any school such additional courses, subjects, or activities which it deems fit the needs of the pupils.

Sec. 6. DEPARTMENT OF EDUCATION — CORE CURRICULUM STUDY. The department of education shall conduct a study of the measures necessary for the successful adoption by the state's school districts and accredited nonpublic schools of core curriculums and core content standards established by rule pursuant to section 256.7, subsections 26 and 28. The³ department shall submit its findings and recommendations, including recommendations for statutory and administrative rule changes necessary, to the general assembly by November 14, 2008.

Sec. 7. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all of the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

Approved May 1, 2008

CHAPTER 1128

RENEWABLE ENERGY PRODUCTION — FINANCING AND INCENTIVES

S.F. 2405

AN ACT relating to renewable energy, providing for state bank acquisition of equity interests in wind energy production facilities, providing for qualification for specified tax credits and refunds by state banks and by owners or manufacturing facilities generating wind energy for on-site consumption rather than sale, providing for the establishment or participation in a program to track, record, or verify the trading of credits for electricity generated from specified sources, and providing effective and retroactive applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I BANK WIND ENERGY INVESTMENT

Section 1. Section 524.802, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. Provide customer financing for wind energy production facilities eligible for production tax credits pursuant to chapter 476B in a manner that maximizes the availability of production tax credits to the state bank, including structuring such financing as a membership investment whereby the state bank as equity investor may take a majority financial position, but not a management position, in each such facility, subject to the following:

³ See chapter 1191, §159 herein

- a. Prior to providing financing, a creditworthiness review shall be conducted pursuant to the state bank's standard loan underwriting criteria.
- b. The state bank shall not participate in the operation of the facility, the production of wind energy, or the sale of wind energy if such sale is contemplated by the customer.
- c. If the facility does not perform as projected in the equity investment agreement, the state bank may either sell its interest in the facility or pursue liquidation.
- d. The state bank shall not share in any appreciation in value of its interest in the facility or in any of the customer's real or personal assets.
- e. At the end of any applicable holding period, the state bank shall sell at book value its ownership interest in the facility.

DIVISION II
WIND ENERGY PRODUCTION TAX CREDITS AND REFUNDS

Sec. 2. Section 423.4, subsection 4, Code Supplement 2007, is amended to read as follows:

4. A person in possession of a wind energy production tax credit certificate pursuant to chapter 476B or a renewable energy tax credit certificate issued pursuant to chapter 476C may apply to the director for refund of the amount of sales or use tax imposed and paid upon purchases made by the applicant.

a. The refunds may be obtained only in the following manner and under the following conditions:

(1) On forms furnished by the department and filed by January 31 after the end of the calendar year in which the tax credit certificate is to be applied, the applicant shall report to the department the total amount of sales and use tax paid during the reporting period on purchases made by the applicant.

(2) The applicant shall separately list the amounts of sales and use tax paid during the reporting period.

(3) If required by the department, the applicant shall prove that the person making the sales has included the amount thereof in the computation of the sales price of such person and that such person has paid the tax levied by this subchapter or subchapter III, based upon such computation of the sales price.

(4) The applicant shall provide the tax credit certificates issued pursuant to chapter 476B or 476C to the department with the forms required by this paragraph "a".

b. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the applicant for an amount not greater than the amount of tax credits issued in tax credit certificates pursuant to chapter 476B or 476C.

Sec. 3. Section 437A.17B, Code 2007, is amended to read as follows:

437A.17B REIMBURSEMENT FOR RENEWABLE ENERGY.

A person in possession of a wind energy tax credit certificate issued pursuant to chapter 476B or a renewable energy tax credit certificate issued pursuant to chapter 476C may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to this chapter in an amount not more than the person received in wind energy tax credit certificates pursuant to chapter 476B or renewable energy tax credit certificates pursuant to chapter 476C. To obtain the reimbursement, the person shall attach to the return required under section 437A.8 the wind energy tax credit certificates issued to the person pursuant to chapter 476B, or the renewable energy tax credit certificates issued to the person pursuant to chapter 476C, and provide any other information the director may require. The director shall direct a warrant to be issued to the person for an amount equal to the tax imposed and paid by the person pursuant to this chapter but for not more than the amount of the wind energy tax credit certificates or renewable energy tax credit certificates attached to the return.

Sec. 4. Section 476B.1, subsection 4, paragraph c, Code 2007, is amended to read as follows:

c. Was originally placed in service on or after July 1, 2005, but before July 1, ~~2009~~ 2012.

Sec. 5. Section 476B.1, subsection 4, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For applications filed on or after March 1, 2008, consists of one or more wind turbines connected to a common gathering line which have a combined nameplate capacity of no less than two megawatts.

Sec. 6. Section 476B.2, Code 2007, is amended to read as follows:
476B.2 GENERAL RULE.

The owner of a qualified facility shall, for each kilowatt-hour of qualified electricity that the owner sells or uses for on-site consumption during the ten-year period beginning on the date the qualified facility was originally placed in service, be allowed a wind energy production tax credit to the extent provided in this chapter against the tax imposed in chapter 422, divisions II, III, and V, and chapter 432, and may claim a refund of tax imposed by chapter 423 or 437A for any tax year within the time period set forth in section 423.47 or 437A.14.

Sec. 7. Section 476B.3, Code 2007, is amended to read as follows:
476B.3 CREDIT AMOUNT.

The wind energy production tax credit allowed under this chapter equals the product of one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the taxable year.

Sec. 8. Section 476B.5, subsection 1, paragraph e, Code 2007, is amended to read as follows:

e. A Except when electricity is used for on-site consumption, a copy of an executed power purchase agreement or other agreement to purchase electricity upon completion of the project. An executed interconnection agreement or transmission service agreement shall be accepted by the board under this paragraph if the owner of the facility has agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

Sec. 9. Section 476B.6, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For a facility in which electricity is used for on-site consumption, the requirements of paragraphs "c" and "d" shall not be applicable. For such facilities, the owner must submit a certification under penalty of perjury that the claimed amount of electricity was generated by the qualified facility and consumed by the owner.

Sec. 10. Section 476B.6, subsection 3, Code 2007, is amended to read as follows:

3. The board shall notify the department of the amount of kilowatt-hours generated and purchased from a qualified facility or generated and used on-site by a qualified facility. The department shall calculate the amount of the tax credit for which the applicant is eligible and shall issue the tax credit certificate for that amount or notify the applicant in writing of its refusal to do so. An applicant whose application is denied may file an appeal with the department within sixty days from the date of the denial pursuant to the provisions of chapter 17A.

Sec. 11. Section 476B.6, subsection 5, paragraph d, Code 2007, is amended to read as follows:

d. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for the taxes imposed under chapter 422, division V, or under chapter 423, 432, or 437A, the tax credit certificate shall be issued directly to the partnership, limited liability company, S corporation, estate, trust, or other reporting entity.

Sec. 12. Section 476B.7, Code 2007, is amended to read as follows:
476B.7 TRANSFER OF TAX CREDIT CERTIFICATES.

Wind energy production tax credit certificates issued under this chapter may be transferred to any person or entity. Within thirty days of transfer, the transferee must submit the trans-

ferred tax credit certificate to the department along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under section 476B.6 and must have the same effective taxable year and the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the board shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. A replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

The tax credit shall ~~only be transferred once~~ be freely transferable. The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. The transferee may claim a refund under chapter 423 or 437A for any tax year within the time period set forth in section 423.47 or 437A.14 for which the original transferor could have claimed a refund. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 13. Section 476B.8, Code 2007, is amended to read as follows:

476B.8 USE OF TAX CREDIT CERTIFICATES.

To claim a wind energy production tax credit under this chapter, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return, or if used against taxes imposed under chapter 423, the taxpayer shall comply with section 423.4, subsection 4, or if used against taxes imposed under chapter 437A, the taxpayer shall comply with section 437A.17B. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2006. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return. Any tax credit in excess of the taxpayer's tax liability for the taxable year may be credited to the taxpayer's tax liability for the following seven taxable years or until depleted, whichever is the earlier. If the tax credit is applied against the taxes imposed under chapter 423 or 437A, any credit in excess of the taxpayer's tax liability is carried over and can be filed with the refund claim for the following seven tax years or until depleted, whichever is earlier. However, the certificate shall not be used to reduce tax liability for a tax period ending after the expiration date of the certificate.

DIVISION III MISCELLANEOUS

Sec. 14. NEW SECTION. 476.44A TRADING OF CREDITS.

The board may establish or participate in a program to track, record, and verify the trading of credits or attributes relating to electricity generated from alternate energy production facilities or renewable energy sources among electric generators, utilities, and other interested entities, within this state and with similar entities in other states.

Sec. 15. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to taxable years beginning on or after January 1, 2008, for tax credits issued pursuant to this Act.

Approved May 1, 2008