

# House Amendment 8352

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1 1 Amend Senate File 449, as amended, passed, and  
1 2 reprinted by the Senate, as follows:  
1 3 #1. By striking everything after the enacting  
1 4 clause and inserting the following:  
1 5 NEW SECTION. 422.11J WIND ENERGY  
1 6 PRODUCTION TAX CREDIT.  
1 7 The taxes imposed under this division, less the  
1 8 credits allowed under sections 422.12 and 422.12B,  
1 9 shall be reduced by a wind energy production tax  
1 10 credit allowed under chapter 476B.  
1 11 Sec. 2. Section 422.33, Code Supplement 2003, is  
1 12 amended by adding the following new subsection:  
1 13 NEW SUBSECTION. 16. The taxes imposed under this  
1 14 division shall be reduced by a wind energy production  
1 15 tax credit allowed under chapter 476B.  
1 16 Sec. 3. Section 422.60, Code Supplement 2003, is  
1 17 amended by adding the following new subsection:  
1 18 NEW SUBSECTION. 9. The taxes imposed under this  
1 19 division shall be reduced by a wind energy production  
1 20 tax credit allowed under chapter 476B.  
1 21 Sec. 4. NEW SECTION. 432.12E WIND ENERGY  
1 22 PRODUCTION TAX CREDIT.  
1 23 The taxes imposed under this chapter shall be  
1 24 reduced by a wind energy production tax credit allowed  
1 25 under chapter 476B.  
1 26 Sec. 5. NEW SECTION. 476B.1 DEFINITIONS.  
1 27 For purposes of this chapter, unless the context  
1 28 otherwise requires:  
1 29 1. "Board" means the utilities board within the  
1 30 utilities division of the department of commerce.  
1 31 2. "Department" means the department of revenue.  
1 32 3. "Qualified electricity" means electricity  
1 33 produced from wind at a qualified facility.  
1 34 4. "Qualified facility" means an electrical  
1 35 production facility that meets all of the following:  
1 36 a. Produces electricity from wind.  
1 37 b. Is located in Iowa.  
1 38 c. Was originally placed in service on or after  
1 39 July 1, 2004, but before July 1, 2007.  
1 40 Sec. 6. NEW SECTION. 476B.2 GENERAL RULE.  
1 41 The owner of a qualified facility shall, for each  
1 42 kilowatt-hour of qualified electricity that the owner  
1 43 sells during the ten-year period beginning on the date  
1 44 the qualified facility was originally placed in  
1 45 service, be allowed a wind energy production tax  
1 46 credit to the extent provided in this chapter against  
1 47 the tax imposed in chapter 422, divisions II, III, and  
1 48 V, and chapter 432.  
1 49 Sec. 7. NEW SECTION. 476B.3 CREDIT AMOUNT.  
1 50 The wind energy production tax credit allowed under  
2 1 this chapter equals the product of one cent multiplied  
2 2 by the number of kilowatt-hours of qualified  
2 3 electricity sold by the owner during the taxable year.  
2 4 Sec. 8. NEW SECTION. 476B.4 LIMITATIONS.  
2 5 1. a. The wind energy production tax credit shall  
2 6 not be allowed for any kilowatt-hour of electricity  
2 7 produced on wind energy conversion property for which  
2 8 the owner has claimed or otherwise received for that  
2 9 property the benefit of special valuation under  
2 10 section 427B.26 or section 441.21, subsection 8, or  
2 11 the exemption from retail sales tax under section  
2 12 422.45, subsection 48, or section 423.3, subsection  
2 13 53, as applicable.  
2 14 b. The disallowance of the tax credit pursuant to  
2 15 paragraph "a" does not apply to an owner of a  
2 16 qualified facility that owns, directly or indirectly,  
2 17 in the aggregate, a total annual turbine nameplate  
2 18 capacity of all such property of less than one  
2 19 megawatt.  
2 20 2. The wind energy production tax credit shall not  
2 21 be allowed for any kilowatt-hour of electricity that  
2 22 is sold to a related person. For purpose of this  
2 23 subsection, persons shall be treated as related to  
2 24 each other if such persons would be treated as a

2 25 single employer under the regulations prescribed under  
2 26 section 52(b) of the Internal Revenue Code. In the  
2 27 case of a corporation that is a member of an  
2 28 affiliated group of corporations filing a consolidated  
2 29 return, such corporation shall be treated as selling  
2 30 electricity to an unrelated person if such electricity  
2 31 is sold to such a person by another member of such  
2 32 group.

2 33 Sec. 9. NEW SECTION. 476B.5 APPLICATION FOR TAX  
2 34 CREDIT CERTIFICATES.

2 35 1. a. To be eligible to receive the wind energy  
2 36 production tax credit, the owner must first receive  
2 37 approval of the board of supervisors of the county in  
2 38 which the qualified facility is located. The  
2 39 application for approval may be submitted prior to  
2 40 commencement of the construction of the qualified  
2 41 facility but shall be submitted no later than the  
2 42 close of the owner's first taxable year for which the  
2 43 credit is to be applied for. The application must  
2 44 contain the owner's name and address, the address of  
2 45 the qualified facility, and the dates of the owner's  
2 46 first and last taxable years for which the credit will  
2 47 be applied for. Within forty-five days of the receipt  
2 48 of the application for approval, the board of  
2 49 supervisors shall either approve or disapprove the  
2 50 application. After the forty-five-day limit, the  
3 1 application is deemed to be approved.

3 2 b. Upon approval of the application, the owner may  
3 3 apply for the tax credit as provided in subsection 2.  
3 4 In addition, approval of the application is approval  
3 5 by the board of supervisors for the payment of the  
3 6 property taxes levied on the qualified property to the  
3 7 state. The property taxes to be paid to the state are  
3 8 those property taxes which make up the consolidated  
3 9 tax levied on the qualified facility and which are due  
3 10 and payable in the twelve-year period beginning with  
3 11 the first fiscal year beginning on or after the end of  
3 12 the owner's first taxable year for which the credit is  
3 13 applied for. Upon approval of the application, the  
3 14 board of supervisors shall notify the county treasurer  
3 15 to state on the tax statement which lists the taxes on  
3 16 the qualified facility that the amount of the property  
3 17 taxes shall be paid to the department. Payment of the  
3 18 designated property taxes to the department shall be  
3 19 in the same manner as required for the payment of  
3 20 regular property taxes and failure to pay designated  
3 21 property taxes to the department shall be treated the  
3 22 same as failure to pay property taxes to the county  
3 23 treasurer.

3 24 c. Once the owner of the qualified facility  
3 25 receives approval under paragraph "a", subsequent  
3 26 approval under paragraph "a" is not required for the  
3 27 same qualified facility for subsequent taxable years.

3 28 2. To receive the wind energy production tax  
3 29 credit, an owner of the qualified facility must submit  
3 30 an application for a tax credit certificate to the  
3 31 board not later than thirty days after the close of  
3 32 the taxable year for which the credit is applied for.  
3 33 The owner's application must contain, but need not be  
3 34 limited to, all of the following information: the  
3 35 owner's name, tax identification number, and address,  
3 36 the number of kilowatt-hours of qualified electricity  
3 37 sold by the owner during the preceding taxable year,  
3 38 the address of the qualified facility at which the  
3 39 qualified electricity was produced, and the  
3 40 denomination that each tax credit certificate is to  
3 41 carry. For the first taxable year for which the  
3 42 credit is applied for, there shall be attached to the  
3 43 application a notarized copy of the board of  
3 44 supervisors' approval as required in subsection 1.

3 45 3. The board shall, in conjunction with the  
3 46 department, prescribe appropriate forms, including  
3 47 board of supervisors' approval forms, and instructions  
3 48 to enable owners to claim the tax credit allowed under  
3 49 this chapter. If the board prescribes these forms and  
3 50 instructions, an owner's application for a tax credit  
4 1 certificate shall not be valid unless made on and in  
4 2 accordance with these forms and instructions.

4 3 Sec. 10. NEW SECTION. 476B.6 ISSUANCE OF TAX  
4 4 CREDIT CERTIFICATES.

4 5 1. If the owner meets the criteria for eligibility

4 6 for the wind energy production tax credit, the board  
4 7 shall determine the validity of the application and if  
4 8 valid, shall approve the application for credit. Once  
4 9 approval of the credit for a qualified facility is  
4 10 granted, subsequent approval is not required for the  
4 11 same qualified facility. However, application is  
4 12 required to be filed as provided in section 476B.5,  
4 13 subsection 2, for purposes of the issuance of credit  
4 14 certificates. The board shall issue one or more tax  
4 15 credit certificates to the owner not later than thirty  
4 16 days after the application is submitted to the board.  
4 17 Each tax credit certificate must contain the owner's  
4 18 name, address, and tax identification number, amount  
4 19 of tax credits, the first taxable year the  
4 20 certificates may be used, which shall not be for a  
4 21 taxable year beginning prior to July 1, 2005, and the  
4 22 expiration date of the tax credit certificate, which  
4 23 shall be seven years from its date of issuance and any  
4 24 other information required by the department. Once  
4 25 issued by the board, the tax credit certificate shall  
4 26 be binding on the board and the department and shall  
4 27 not be modified, terminated, or rescinded. The board  
4 28 shall notify the department and identify the qualified  
4 29 facility for which the owner received tax credit  
4 30 certificates that property taxes levied on the  
4 31 qualified facility are to be paid to the department.

4 32 2. If the tax credit application is filed by a  
4 33 partnership, limited liability company, S corporation,  
4 34 estate, trust, or other reporting entity all of the  
4 35 income of which is taxed directly to its equity  
4 36 holders or beneficiaries, the tax credit certificate  
4 37 may, at the election of the owner, be issued directly  
4 38 to equity holders or beneficiaries of the owner in  
4 39 proportion to their pro rata share of the income of  
4 40 such entity. If the owner elects to have the tax  
4 41 credit certificate issued directly to its equity  
4 42 holders or beneficiaries, the owner must, in the  
4 43 application made under section 476B.5, identify its  
4 44 equity holders or beneficiaries, and the amount of  
4 45 such entity's income that is allocable to each equity  
4 46 holder or beneficiary.

4 47 Sec. 11. NEW SECTION. 476B.7 TRANSFER OF TAX  
4 48 CREDIT CERTIFICATES.

4 49 Wind energy production tax credit certificates  
4 50 issued under this chapter may be transferred to any  
5 1 person or entity. Within thirty days of transfer, the  
5 2 transferee must submit the transferred tax credit  
5 3 certificate to the board along with a statement  
5 4 containing the transferee's name, tax identification  
5 5 number, and address, and the denomination that each  
5 6 replacement tax credit certificate is to carry and any  
5 7 other information required by the department. Within  
5 8 thirty days of receiving the transferred tax credit  
5 9 certificate and the transferee's statement, the board  
5 10 shall issue one or more replacement tax credit  
5 11 certificates to the transferee. Each replacement  
5 12 certificate must contain the information required  
5 13 under section 476B.6 and must have the same effective  
5 14 taxable year and the same expiration date that  
5 15 appeared in the transferred tax credit certificate.  
5 16 Tax credit certificate amounts of less than the  
5 17 minimum amount established by rule of the board shall  
5 18 not be transferable. A tax credit shall not be  
5 19 claimed by a transferee under this chapter until a  
5 20 replacement tax credit certificate identifying the  
5 21 transferee as the proper holder has been issued.

5 22 The tax credit shall only be transferred once. The  
5 23 transferee may use the amount of the tax credit  
5 24 transferred against the taxes imposed under chapter  
5 25 422, divisions II, III, and V, and chapter 432 for any  
5 26 tax year the original transferor could have claimed  
5 27 the tax credit. Any consideration received for the  
5 28 transfer of the tax credit shall not be included as  
5 29 income under chapter 422, divisions II, III, and V.  
5 30 Any consideration paid for the transfer of the tax  
5 31 credit shall not be deducted from income under chapter  
5 32 422, divisions II, III, and V.

5 33 Sec. 12. NEW SECTION. 476B.8 USE OF TAX CREDIT  
5 34 CERTIFICATES.

5 35 To claim a wind energy production tax credit under  
5 36 this chapter, a taxpayer must attach one or more tax

5 37 credit certificates to the taxpayer's tax return. A  
5 38 tax credit certificate shall not be used or attached  
5 39 to a return filed for a taxable year beginning prior  
5 40 to July 1, 2005. The tax credit certificate or  
5 41 certificates attached to the taxpayer's tax return  
5 42 shall be issued in the taxpayer's name, expire on or  
5 43 after the last day of the taxable year for which the  
5 44 taxpayer is claiming the tax credit, and show a tax  
5 45 credit amount equal to or greater than the tax credit  
5 46 claimed on the taxpayer's tax return. Any tax credit  
5 47 in excess of the taxpayer's tax liability for the  
5 48 taxable year may be credited to the taxpayer's tax  
5 49 liability for the following seven taxable years or  
5 50 until depleted, whichever is the earlier.

6 1 Sec. 13. NEW SECTION. 476B.9 REGISTRATION OF TAX  
6 2 CREDIT CERTIFICATES.

6 3 The board shall, in conjunction with the  
6 4 department, develop a system for the registration of  
6 5 the wind energy production tax credit certificates  
6 6 issued or transferred under this chapter and a system  
6 7 that permits verification that any tax credit claimed  
6 8 on a tax return is valid and that transfers of the tax  
6 9 credit certificates are made in accordance with the  
6 10 requirements of this chapter. The tax credit  
6 11 certificates issued under this chapter shall not be  
6 12 classified as a security pursuant to chapter 502.

6 13 Sec. 14. EFFECTIVE AND APPLICABILITY DATES. This  
6 14 Act, being deemed of immediate importance, takes  
6 15 effect upon enactment and applies retroactively to  
6 16 taxable years beginning on or after January 1, 2004.>

6 17 #2. Title page, by striking lines 3 and 4 and  
6 18 inserting the following: 6 19 providing for certain property taxes to be paid to the  
6 20 state, and including effective and applicability date  
6 21 provisions.>

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6 25 COMMITTEE ON WAYS AND MEANS  
6 26 J. K. VAN FOSSEN of Scott, Chairperson  
6 27 SF 449.706 80  
6 28 mg/gg