

APR 22 2003
WAYS & MEANS CALENDAR

HOUSE FILE 690
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 314)

Passed House, Date _____ Passed Senate, 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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HF 690

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. 476B.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 The wind energy production tax credit allowed under this
11 chapter equals the product of one cent multiplied by the
12 number of kilowatt-hours of qualified electricity sold by the
13 owner during the taxable year.

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

15 1. The wind energy production tax credit shall not be
16 allowed for any kilowatt-hour of electricity produced on wind
17 energy conversion property for which the owner has claimed or
18 otherwise received for that property the benefit of special
19 valuation under section 427B.26 or section 441.21, subsection
20 8, or the exemption from retail sales tax under section
21 422.45, subsection 48.

22 2. The wind energy production tax credit shall not be
23 allowed for any kilowatt-hour of electricity that is sold to a
24 related person. For purpose of this subsection, persons shall
25 be treated as related to each other if such persons would be
26 treated as a single employer under the regulations prescribed
27 under section 52(b) of the Internal Revenue Code. In the case
28 of a corporation that is a member of an affiliated group of
29 corporations filing a consolidated return, such corporation
30 shall be treated as selling electricity to an unrelated person
31 if such electricity is sold to such a person by another member
32 of such group.

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

35 1. To receive the wind energy production tax credit, an

1 owner of the qualified facility must submit an application for
2 a tax credit certificate to the board not later than thirty
3 days after the close of its taxable year. The owner's
4 application must contain, but need not be limited to, all of
5 the following information: the owner's name, tax
6 identification number, and address, the number of kilowatt-
7 hours of qualified electricity sold by the owner during the
8 preceding taxable year, the address of the qualified facility
9 at which the qualified electricity was produced, a certified
10 statement of the number, if any, of kilowatt-hours of
11 electricity produced on wind energy conversion property for
12 which the owner has claimed or otherwise received for that
13 property the benefit of special valuation under section
14 427B.26 or section 441.21, subsection 8, or the exemption from
15 the retail sales tax under section 422.45, subsection 48, and
16 the denomination that each tax credit certificate is to carry.

17 2. The board shall, in conjunction with the department,
18 prescribe appropriate forms and instructions to enable owners
19 to claim the tax credit allowed under this chapter. If the
20 board prescribes these forms and instructions, an owner's
21 application for a tax credit certificate shall not be valid
22 unless made on and in accordance with these forms and
23 instructions.

24 Sec. 10. NEW SECTION. 476B.6 ISSUANCE OF TAX CREDIT
25 CERTIFICATES.

26 1. If the owner meets the criteria for eligibility for the
27 wind energy production tax credit, the board shall determine
28 the validity of the application and if valid, shall issue one
29 or more tax credit certificates to the owner not later than
30 thirty days after the application is submitted to the board.
31 Each tax credit certificate must contain the owner's name,
32 address, and tax identification number, amount of tax credits,
33 and the expiration date of the tax credit certificate, which
34 shall be seven years from its date of issuance and any other
35 information required by the department. Once issued by the

1 board, the tax credit certificate shall be binding on the
2 board and the department and shall not be modified,
3 terminated, or rescinded.

4 2. If the tax credit application is filed by a
5 partnership, limited liability company, S corporation, estate,
6 trust, or other reporting entity all of the income of which is
7 taxed directly to its equity holders or beneficiaries, the tax
8 credit certificate may, at the election of the owner, be
9 issued directly to equity holders or beneficiaries of the
10 owner in proportion to their pro rata share of the income of
11 such entity. If the owner elects to have the tax credit
12 certificate issued directly to its equity holders or
13 beneficiaries, the owner must, in the application made under
14 section 476B.5, identify its equity holders or beneficiaries,
15 and the amount of such entity's income that is allocable to
16 each equity holder or beneficiary.

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

19 Wind energy production tax credit certificates issued under
20 this chapter may be transferred to any person or entity.
21 Within thirty days of transfer, the transferee must submit the
22 transferred tax credit certificate to the board along with a
23 statement containing the transferee's name, tax identification
24 number, and address, and the denomination that each
25 replacement tax credit certificate is to carry and any other
26 information required by the department. Within thirty days of
27 receiving the transferred tax credit certificate and the
28 transferee's statement, the board shall issue one or more
29 replacement tax credit certificates to the transferee. Each
30 replacement certificate must contain the information required
31 under section 476B.6 and must have the same expiration date
32 that appeared in the transferred tax credit certificate. Tax
33 credit certificate amounts of less than the minimum amount
34 established by rule of the board shall not be transferable. A
35 tax credit shall not be claimed by a transferee under this

1 chapter until a replacement tax credit certificate identifying
2 the transferee as the proper holder has been issued.

3 The tax credit shall only be transferred once. The
4 transferee may use the amount of the tax credit transferred
5 against the taxes imposed under chapter 422, divisions II,
6 III, and V, and chapter 432 for any tax year the original
7 transferor could have claimed the tax credit. Any
8 consideration received for the transfer of the tax credit
9 shall not be included as income under chapter 422, divisions
10 II, III, and V. Any consideration paid for the transfer of
11 the tax credit shall not be deducted from income under chapter
12 422, divisions II, III, and V.

13 Sec. 12. NEW SECTION. 476B.8 USE OF TAX CREDIT
14 CERTIFICATES.

15 To claim a wind energy production tax credit under this
16 chapter, a taxpayer must attach one or more tax credit
17 certificates to the taxpayer's tax return. The tax credit
18 certificate or certificates attached to the taxpayer's tax
19 return shall be issued in the taxpayer's name, expire on or
20 after the last day of the taxable year for which the taxpayer
21 is claiming the tax credit, and show a tax credit amount equal
22 to or greater than the tax credit claimed on the taxpayer's
23 tax return. Any tax credit in excess of the taxpayer's tax
24 liability for the taxable year may be credited to the
25 taxpayer's tax liability for the following seven taxable years
26 or until depleted, whichever is the earlier.

27 Sec. 13. NEW SECTION. 476B.9 REGISTRATION OF TAX CREDIT
28 CERTIFICATES.

29 The board shall, in conjunction with the department,
30 develop a system for the registration of the wind energy
31 production tax credit certificates issued or transferred under
32 this chapter and a system that permits verification that any
33 tax credit claimed on a tax return is valid and that transfers
34 of the tax credit certificates are made in accordance with the
35 requirements of this chapter. The tax credit certificates

1 issued under this chapter shall not be classified as a
2 security pursuant to chapter 502.

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

5 EXPLANATION

6 This bill provides a wind energy production tax credit to
7 be used to offset a taxpayer's tax liability under the
8 individual or corporate income tax, franchise tax, or
9 insurance premiums tax. The credit is based upon the number
10 of kilowatt-hours of electricity produced and sold by a
11 qualified facility that uses wind energy to generate
12 electricity. The credit amount is determined by multiplying
13 those kilowatt-hours by one cent. A qualified facility is one
14 located in Iowa that was originally placed in operation
15 between July 1, 2004, and June 30, 2009.

16 The credit is nonrefundable. However, the credit may be
17 transferred by the taxpayer to another taxpayer or any credit
18 not used by the taxpayer may be carried forward for up to
19 seven years.

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

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HOUSE FILE 690

H-1440

1 Amend House File 690 as follows:

2 1. Page 6, by striking lines 3 and 4 and
3 inserting the following:

4 "Sec. ____ . EFFECTIVE AND APPLICABILITY DATE
5 PROVISION. This Act takes effect on the date the
6 legislative fiscal bureau notifies the department of
7 revenue and finance that new revenues for the general
8 fund of the state have been generated from the new
9 jobs created as a result of the assistance provided
10 businesses by the Iowa values fund that will at least
11 offset the estimated future revenue loss to the
12 general fund of the state as a result of the
13 implementation of this Act. If this Act takes effect,
14 this Act applies retroactively to January 1 preceding
15 the effective date for tax years beginning on or after
16 that date. The "Iowa values fund" means a fund
17 established during the 2003 legislative session which
18 is financed through the issuance of bonds or notes."

19 2. Title page, line 3, by inserting after the
20 word "including" the following: "and effective and".

By SHOULTZ of Black Hawk

H-1440 FILED APRIL 23, 2003

Pauken, Ch
Sands
Kuhn

Succeeded By
SF 0690.

HSB 314
WAYS AND MEANS

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIRPERSON
VAN FOSSEN)

Passed House, Date _____ Passed Senate, 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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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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