

SENATE FILE 449  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 437)

Passed Senate, Date 4/24/03 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:  
**SENATE FILE 449**

**S-3294**

1 Amend Senate File 449 as follows:  
2 1. Page 2, line 15, by inserting after the figure  
3 "1." the following: "a."  
4 2. Page 2, by inserting after line 21 the  
1 5 following:  
1 6 "b. The disallowance of the tax credit pursuant to  
1 7 paragraph "a" does not apply to an owner of a  
1 8 qualified facility that owns, directly or indirectly,  
1 9 in the aggregate, a total annual turbine nameplate  
10 capacity of all such property of less than one  
11 megawatt."

1 By DARYL BEALL JACK HATCH  
1 JOHN P. KIBBIE BRYAN J. SIEVERS  
1 JOE BOLKCOM

1 S-3294 FILED APRIL 23, 2003

1 Adopted 4/24/03

**SENATE FILE 449**

**S-3303**

2 1 Amend Senate File 449 as follows:  
2 2 1. Page 1, line 35, by striking the figure "2009"  
2 3 and inserting the following: "2007".

By DOUG SHULL

S-3303 FILED APRIL 24, 2003  
ADOPTED

SF 449

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.

22 **SENATE FILE 449**

23 **S-3302**

24 1 Amend Senate File 449 as follows:

- 25 2 1. Page 5, line 17, by inserting after the word
- 26 3 "return." the following: "A tax credit certificate
- 27 4 shall not be used or attached to a return filed prior
- 28 5 to July 1, 2005."

27 **By BRYAN J. SIEVERS**

28 **S-3302 FILED APRIL 24, 2003**

29 **ADOPTED**

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35

SF 449 - Wind Energy Tax Credit (LSB 2813 SV)

Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)

Fiscal Note Version — SF 449 as Amended by S-3302 and S-3303

Requested by: Senator Bryan Sievers

**Description**

Senate File 449, as amended by S-3302 and S-3303, creates a Wind Energy Production Tax Credit. The tax credit is equal to one cent per kilowatt-hour of electricity produced and sold by a qualified wind energy facility. To qualify for the credit, the facility must:

- Produce electricity from wind
- Be located in Iowa
- Commence production on or after July 1, 2004, but before July 1, 2007.

Tax credits are earned for ten years after initial production. Tax credit certificates may be used for seven years after issue and may be transferred to a different taxpayer one time.

To qualify for the credit, the wind energy facility shall not utilize the wind energy sales tax exemption provided in Section 422.45, Code of Iowa, or the reduced property tax valuation procedure available under Section 427B.26 or 441.21, Code of Iowa.

**Assumptions**

1. The ten-year federal production tax credit (currently 1.8 cents per kilowatt-hour) will be extended to facilities constructed through calendar year 2007.
2. A total of 900 megawatts (MW) of qualified nameplate wind energy production will be constructed during the three-year window. Of that amount:
  - a. 300MW will be constructed with or without the credit.
  - b. 600MW will be constructed as the result of the credit.
  - c. All 900MW will choose to utilize the credit option and therefore forego the sales tax and property tax benefits contained in current Iowa law.
    - i. For the 300 megawatts, the costs and benefits are net of the costs and benefits under current law.
    - ii. For the 600 megawatts, the costs and benefits are all assumed to be the result of the tax credit contained in the Bill.
3. The average capacity factor of all facilities will be 30.0%. The capacity factor is determined by the operating time and efficiency of a facility. For a given megawatt facility, a higher capacity factor produces more kilowatt-hours of electricity. Average wind speed, air density, downtime, and other factors contribute to the capacity factor.
4. The 900 megawatts will commence production on or after July 1 of each year as follows:
  - a. 2004 = 250MW
  - b. 2005 = 300MW
  - c. 2006 = 350MW
5. The installed cost per nameplate megawatt will equal \$1.0 million in 2004 and decline 2.0% each year.
6. Eighty-three percent of installed costs will be subject to State sales and use tax (\$41,500 in tax revenue per MW). The sales tax will be paid in the spring prior to initial production. As all facilities are assumed to pay sales and use tax on the taxable portion of the installation costs, the impact of the continued exemption contained in amendment S-3294 (small producers) is not included.
7. The construction process will generate \$1,700 in State income tax per nameplate megawatt (construction worker salaries, construction and electrical contractor profits).



8. Lease payments to landowners and facility employees will generate \$330 in State income tax per nameplate megawatt per year.
9. After the fifth year of operation, each nameplate megawatt will generate \$200 in State corporate income tax per year.
10. Property Tax:
  - a. With spring construction, the turbines will first be assessed for property taxes January 1 following initial energy production. The first property tax payments will be due 21 months later.
  - b. The wind energy property will be classified industrial and assessed for 100.0% of the installed cost. The assessed property value will be depreciated 5.0% per year.
  - c. The average property tax rate will be \$22.30 per thousand of taxable valuation and will increase 2.5% per year.
  - d. The property taxes will not be abated or rebated, and the property will not be part of a Tax Increment Financing area. The Bill and amendments do not prohibit local government incentives to attract wind energy facilities.
  - e. All facilities will increase taxable property values within the school district and will therefore reduce the State School Aid payment by \$5.40 per thousand of taxable value.
  - f. As all facilities are assumed to pay full property taxes on the assessed value of the property, the impact of the continued partial exemption contained in amendment S-3294 (small producers) is not included.
11. All facilities will remain in production and continue to pay full property taxes after the expiration of the production tax credit period.

### **Fiscal Impact**

A single 100MW facility will generate 262.8 million kilowatt-hours of electricity and earn \$2.63 million in State production tax credits each year (for 10 years). The finances of State government will see a partial return in the form of increased sales, use, and income taxes, as well as reduced School Aid payments. Local governments where the wind facilities are located will have significant increases in taxable property value.

Over the 15 years it takes for all production tax credits to be exhausted, the projected 900 megawatts will produce \$236.5 million in State credits and a net reduction in State General Fund revenues of \$160.2 million. Local government property tax revenues, utilized to reduce property tax rates and increase services, will increase \$165.8 million.

For the General Fund, the fiscal analysis shows that the sales and income tax receipts during the construction period will produce positive net benefits in FY 2004 through FY 2006. The timetable of construction, assessment, and taxes due will delay local government benefits until FY 2007.

Several items should be noted concerning the projected fiscal impacts on State and local government finances.

- If the federal government does not renew the current 1.8-cent federal tax credit, if project financing does not develop, or if all projects choose to instead utilize current Iowa wind energy incentives, SF 449, as amended by S-3302 and S-3303, will have no fiscal impact.
- A capacity factor of 30.0% is utilized as the basis for projecting the total kilowatt-hours produced and tax credits earned by the facilities. Large portions of Iowa are capable of producing capacity factors of 35.0% or more. If the facilities operate at a capacity factor 10.0% higher than projected (33.0%), the total tax credits earned by 900MW would increase \$23.7 million over the 15 years.
- The fiscal note is based on construction of 900MW during the three-year window contemplated in the Bill as amended. The total number of megawatts constructed is not

limited. If more wind energy facilities were constructed during that time, the cost to the General Fund and the increased property tax base would increase proportionally.

The following table provides an annual projection of the net fiscal impact on the State General Fund and local government property tax revenues of wind energy facilities totaling 900MW.

<b>300MW Current Projects Plus 600MW in Credit-Induced Projects</b>							
	<b>Annual Megawatts Constructed</b>				<b>State Finances</b>	<b>Local Finances</b>	
		<b>Sales Tax</b>	<b>Corporate &amp; Personal Income Tax</b>	<b>School Aid Appropriation Reduction</b>	<b>Tax Credits Earned</b>	<b>Net General Fund</b>	<b>Increased Property Tax Revenue</b>
FY 2004	250	\$ 10,375,000	\$ 272,250			\$ 10,647,250	
FY 2005	300	12,201,000	321,750			12,522,750	
FY 2006	350	13,949,810	643,500		\$ (13,797,000)	796,310	
FY 2007			198,000	\$ 1,350,000	(19,053,000)	(17,505,000)	\$ 5,575,000
FY 2008			198,000	2,843,100	(23,652,000)	(20,610,900)	12,034,474
FY 2009			225,000	4,444,686	(23,652,000)	(18,982,314)	19,284,124
FY 2010			252,000	4,127,393	(23,652,000)	(19,272,607)	18,355,174
FY 2011			306,000	3,810,100	(23,652,000)	(19,535,900)	17,367,723
FY 2012			306,000	3,492,806	(23,652,000)	(19,853,194)	16,319,428
FY 2013			306,000	3,175,513	(23,652,000)	(20,170,487)	15,207,864
FY 2014			306,000	2,885,220	(23,652,000)	(20,460,780)	14,163,060
FY 2015			306,000	2,634,617	(20,367,000)	(17,426,383)	13,256,213
FY 2016			306,000	2,396,979	(13,140,000)	(10,437,021)	12,362,039
FY 2017			306,000	2,159,341	(4,599,000)	(2,133,659)	11,414,872
FY 2018			306,000	1,921,703	-	2,227,703	10,412,619
	<u>900</u>	<u>\$ 36,525,810</u>	<u>\$ 4,558,500</u>	<u>\$ 35,241,458</u>	<u>\$ (236,520,000)</u>	<u>\$ (160,194,232)</u>	<u>\$ 165,752,591</u>

### Sources

Iowawinds presentation  
 Legislative Fiscal Bureau Analysis  
 Iowa Energy Center  
 Department of Revenue and Finance

/s/ Dennis C Prouty

April 24, 2003

SENATE FILE 449  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 437)

(AS AMENDED AND PASSED BY THE SENATE APRIL 24, 2003)

~~\_\_\_\_\_~~ - New Language by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

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2 individual and corporate income taxes, the franchise tax, and  
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S.F. 449

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1 Section 1. NEW SECTION. 422.11H WIND ENERGY PRODUCTION  
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18 CREDIT.

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23 requires:

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25 division of the department of commerce.

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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:

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6 production tax credit to the extent provided in this chapter  
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8 V, and chapter 432.

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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  
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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    b. The disallowance of the tax credit pursuant to  
23 paragraph "a" does not apply to an owner of a qualified  
24 facility that owns, directly or indirectly, in the aggregate,  
25 a total annual turbine nameplate capacity of all such property  
26 of less than one megawatt.

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

1 if such electricity is sold to such a person by another member  
2 of such group.

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12 hours of qualified electricity sold by the owner during the  
13 preceding taxable year, the address of the qualified facility  
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7 board and the department and shall not be modified,  
8 terminated, or rescinded.

9 2. If the tax credit application is filed by a  
10 partnership, limited liability company, S corporation, estate,  
11 trust, or other reporting entity all of the income of which is  
12 taxed directly to its equity holders or beneficiaries, the tax  
13 credit certificate may, at the election of the owner, be  
14 issued directly to equity holders or beneficiaries of the  
15 owner in proportion to their pro rata share of the income of  
16 such entity. If the owner elects to have the tax credit  
17 certificate issued directly to its equity holders or  
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29 number, and address, and the denomination that each  
30 replacement tax credit certificate is to carry and any other  
31 information required by the department. Within thirty days of  
32 receiving the transferred tax credit certificate and the  
33 transferee's statement, the board shall issue one or more  
34 replacement tax credit certificates to the transferee. Each  
35 replacement certificate must contain the information required

1 under section 476B.6 and must have the same expiration date  
2 that appeared in the transferred tax credit certificate. Tax  
3 credit certificate amounts of less than the minimum amount  
4 established by rule of the board shall not be transferable. A  
5 tax credit shall not be claimed by a transferee under this  
6 chapter until a replacement tax credit certificate identifying  
7 the transferee as the proper holder has been issued.

8 The tax credit shall only be transferred once. The  
9 transferee may use the amount of the tax credit transferred  
10 against the taxes imposed under chapter 422, divisions II,  
11 III, and V, and chapter 432 for any tax year the original  
12 transferor could have claimed the tax credit. Any  
13 consideration received for the transfer of the tax credit  
14 shall not be included as income under chapter 422, divisions  
15 II, III, and V. Any consideration paid for the transfer of  
16 the tax credit shall not be deducted from income under chapter  
17 422, divisions II, III, and V.

18 Sec. 12. NEW SECTION. 476B.8 USE OF TAX CREDIT  
19 CERTIFICATES.

20 To claim a wind energy production tax credit under this  
21 chapter, a taxpayer must attach one or more tax credit  
22 certificates to the taxpayer's tax return. A tax credit  
23 certificate shall not be used or attached to a return filed  
24 prior to July 1, 2005. The tax credit certificate or  
25 certificates attached to the taxpayer's tax return shall be  
26 issued in the taxpayer's name, expire on or after the last day  
27 of the taxable year for which the taxpayer is claiming the tax  
28 credit, and show a tax credit amount equal to or greater than  
29 the tax credit claimed on the taxpayer's tax return. Any tax  
30 credit in excess of the taxpayer's tax liability for the  
31 taxable year may be credited to the taxpayer's tax liability  
32 for the following seven taxable years or until depleted,  
33 whichever is the earlier.

34 Sec. 13. NEW SECTION. 476B.9 REGISTRATION OF TAX CREDIT  
35 CERTIFICATES.



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

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

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## SENATE FILE 449

## H-8352

1 Amend Senate File 449, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 422.11J WIND ENERGY  
6 PRODUCTION TAX CREDIT.

7 The taxes imposed under this division, less the  
8 credits allowed under sections 422.12 and 422.12B,  
9 shall be reduced by a wind energy production tax  
10 credit allowed under chapter 476B.

11 Sec. 2. Section 422.33, Code Supplement 2003, is  
12 amended by adding the following new subsection:

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

16 Sec. 3. Section 422.60, Code Supplement 2003, is  
17 amended by adding the following new subsection:

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

21 Sec. 4. NEW SECTION. 432.12E WIND ENERGY  
22 PRODUCTION TAX CREDIT.

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

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

27 For purposes of this chapter, unless the context  
28 otherwise requires:

29 1. "Board" means the utilities board within the  
30 utilities division of the department of commerce.

31 2. "Department" means the department of revenue.

32 3. "Qualified electricity" means electricity  
33 produced from wind at a qualified facility.

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

36 a. Produces electricity from wind.

37 b. Is located in Iowa.

38 c. Was originally placed in service on or after  
39 July 1, 2004, but before July 1, 2007.

40 Sec. 6. NEW SECTION. 476B.2 GENERAL RULE.

41 The owner of a qualified facility shall, for each  
42 kilowatt-hour of qualified electricity that the owner  
43 sells during the ten-year period beginning on the date  
44 the qualified facility was originally placed in  
45 service, be allowed a wind energy production tax  
46 credit to the extent provided in this chapter against  
47 the tax imposed in chapter 422, divisions II, III, and  
48 V, and chapter 432.

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

50 The wind energy production tax credit allowed under

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1 this chapter equals the product of one cent multiplied  
2 by the number of kilowatt-hours of qualified  
3 electricity sold by the owner during the taxable year.

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

5 1. a. The wind energy production tax credit shall  
6 not be allowed for any kilowatt-hour of electricity  
7 produced on wind energy conversion property for which  
8 the owner has claimed or otherwise received for that  
9 property the benefit of special valuation under  
10 section 427B.26 or section 441.21, subsection 8, or  
11 the exemption from retail sales tax under section  
12 422.45, subsection 48, or section 423.3, subsection  
13 53, as applicable.

14 b. The disallowance of the tax credit pursuant to  
15 paragraph "a" does not apply to an owner of a  
16 qualified facility that owns, directly or indirectly,  
17 in the aggregate, a total annual turbine nameplate  
18 capacity of all such property of less than one  
19 megawatt.

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

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

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

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

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

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

45 3. The board shall, in conjunction with the  
46 department, prescribe appropriate forms, including  
47 board of supervisors' approval forms, and instructions  
48 to enable owners to claim the tax credit allowed under  
49 this chapter. If the board prescribes these forms and  
50 instructions, an owner's application for a tax credit

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1 certificate shall not be valid unless made on and in  
2 accordance with these forms and instructions.

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

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

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

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

49 Wind energy production tax credit certificates  
50 issued under this chapter may be transferred to any

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

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

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

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

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

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

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

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

By COMMITTEE ON WAYS AND MEANS  
J. K. VAN FOSSEN of Scott,  
Chairperson

H-8352 FILED MARCH 31, 2004

**SENATE FILE 449****H-8364**

1 Amend the Committee amendment, H-8352, to Senate  
2 File 449, as amended, passed, and reprinted by the  
3 Senate, as follows:

4 1. Page 2, line 3, by inserting after the word  
5 "year." the following: "However, the wind energy  
6 production tax credit for each qualified facility  
7 shall not exceed the rate times the kilowatt-hours of  
8 qualified electricity produced by thirty-five thousand  
9 hours of equivalent full load production. The  
10 equivalent full load production of thirty-five  
11 thousand hours shall be determined by multiplying the  
12 nameplate generating capacity of a facility in  
13 kilowatts by thirty-five thousand."

14 2. Page 2, lines 18 and 19, by striking the words  
15 "one megawatt" and inserting the following: "two  
16 megawatts".

By FREEMAN of Buena Vista  
SHOULTZ of Black Hawk

H-8364 FILED APRIL 1, 2004

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SENATE FILE 449

H-8565

1 Amend the committee amendment, H-8352, to Senate  
2 File 449, as amended, passed, and reprinted by the  
3 Senate, as follows:

4 1. Page 1, by inserting after line 25 the  
5 following:

6 "Sec. \_\_\_\_ . Section 437A.6, subsection 1, paragraph  
7 c, Code 2003, is amended to read as follows:

8 c. Wind energy conversion property subject to  
9 section 427B.26 or eligible for a tax credit under  
10 chapter 476B."

11 2. Page 3, by striking lines 4 through 7 and  
12 inserting the following:

13 "In addition, approval of the application is  
14 acceptance by the applicant for the assessment of the  
15 qualified facility for property tax purposes for a  
16 period of twelve years and approval by the board of  
17 supervisors for the payment of the property taxes  
18 levied on the qualified property to the state. For  
19 purposes of property taxation, the qualified facility  
20 shall be centrally assessed and shall be exempt from  
21 any replacement tax under section 437A.6 for the  
22 period during which the facility is subject to  
23 property taxation. The property taxes to be paid to  
24 the state are".

By KURTENBACH of Story

H-8565 FILED APRIL 14, 2004

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SENATE FILE 449

H-8388

1 Amend the committee amendment, H-8352, to Senate  
2 File 449, as amended, passed, and reprinted by the  
3 Senate, as follows:

4 1. Page 1, by inserting after line 25 the  
5 following:

6 "Sec. \_\_\_\_ . NEW SECTION. 476.50 STATE GOAL FOR  
7 ALTERNATIVE ENERGY.

8 It is the goal of this state that by 2012 four  
9 million nine hundred thousand megawatt hours of  
10 electricity used in this state be produced by  
11 alternative energy production facilities."

By SHOULTZ of Black Hawk

H-8388 FILED APRIL 5, 2004



**Fiscal Services Division  
Legislative Services Agency  
Fiscal Note**

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SF 449 – Wind Energy Production Tax Credit Bill (LSB 2813 SV.1)  
Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)  
Fiscal Note Version — Amendment H-8352 to SF 449  
Requested by: Representative Bill Dix

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**Description**

Amendment H-8352 to SF 449 strikes everything after the enacting clause and modifies the Wind Energy Production Tax Credit created in the Bill. The tax credit is equal to one cent per kilowatt-hour of electricity produced and sold by a qualified wind energy facility. To qualify for the credit, the facility must:

- Produce electricity from wind.
- Be located in Iowa.
- Commence production on or after July 1, 2004, but before July 1, 2007.
- Have the approval of the Board of Supervisors of the location county.

Tax credits are earned for ten years after initial production. Tax credit certificates may be used for seven years after issue and may be transferred to a different taxpayer one time.

To qualify for the credit, the wind energy facility shall not utilize the wind energy sales tax exemption provided in Section 422.45, Code of Iowa, or the reduced property tax valuation procedure available under Section 427B.26 or 441.21, Code of Iowa.

The Amendment further provides that for 12 years, the consolidated property tax revenues associated with new taxable production property utilizing the wind energy tax credit will be forwarded to the State and deposited to the General Fund.

**Assumptions**

1. The federal production tax credit (approximately 1.8 cents per kilowatt-hour) will be extended to facilities constructed through calendar year 2007.
2. A total of 900 megawatts (MW) of qualified nameplate wind energy production will choose to utilize the new tax credit during the three-year window. Of that amount:
  - a. Fifty percent will be constructed with or without the credit and the costs and benefits are net of the costs and benefits under current law.
  - b. Fifty percent will be constructed as the result of the credit and the costs and benefits are all assumed to be the result of the tax credit contained in the amendment.
3. The average capacity factor of all facilities will be 30.0%. The capacity factor is determined by the operating time and efficiency of a facility. For a given megawatt facility, a higher capacity factor produces more kilowatt-hours of electricity. Average wind speed, air density, downtime, and other factors contribute to the capacity factor.
4. The 900 megawatts will commence production on or after July 1 of each fiscal year as follows:
  - a. FY 2005 = 400MW
  - b. FY 2006 = 300MW
  - c. FY 2007 = 200MW
5. The installed cost per nameplate megawatt will equal \$1.0 million.
6. Sixty percent of installed costs will be subject to State sales and use tax and the purchases will not be exempted or the sales tax abated under any other provision of Iowa law.
7. The construction process will generate \$14,000 in State income tax per nameplate megawatt (construction worker salaries, construction and electrical contractor profits).

8. Lease payments to landowners, facility employees, and owner profits will generate \$320 in State income tax per nameplate megawatt per year starting the year after construction.
9. Property Tax:
  - a. With spring/summer construction, the turbines will first be assessed for property taxes January 1 following initial energy production. The first property tax payments will be due 21 months later.
  - b. The wind energy property will be classified commercial and assessed for 95.0% of the installed cost. The assessed property value will be depreciated 5.0% per year.
  - c. The average property tax rate is \$24.70 per thousand of taxable valuation and the rate will increase 1.5% per year.
  - d. The property taxes will not be abated or rebated, and the property will not be part of a Tax Increment Financing area. The amendment does not prohibit local government incentives to attract wind energy facilities.
  - e. The increased taxable property values within the school district will reduce the State School Aid payment by \$5.40 per thousand of taxable value after the 12-year period of property tax payments to the State.
  - f. During the 12-year period the State receives the consolidated property tax revenue, the portion of total project property value that was not induced by the new tax incentives will increase State school aid costs for those 12 years.
10. All facilities will remain in production and continue to pay full property taxes after the expiration of the production tax credit period.
11. The small producer incentive (one megawatt or less per owner) credit cost is not included in the prior assumptions. This fiscal note assumes there will be 15 megawatts of small producer projects constructed each of the three years.

### **Fiscal Impact**

A single 100MW facility will earn approximately \$26.3 million in State production tax credits over ten years. The finances of State government will see a return in the form of increased sales, use, and income taxes, as well as property tax revenues deposited to the State General Fund. Local governments where the wind facilities are located will realize increases after the property tax diversion to the State General Fund has expired. Local governments will see a decrease in revenue during the 12 years the State receives the consolidated property tax.

Over the 16 years it takes for all production tax credits to be exhausted, the projected 900 megawatts will produce \$236.5 million in State credits.

For the General Fund, the fiscal analysis shows that the sales and income tax receipts during the construction period will produce positive net benefits in FY 2005. During the tax credit period, the General Fund impact is negative. Once the credits are exhausted, the projects will produce a net positive impact on the General Fund. The Table below presents a 16-year summary of the General Fund fiscal impact of SF 449 as amended.

Several items should be noted concerning the projected fiscal impacts on State and local government finances.

- If the federal government does not renew the federal tax credit, if project financing does not develop, or if all projects choose to instead utilize current Iowa wind energy incentives, the amendment will have no fiscal impact.
- A capacity factor of 30.0% is utilized as the basis for projecting the total kilowatt-hours produced and tax credits earned by the facilities. Large portions of Iowa are capable of producing capacity factors of 35.0% or more. If the facilities operate at a capacity factor 10.0% higher than projected (33.0%), the total tax credits earned by 900MW would increase \$23.7 million.
- The fiscal note is based on construction of 900MW during the three-year window contemplated in the amendment. The total number of megawatts constructed is not limited. If more wind energy facilities were constructed during that time, the cost to the General Fund and the increased property tax base would increase proportionally.

The following table provides an annual projection of the net fiscal impact on the State General Fund and local government property tax revenues of wind energy facilities totaling 900MW.

**900MW Constructed - 50.0% Credit Induced**

Consolidated Property Tax to the State for 12 Years

	Megawatts Constructed	Tax Credits Awarded	School Aid Change	Corporate and Personal Tax	Sales tax to State	Property Tax to State	Net General Fund Impact
FY 2005	400	\$ 0	\$ 0	\$ 1,638,000	\$ 12,000,000	\$ 0	\$ 13,638,000
FY 2006	300	- 10,512,000	0	1,286,000	9,000,000	0	- 226,000
FY 2007	200	- 18,396,000	0	919,000	6,000,000	9,815,000	- 1,662,000
FY 2008		- 23,652,000	- 54,000	129,000	0	16,825,000	- 6,752,000
FY 2009		- 23,652,000	- 142,000	129,000	0	21,106,000	- 2,559,000
FY 2010		- 23,652,000	- 220,000	129,000	0	20,281,000	- 3,462,000
FY 2011		- 23,652,000	- 315,000	129,000	0	19,426,000	- 4,412,000
FY 2012		- 23,652,000	- 398,000	129,000	0	18,542,000	- 5,379,000
FY 2013		- 23,652,000	- 468,000	129,000	0	17,627,000	- 6,364,000
FY 2014		- 23,652,000	- 488,000	129,000	0	16,680,000	- 7,331,000
FY 2015		- 23,652,000	- 474,000	129,000	0	15,700,000	- 8,297,000
FY 2016		- 13,140,000	- 457,000	129,000	0	14,688,000	1,220,000
FY 2017		- 5,256,000	- 419,000	129,000	0	13,641,000	8,095,000
FY 2018		0	- 381,000	129,000	0	12,560,000	12,308,000
FY 2019		0	548,000	129,000	0	6,750,000	7,427,000
FY 2020		0	1,141,000	129,000	0	2,601,000	3,871,000
	<u>900</u>	<u>\$ - 236,520,000</u>	<u>\$ - 2,127,000</u>	<u>\$ 5,520,000</u>	<u>\$ 27,000,000</u>	<u>\$ 206,242,000</u>	<u>\$ 115,000</u>

In addition to the costs and benefits presented in the table, the production tax credit for small producers contained in the amendment will reduce General Fund revenues by \$400,000 in FY 2006 and will grow to \$1.2 million annually in FY 2008 through FY 2016.

**Sources**

lowawinds presentation  
 Legislative Services Agency Analysis  
 Iowa Energy Center  
 Department of Revenue

Dennis C Prouty

April 5, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.