

FILED MAR 14 2005

SENATE FILE 371
BY COMMITTEE ON NATURAL RESOURCES
AND ENVIRONMENT

(SUCCESSOR TO SSB 1187)

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

A BILL FOR

1 An Act relating to the generation and purchase of renewable
2 energy including establishing a renewable energy tax credit
3 program administered by the utilities division of the
4 department of commerce and the department of revenue, and
5 providing an effective date.

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

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SF 371

1 Section 1. Section 422.11J, Code 2005, is amended to read
2 as follows:

3 422.11J ~~WIND-ENERGY-PRODUCTION~~ RENEWABLE ENERGY TAX
4 CREDIT.

5 The taxes imposed under this division, less the credits
6 allowed under sections 422.12 and 422.12B, shall be reduced by
7 a ~~wind-energy-production~~ renewable energy tax credit allowed
8 under chapter ~~476B~~ 476C.

9 Sec. 2. Section 422.33, subsection 16, Code 2005, is
10 amended to read as follows:

11 16. The taxes imposed under this division shall be reduced
12 by a ~~wind-energy-production~~ renewable energy tax credit
13 allowed under chapter ~~476B~~ 476C.

14 Sec. 3. Section 422.60, subsection 8, Code 2005, is
15 amended to read as follows:

16 8. The taxes imposed under this division shall be reduced
17 by a ~~wind-energy-production~~ renewable energy tax credit
18 allowed under chapter ~~476B~~ 476C.

19 Sec. 4. Section 423.4, Code 2005, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 4. A purchaser of renewable energy may
22 apply to the director for refund of the amount of sales or use
23 tax imposed and paid upon sales to the purchaser of any goods,
24 wares, merchandise, or services, in an amount for which the
25 purchaser has received renewable energy tax credit
26 certificates issued pursuant to chapter 476C.

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

29 (1) On forms furnished by the department, and filed within
30 the time as the director shall provide by rule, the purchaser
31 of renewable energy shall report to the department the total
32 amount or amounts, valued in money, expended directly or
33 indirectly for goods, wares, merchandise, or services by the
34 purchaser.

35 (2) On these forms, the purchaser of renewable energy

1 shall separately list the persons making the sales to the
2 purchaser, together with the dates of the sales, and the total
3 amount so expended by the purchaser.

4 (3) The purchaser of renewable energy must prove to the
5 satisfaction of the director that the person making the sales
6 has included the amount thereof in the computation of the
7 sales price of such person and that such person has paid the
8 tax levied by this subchapter or subchapter III, based upon
9 such computation of the sales price.

10 (4) The purchaser of renewable energy must provide the tax
11 credit certificates issued to the purchaser pursuant to
12 chapter 476C to the department with the forms required by this
13 paragraph "a".

14 b. If satisfied that the foregoing conditions and
15 requirements have been complied with, the director shall
16 refund the amount claimed by the purchaser of renewable energy
17 for an amount not greater than the amount of tax credits
18 issued in tax credit certificates pursuant to chapter 476C.

19 Sec. 5. Section 432.12E, Code 2005, is amended to read as
20 follows:

21 432.12E ~~WIND-ENERGY-PRODUCTION~~ RENEWABLE ENERGY TAX
22 CREDIT.

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

26 Sec. 6. Section 437A.6, subsection 1, paragraph c, Code
27 2005, is amended to read as follows:

28 c. Wind energy conversion property subject to section
29 ~~427B.26 or-eligible-for-a-tax-credit-under-chapter-476B~~.

30 Sec. 7. NEW SECTION. 437A.17B REIMBURSEMENT FOR
31 RENEWABLE ENERGY.

32 A person may apply to the director for a reimbursement of
33 the amount of taxes imposed and paid by the person pursuant to
34 this chapter in an amount not more than the person received in
35 renewable energy tax credit certificates pursuant to chapter

1 476C. To obtain the reimbursement, the person shall attach to
2 the return required under section 437A.8 the renewable energy
3 tax credit certificates issued to the person pursuant to
4 chapter 476C, and provide any other information the director
5 may require. The director shall direct a warrant to be issued
6 to the person for an amount equal to the tax imposed and paid
7 by the person pursuant to this chapter but for not more than
8 the amount of the renewable energy tax credit certificates
9 attached to the return.

10 Sec. 8. NEW SECTION. 476C.1 DEFINITIONS.

11 For purposes of this chapter, unless the context otherwise
12 requires:

13 1. "Anaerobic digester system" means a system of
14 components that processes plant or animal materials based on
15 the absence of oxygen and produces methane or other biogas
16 used to generate electricity, hydrogen fuel, or heat for a
17 commercial purpose.

18 2. "Biogas recovery facility" means an anaerobic digester
19 system that is located in this state.

20 3. "Biomass conversion facility" means a facility in this
21 state that converts plant-derived organic matter including,
22 but not limited to, agricultural food and feed crops, crop
23 wastes and residues, wood wastes and residues, or aquatic
24 plants to generate electricity, hydrogen fuel, or heat for a
25 commercial purpose.

26 4. "Board" means the utilities board within the utilities
27 division of the department of commerce.

28 5. "Department" means the department of revenue.

29 6. "Eligible renewable energy facility" means a wind
30 energy conversion facility, a biogas recovery facility, a
31 biomass conversion facility, a methane gas recovery facility,
32 or a solar energy conversion facility that meets all of the
33 following requirements:

34 a. Is located in this state.

35 b. Is at least fifty-one percent owned by one or more of

- 1 any combination of the following:
- 2 (1) A resident of this state.
 - 3 (2) Any of the following as defined in section 9H.1:
 - 4 (a) An authorized farm corporation.
 - 5 (b) An authorized limited liability company.
 - 6 (c) An authorized trust.
 - 7 (d) A family farm corporation.
 - 8 (e) A family farm limited liability company.
 - 9 (f) A family trust.
 - 10 (g) A revocable trust.
 - 11 (h) A testamentary trust.
 - 12 (3) A small business as defined in section 15.102.
 - 13 (4) An electric cooperative association organized pursuant
14 to chapter 499 that sells electricity to end users located in
15 this state.
 - 16 (5) An electric cooperative association that has one or
17 more members organized pursuant to chapter 499.
 - 18 (6) A cooperative corporation organized pursuant to
19 chapter 497 or a limited liability corporation organized
20 pursuant to chapter 490A whose shares and membership are held
21 by an entity that is not prohibited from owning agricultural
22 land under chapter 9H.
 - 23 (7) A school district located in this state.
 - 24 c. Has at least one owner that meets the requirements of
25 paragraph "b" for each five megawatts of nameplate generating
26 capacity or the energy production capacity equivalent for
27 hydrogen fuel or heat for a commercial purpose of the
28 otherwise eligible renewable energy facility.
 - 29 d. Was initially placed into service on or after July 1,
30 2005, and before January 1, 2011.
 - 31 7. "Energy production capacity equivalent" means the
32 amount of energy in a standard cubic foot of hydrogen gas or
33 the number of British thermal units that are equal to the
34 energy in a kilowatt-hour of electricity. For the purposes of
35 this chapter, one kilowatt-hour shall be deemed equivalent to

1 three thousand three hundred thirty-three British thermal
2 units of heat for commercial purposes or ten and forty-five
3 one hundredths of standard cubic feet of hydrogen gas.

4 8. "Heat for a commercial purpose" means the heat in
5 British thermal unit equivalents from methane or other biogas
6 produced in this state sold to a purchaser of renewable energy
7 for use for a commercial purpose.

8 9. "Hydrogen fuel" means hydrogen produced in this state
9 from a renewable source that is used in a fuel cell or
10 hydrogen-powered internal combustion engine.

11 10. "Methane gas recovery facility" means a facility in
12 this state which is used in connection with a sanitary
13 landfill or which uses wastes that would otherwise be
14 deposited in a sanitary landfill, that collects methane gas or
15 other gases and converts the gas into energy to generate
16 electricity, hydrogen fuel, or heat for a commercial purpose.

17 11. "Producer of renewable energy" means a person who owns
18 an eligible renewable energy facility.

19 12. "Purchaser of renewable energy" means a person who
20 buys electric energy, hydrogen fuel, or heat for a commercial
21 purpose from an eligible renewable energy facility.

22 13. "Solar energy conversion facility" means a solar
23 energy facility in this state that collects and converts
24 incident solar radiation into energy to generate electricity.

25 14. "Wind energy conversion facility" means a wind energy
26 conversion system in this state that collects and converts
27 wind into energy to generate electricity.

28 Sec. 9. NEW SECTION. 476C.2 TAX CREDIT AMOUNT --
29 LIMITATIONS.

30 1. A purchaser of renewable energy may receive renewable
31 energy tax credits under this chapter in an amount equal to
32 one and one-half cents per kilowatt-hour of electricity, or
33 four dollars and fifty cents per million British thermal units
34 of heat for a commercial purpose, or one dollar and forty-four
35 cents per one thousand standard cubic feet of hydrogen fuel

1 generated by and purchased from an eligible renewable energy
2 facility.

3 2. The renewable energy purchase tax credit shall not be
4 allowed for any kilowatt-hour of electricity, British thermal
5 unit of heat for a commercial purpose, or standard cubic foot
6 of hydrogen fuel that is purchased from an eligible renewable
7 energy facility by a related person. For purposes of this
8 subsection, persons shall be treated as related to each other
9 if either person owns an eighty percent or more equity
10 interest in the other person.

11 Sec. 10. NEW SECTION. 476C.3 DETERMINATION OF
12 ELIGIBILITY.

13 1. A producer or purchaser of renewable energy may apply
14 to the board for a written determination regarding whether a
15 facility is an eligible renewable energy facility by
16 submitting to the board a written application containing all
17 of the following:

18 a. Information regarding the ownership of the facility
19 including the percentage of equity interest held by each
20 owner.

21 b. The nameplate generating capacity of the facility or
22 energy production capacity equivalent.

23 c. Information regarding the facility's initial placement
24 in service.

25 d. Information regarding the type of facility and what
26 type of renewable energy the facility will produce.

27 e. A copy of the power purchase agreement or other
28 agreement to purchase electricity, hydrogen fuel, or heat for
29 a commercial purpose.

30 f. Any other information the board may require.

31 2. The board shall review the application and supporting
32 information and shall make a preliminary determination
33 regarding whether the facility is an eligible renewable energy
34 facility. The board shall notify the applicant of the
35 approval or denial of the application within fifteen working

1 days of receipt of the application and information required.
2 If the board fails to notify the applicant of the approval or
3 denial within fifteen working days, the application shall be
4 deemed denied. An applicant who receives a determination
5 denying an application may file an appeal with the board
6 within fifteen working days from the date of the denial
7 pursuant to the provisions of chapter 17A. In the absence of
8 a timely appeal, the preliminary determination shall be final.

9 3. A facility that is not operational within eighteen
10 months after issuance of an approval for the facility by the
11 board shall cease to be an eligible renewable energy facility.
12 A facility that is granted and thereafter loses approval may
13 reapply to the board for a new determination.

14 4. The maximum amount of nameplate generating capacity of
15 all wind energy conversion facilities the board may find
16 eligible under this chapter shall not exceed ninety megawatts
17 of nameplate generating capacity. The maximum amount of
18 energy production capacity equivalent of all other facilities
19 the board may find eligible under this chapter shall not
20 exceed a combined output of ten megawatts of nameplate
21 generating capacity.

22 Sec. 11. NEW SECTION. 476C.4 TAX CREDIT CERTIFICATE
23 PROCEDURE.

24 1. A purchaser of renewable energy may apply to the
25 department for the renewable energy purchase tax credit by
26 submitting to the department all of the following:

27 a. A completed application in a form prescribed by the
28 department.

29 b. A copy of the determination granting approval of the
30 facility as an eligible renewable energy facility by the
31 board.

32 c. A copy of a signed power purchase agreement or other
33 agreement to purchase electricity, hydrogen fuel, or heat for
34 a commercial purpose from an eligible renewable energy
35 facility.

1 d. Sufficient documentation that the energy has been
2 generated by the eligible renewable energy facility and sold
3 to the purchaser who is applying for the renewable energy tax
4 credit.

5 e. Any other information the department deems necessary.

6 2. The department shall determine the amount of the tax
7 credit for which the applicant is eligible and shall issue the
8 tax credit certificate for that amount or notify the applicant
9 in writing of its refusal to do so within fifteen working days
10 of receipt of the information required by this section. If
11 the department fails to notify the applicant of an approval or
12 denial within fifteen working days, the application shall be
13 deemed denied. An applicant whose application is denied may
14 file an appeal with the department within fifteen working days
15 from the date of the denial pursuant to the provisions of
16 chapter 17A.

17 3. Each tax credit certificate shall contain the
18 purchaser's name, address, and tax identification number, the
19 amount of tax credits, the first taxable year the certificate
20 may be used, and the expiration date of the tax credit
21 certificate which shall be seven years from its date of
22 issuance, and any other information required by the
23 department. Once issued by the department, the tax credit
24 certificate shall not be terminated or rescinded.

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

1 beneficiaries, and the percentage of such entity's income that
2 is allocable to each equity holder or beneficiary.

3 5. The department shall not issue a tax credit certificate
4 if the facility approved by the board as an eligible renewable
5 energy facility is not operational within eighteen months
6 after the approval is issued.

7 Sec. 12. NEW SECTION. 476C.5 CERTIFICATE ISSUANCE
8 PERIOD.

9 A purchaser of renewable energy may receive renewable
10 energy tax credit certificates for a ten-year period for each
11 eligible renewable energy facility under this chapter. The
12 ten-year period for issuance of the tax credit certificates to
13 a purchaser begins with the date the purchaser of renewable
14 energy first purchases electricity, hydrogen fuel, or heat for
15 commercial purposes from the eligible renewable energy
16 facility for which the purchaser receives a tax credit under
17 this chapter. Renewable energy tax credit certificates shall
18 not be issued for renewable energy purchased after December
19 31, 2020.

20 Sec. 13. NEW SECTION. 476C.6 TRANSFERABILITY AND USE OF
21 TAX CREDIT CERTIFICATES -- REGISTRATION.

22 1. Renewable energy purchase tax credit certificates
23 issued under this chapter may be transferred to any person. A
24 tax credit certificate shall only be transferred once.
25 However, for purposes of this restriction, a transfer of one
26 or more certificates by a purchaser of renewable energy to the
27 producer of renewable energy from which the purchaser
28 purchased the renewable energy to receive the tax credit shall
29 not be deemed a transfer. Within thirty days of transfer, the
30 transferee must submit the transferred tax credit certificate
31 to the department along with a statement containing the
32 transferee's name, tax identification number, and address, and
33 the denomination that each new certificate is to carry and any
34 other information required by the department. Within thirty
35 days of receiving the transferred tax credit certificate and

1 the transferee's statement, the department shall issue one or
2 more replacement tax credit certificates to the transferee.
3 Each replacement tax credit certificate must contain the
4 information required under section 476C.4, subsection 3, and
5 must have the same effective taxable year and the same
6 expiration date that appeared in the transferred tax credit
7 certificate. Tax credit certificate amounts of less than the
8 minimum amount established by rule shall not be transferable.
9 A tax credit shall not be claimed by a transferee under this
10 chapter until a replacement tax credit certificate identifying
11 the transferee as the proper holder has been issued.

12 The transferee may use the amount of the tax credit
13 transferred against taxes imposed under chapter 422, divisions
14 II, III, and V, chapter 423, chapter 432, and chapter 437A for
15 any tax year the original transferor could have claimed the
16 tax credit. Any consideration received for the transfer of
17 the tax credit shall not be included as income under chapter
18 422, divisions II, III, and V. Any consideration paid for the
19 transfer of the tax credit shall not be deducted from income
20 under chapter 422, divisions II, III, and V.

21 2. To claim a renewable energy purchase tax credit under
22 this chapter, a taxpayer must attach one or more tax credit
23 certificates to the taxpayer's tax return, or if used against
24 taxes imposed under chapter 423, the taxpayer shall comply
25 with section 423.4, subsection 4. A tax credit certificate
26 shall not be used or attached to a return filed for a taxable
27 year beginning prior to July 1, 2006. The tax credit
28 certificate or certificates attached to the taxpayer's tax
29 return shall be issued in the taxpayer's name, expire on or
30 after the last day of the taxable year for which the taxpayer
31 is claiming the tax credit, and show a tax credit amount equal
32 to or greater than the tax credit claimed on the taxpayer's
33 tax return. Any tax credit in excess of the taxpayer's tax
34 liability for the taxable year may be credited to the
35 taxpayer's tax liability for future years; however, the

1 certificate shall not be used to reduce tax liability for a
2 tax period ending after the expiration date of the
3 certificate.

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

13 Sec. 14. NEW SECTION. 476C.7 RULES.

14 The department and the board may adopt rules pursuant to
15 chapter 17A for the administration and enforcement of this
16 chapter.

17 Sec. 15. Chapter 476B, Code 2005, is repealed.

18 Sec. 16. EFFECTIVE DATE. This Act, being deemed of
19 immediate importance, takes effect upon enactment.

20 EXPLANATION

21 This bill establishes a renewable energy purchase tax
22 credit program. The utilities board of the department of
23 commerce and the department of revenue shall administer the
24 program. Tax credit certificates for credits against personal
25 and corporate income taxes, franchise taxes, insurance company
26 taxes, sales tax, and replacement tax for natural gas and
27 electricity are provided to purchasers of renewable energy
28 from eligible renewable energy facilities.

29 An eligible renewable energy facility includes a wind
30 energy conversion facility, a biogas recovery facility, a
31 biomass conversion facility, a methane gas recovery facility,
32 and a solar energy conversion facility that is located in this
33 state and at least 51 percent owned by any of the following: a
34 resident of this state; certain corporate or partnership
35 farming entities; a small business; a school district; certain

1 electric cooperative associations; or a cooperative
2 corporation or a limited liability corporation organized whose
3 shares and membership are held by an entity that is not
4 prohibited from owning agricultural land. An eligible
5 renewable energy facility must also have at least one owner
6 for each five megawatts of nameplate generating capacity or
7 the energy production equivalent for hydrogen fuel or heat for
8 a commercial purpose, and be placed into service after July 1,
9 2005, but before January 1, 2011.

10 A wind energy conversion facility is a facility that
11 collects and converts wind into energy to generate
12 electricity. A biogas recovery facility is an anaerobic
13 digester system located in this state. A biomass conversion
14 facility is a facility that converts plant-derived organic
15 matter into energy. A methane gas recovery facility is a
16 facility which uses waste that would otherwise be deposited in
17 a sanitary landfill that collects and converts methane gas
18 into energy. A solar energy conversion facility is a facility
19 that collects and converts solar radiation into energy.

20 A purchaser of renewable energy may receive tax credits for
21 the number of kilowatt-hours of electricity at the rate of one
22 and one-half cents per kilowatt-hour, or \$4.50 per million
23 British thermal units of heat for a commercial purpose, or
24 \$1.44 per 1,000 standard cubic feet of hydrogen fuel purchased
25 from an eligible renewable energy facility that is not owned
26 by a person who also has an equity interest in the purchaser.

27 Applications for a determination of whether a facility is
28 an eligible renewable energy facility must be submitted to the
29 utilities board along with information regarding the capacity
30 of the facility, the facility's initial placement into
31 service, the type of facility, the type of renewable energy
32 the facility will produce, and a copy of an agreement to
33 purchase energy from an eligible renewable energy facility.
34 The board must give notice of approval or denial within 15
35 working days. The capacity of all wind energy conversion

1 facilities the board may find eligible shall not exceed 90
2 megawatts of nameplate generating capacity, and the capacity
3 of all other energy production facilities the board may find
4 eligible shall not exceed 10 megawatts of nameplate generating
5 capacity.

6 A purchaser of renewable energy may apply to the department
7 for the renewable energy purchase tax credit by submitting to
8 the department a completed application, a copy of the approval
9 from the board of the facility's eligibility, a copy of an
10 agreement to purchase energy, and documentation that the
11 energy has been generated and sold by the purchaser. The
12 department must issue the tax credit certificates or give
13 notice of refusal within 15 working days. The department
14 shall not issue a tax credit certificate if the facility
15 approved by the board is not operational within 18 months
16 after the approval is issued.

17 A purchaser of renewable energy may receive tax credit
18 certificates for 10 years after the date of purchase but tax
19 credit certificates shall not be issued for energy purchased
20 after December 31, 2020. The tax credit certificates may be
21 transferred to the producer of the renewable energy or may be
22 transferred no more than once to any other person. The
23 department shall develop a system of registration of renewable
24 energy purchase tax credit certificates issued. The
25 department and board may adopt rules to administer and enforce
26 new Code chapter 476C.

27 The bill is effective upon enactment. The bill repeals
28 Code chapter 476B relating to a wind energy production tax
29 credit.

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Houser Co-Chair
Schoenjahn co-chair
Lundby
Miller
Woods
Bolkcom

Natural Resources
Succeeded by
SF/HF 37/

SENATE FILE
BY (PROPOSED COMMITTEE ON NATURAL
RESOURCES AND ENVIRONMENT BILL BY
CO-CHAIRPERSONS BLACK and HOUSER)

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

A BILL FOR

1 An Act relating to the purchase of renewable energy including
2 establishing a renewable energy purchase tax credit program
3 within the utilities board of the department of commerce, and
4 providing effective and retroactive applicability dates.

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

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1 Section 1. Section 422.11J, Code 2005, is amended to read
2 as follows:

3 422.11J ~~WIND-ENERGY-PRODUCTION TAX CREDIT~~ CREDITS FOR WIND
4 ENERGY PRODUCTION AND RENEWABLE ENERGY PURCHASES.

5 The taxes imposed under this division, less the credits
6 allowed under sections 422.12 and 422.12B, shall be reduced by
7 ~~a-wind-energy-production tax credit~~ credits for wind energy
8 production allowed under chapter 476B and renewable energy
9 purchases allowed under chapter 476C.

10 Sec. 2. Section 422.33, subsection 16, Code 2005, is
11 amended to read as follows:

12 16. The taxes imposed under this division shall be reduced
13 by ~~a-wind-energy-production tax credit~~ credits for wind energy
14 production allowed under chapter 476B and renewable energy
15 purchases allowed under chapter 476C.

16 Sec. 3. Section 422.60, subsection 8, Code 2005, is
17 amended to read as follows:

18 8. The taxes imposed under this division shall be reduced
19 by ~~a-wind-energy-production tax credit~~ credits for wind energy
20 production allowed under chapter 476B and renewable energy
21 purchases allowed under chapter 476C.

22 Sec. 4. Section 432.12E, Code 2005, is amended to read as
23 follows:

24 432.12E ~~WIND-ENERGY-PRODUCTION TAX CREDIT~~ CREDITS FOR WIND
25 ENERGY PRODUCTION AND RENEWABLE ENERGY PURCHASES.

26 The taxes imposed under this chapter shall be reduced by a
27 ~~wind-energy-production tax credit~~ credits for wind energy
28 production allowed under chapter 476B and renewable energy
29 purchases allowed under chapter 476C.

30 Sec. 5. NEW SECTION. 476C.1 DEFINITIONS.

31 For purposes of this chapter, unless the context otherwise
32 requires:

33 1. "Anaerobic digester system" means a system of
34 components that processes animal waste based on the absence of
35 oxygen and produces gas used to generate electricity.

1 2. "Biogas recovery facility" means an anaerobic digester
2 system that is located in this state at the site of an
3 agricultural operation.

4 3. "Biomass conversion facility" means a biomass
5 conversion facility in this state that converts plant-derived
6 organic matter including, but not limited to, agricultural
7 food and feed crops, crop wastes and residues, wood wastes and
8 residues, or aquatic plants to energy to generate electricity.

9 4. "Board" means the utilities board within the utilities
10 division of the department of commerce.

11 5. "Methane gas recovery facility" means a methane gas
12 recovery facility in this state, which is used in connection
13 with a sanitary landfill or which uses wastes that would
14 otherwise be deposited in a sanitary landfill, that collects
15 methane gas or other gases and converts the gas to energy to
16 generate electricity.

17 6. "Purchaser of renewable energy" means a person who buys
18 electric energy from a qualified renewable energy facility.

19 7. "Qualified renewable energy facility" means a wind
20 energy conversion facility, a biogas recovery facility, a
21 biomass conversion facility, a methane gas recovery facility,
22 or a solar energy conversion facility that is at least fifty-
23 one percent owned by one or more of any combination of the
24 following:

25 a. A resident of this state or an entity organized
26 pursuant to the laws of this state not prohibited from owning
27 agricultural land under section 9I.3.

28 b. A small business as defined in section 15.102.

29 c. A nonprofit organization organized or operating in this
30 state.

31 d. A school district located in this state.

32 e. A tribal council if the facility is located in this
33 state within the boundaries of the tribe's settlement or
34 reservation.

35 f. An electric cooperative association organized pursuant

1 to chapter 499 and located in this state.

2 g. A cooperative corporation organized pursuant to chapter
3 497 or a limited liability corporation organized pursuant to
4 chapter 490A whose shares and membership are held by an entity
5 that is not prohibited from owning agricultural land under
6 section 9I.3.

7 8. "Solar energy conversion facility" means a solar energy
8 facility in this state that collects and converts incident
9 solar radiation to energy to generate electricity.

10 9. "Wind energy conversion facility" means a wind energy
11 conversion system in this state that collects and converts
12 wind to energy to generate electricity.

13 Sec. 6. NEW SECTION. 476C.2 RENEWABLE ENERGY PURCHASE
14 TAX CREDIT -- APPLICATION.

15 1. A purchaser of renewable energy is eligible for a
16 renewable energy purchase tax credit for any electricity
17 purchased pursuant to the provisions of this chapter.

18 2. A renewable energy purchase tax credit certificate may
19 only be issued upon receipt by the board of an application
20 that establishes that the applicant is eligible to receive the
21 tax credit and that satisfies other requirements the board
22 deems necessary. The application must be in a form and
23 submitted at a time the board establishes.

24 Sec. 7. NEW SECTION. 476C.3 PRODUCTION PERIOD.

25 Renewable energy purchase tax credit certificates may be
26 issued under this chapter only for electricity generated by a
27 qualified renewable energy facility on or after January 1,
28 2005, but before December 31, 2010.

29 Sec. 8. NEW SECTION. 476C.4 TAX CREDIT PAYMENT PERIOD.

30 A purchaser of renewable energy may receive renewable
31 energy purchase tax credits under this chapter for a ten-year
32 period. The period for issuance of the tax credits begins and
33 runs consecutively from the date the purchaser of renewable
34 energy first purchases electricity from a qualified renewable
35 energy facility. Renewable energy tax credits shall not be

1 issued for renewable energy purchased after December 31, 2020.

2 Sec. 9. NEW SECTION. 476C.5 TAX CREDIT AMOUNT --

3 LIMITATIONS.

4 1. The amount of renewable energy purchase tax credits a
5 purchaser of renewable energy may receive shall be equal to
6 one and one-half cents per kilowatt-hour of electricity
7 purchased from a qualified renewable energy facility.

8 2. a. For a wind energy conversion system contracted for
9 and installed on or after January 1, 2005, the total size of
10 the wind energy conversion system must be determined according
11 to this paragraph. Unless a wind energy conversion system is
12 interconnected with a different distribution system, the
13 nameplate capacity of the wind energy conversion system must
14 be combined with the nameplate capacity of any other wind
15 energy conversion system that is all of the following:

16 (1) Located within five miles of the wind energy
17 conversion system.

18 (2) Constructed within the same calendar year as the wind
19 energy conversion system.

20 (3) Under common ownership or has a common interconnection
21 or transmission point.

22 b. In the case of a dispute, the board shall determine the
23 total size of the system, and shall draw all reasonable
24 inferences in favor of combining the systems.

25 c. In making a determination under this subsection, the
26 board may determine that two wind energy conversion systems
27 are under common ownership when the underlying ownership
28 structure contains similar persons or entities, even if the
29 ownership shares differ between the two systems. Wind energy
30 conversion systems are not under common ownership solely
31 because the same person or entity provided equity financing
32 for the systems.

33 3. The renewable energy purchase tax credit shall not be
34 allowed for any kilowatt-hour of electricity that is purchased
35 from a qualified renewable energy facility with common

1 ownership with the purchaser or from a related person. For
2 purposes of this subsection, persons shall be treated as
3 related to each other if such persons would be treated as a
4 single employer under the regulations prescribed under section
5 52(b) of the Internal Revenue Code. In the case of a
6 corporation that is a member of an affiliated group of
7 corporations filing a consolidated return, a person purchasing
8 electricity from another such corporation shall be treated as
9 an unrelated person if such electricity is purchased from
10 another member of such group. For purposes of this
11 subsection, an "owner" means any person with an equity
12 interest in the facility.

13 4. The total amount of electricity purchased from a wind
14 energy conversion system that is eligible for a renewable
15 energy purchase tax credit under this chapter shall not exceed
16 one hundred megawatts of nameplate generating capacity.

17 Sec. 10. NEW SECTION. 476C.6 OWNERSHIP.

18 For the purposes of section 476C.1, subsection 7, a
19 renewable energy facility that is owned by less than fifty-one
20 percent of the persons or entities listed in that subsection
21 qualifies if the facility is owned by an equity financing
22 partner that is qualified to receive a federal wind energy
23 production tax credit. However, upon the expiration of the
24 equity financing partner's eligibility for any federal wind
25 energy production tax credit, the renewable energy facility
26 must meet the fifty-one percent ownership requirement of
27 section 476C.1, subsection 7, to be qualified.

28 Sec. 11. NEW SECTION. 476C.7 ELIGIBILITY PROCEDURE.

29 1. A purchaser of renewable energy is eligible for the
30 renewable energy purchase tax credit on the date the board
31 receives all of the following:

32 a. An application for a renewable energy purchase tax
33 credit certificate.

34 b. One of the following:

35 (1) A copy of a signed power purchase agreement.

1 (2) A copy of a binding agreement other than a power
2 purchase agreement to purchase electricity generated by a
3 qualified renewable energy facility.

4 (3) If the facility developer or owner will sell
5 electricity to a purchaser who is its own member or customer,
6 a copy of the purchase order for equipment to construct the
7 facility with a delivery date and a copy of a signed receipt
8 for a nonrefundable deposit.

9 c. Any other information the board deems necessary to
10 determine whether the proposed facility qualifies under this
11 chapter.

12 2. The board shall determine whether a facility is
13 qualified and respond in writing to the applicant approving or
14 denying the application within fifteen working days of receipt
15 of the information required in this section and section
16 476C.2. A facility that is not operational within eighteen
17 months of issuance of a letter of approval is no longer
18 qualified under this chapter for that application. The board
19 shall notify an applicant of potential loss of approval not
20 less than sixty days prior to the end of the eighteen-month
21 period. Eligibility for a purchaser that loses approval may
22 be reestablished as of the date the board receives a new
23 completed application.

24 3. Each tax credit certificate shall contain the
25 purchaser's name, address, and tax identification number,
26 amount of tax credits, the first taxable year the certificates
27 may be used, which shall not be for a taxable year beginning
28 prior to January 1, 2005, and the expiration date of the tax
29 credit certificate, which shall be seven years from its date
30 of issuance and any other information required by the
31 department of revenue. Once issued by the board, the tax
32 credit certificate shall be binding on the board and the
33 department of revenue and shall not be modified, terminated,
34 or rescinded. The board shall notify the department and
35 identify the qualified renewable energy facility for which the

1 purchaser received tax credit certificates.

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

15 Sec. 12. NEW SECTION. 476C.8 PURPOSE -- RULES.

16 It is the policy of this state to encourage the development
17 of renewable energy facilities in order to reduce the
18 dependence of the state on energy imported from outside of the
19 state. The board shall reject an application from an
20 applicant that in the board's opinion is an entity structured
21 for the purpose of obtaining the tax credit, and is in fact
22 part of another entity that when viewed as a whole would not
23 meet the requirements of this chapter. The board may adopt
24 rules under chapter 17A to carry out the purposes of this
25 section.

26 Sec. 13. NEW SECTION. 476C.9 TRANSFERABILITY AND USE OF
27 TAX CREDIT CERTIFICATES -- REGISTRATION.

28 1. Renewable energy purchase tax credit certificates
29 issued under this chapter may be transferred to any person or
30 entity. Within thirty days of transfer, the transferee must
31 submit the transferred tax credit certificate to the board
32 along with a statement containing the transferee's name, tax
33 identification number, and address, and the denomination that
34 each replacement tax credit certificate is to carry and any
35 other information required by the department of revenue.

1 Within thirty days of receiving the transferred tax credit
2 certificate and the transferee's statement, the board shall
3 issue one or more replacement tax credit certificates to the
4 transferee. Each replacement certificate must contain the
5 information required under section 476C.7 and must have the
6 same effective taxable year and the same expiration date that
7 appeared in the transferred tax credit certificate. Tax
8 credit certificate amounts of less than the minimum amount
9 established by rule of the board shall not be transferable. A
10 tax credit shall not be claimed by a transferee under this
11 chapter until a replacement tax credit certificate identifying
12 the transferee as the proper holder has been issued.

13 The tax credit shall only be transferred once. The
14 transferee may use the amount of the tax credit transferred
15 against the taxes imposed under chapter 422, divisions II,
16 III, and V, and chapter 432 for any tax year the original
17 transferor could have claimed the tax credit. Any
18 consideration received for the transfer of the tax credit
19 shall not be included as income under chapter 422, divisions
20 II, III, and V. Any consideration paid for the transfer of
21 the tax credit shall not be deducted from income under chapter
22 422, divisions II, III, and V.

23 2. To claim a renewable energy purchase tax credit under
24 this chapter, a taxpayer must attach one or more tax credit
25 certificates to the taxpayer's tax return. A tax credit
26 certificate shall not be used or attached to a return filed
27 for a taxable year beginning prior to July 1, 2006. The tax
28 credit certificate or certificates attached to the taxpayer's
29 tax return shall be issued in the taxpayer's name, expire on
30 or after the last day of the taxable year for which the
31 taxpayer is claiming the tax credit, and show a tax credit
32 amount equal to or greater than the tax credit claimed on the
33 taxpayer's tax return. Any tax credit in excess of the
34 taxpayer's tax liability for the taxable year may be credited
35 to the taxpayer's tax liability for the following seven

1 taxable years or until depleted, whichever is the earlier.

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

11 Sec. 14. EFFECTIVE DATE. This Act, being deemed of
12 immediate importance, takes effect upon enactment and applies
13 retroactively to taxable years beginning on or after January
14 1, 2005.

15 EXPLANATION

16 This bill establishes a renewable energy purchase tax
17 credit program. The utilities board of the department of
18 commerce shall administer the program. Tax credit
19 certificates for credits against personal and corporate income
20 taxes, franchise taxes, and insurance company taxes are
21 provided to purchasers of renewable energy from qualified
22 renewable energy facilities.

23 A qualified renewable energy facility includes a wind
24 energy conversion facility, a biogas recovery facility, a
25 biomass conversion facility, a methane gas recovery facility,
26 and a solar energy conversion facility that is at least fifty-
27 one percent owned by any of the following: one or more
28 residents of this state or an entity organized pursuant to the
29 laws of this state not prohibited from owning agricultural
30 land; a small business; a nonprofit organization organized or
31 operating in this state; a school district; a tribal council
32 if the facility is located in this state within the boundaries
33 of the tribe's settlement or reservation; an electric
34 cooperative association; or a cooperative corporation or a
35 limited liability corporation organized whose shares and

1 membership are held by an entity that is not prohibited from
2 owning agricultural land.

3 A wind energy conversion facility is a facility that
4 collects and converts wind to energy to generate electricity.
5 A biogas recovery facility is an anaerobic digester system
6 located on an agricultural operation. A biomass conversion
7 facility is a facility that converts plant-derived organic
8 matter to energy. A methane gas recovery facility is a
9 facility which uses waste that would otherwise be deposited in
10 a sanitary landfill that collects and converts methane gas to
11 energy. A solar energy conversion facility is a facility that
12 collects and converts solar radiation to energy.

13 A purchaser of renewable energy may receive tax credits for
14 the number of kilowatt-hours of electricity purchased from a
15 qualified renewable energy facility at the rate of one and
16 one-half cents per kilowatt-hour. A tax credit shall not be
17 issued for electricity purchased from a facility which has
18 common ownership with the purchaser or from a person related
19 to the purchaser. The capacity of wind energy conversion
20 facilities located within five miles of each other which are
21 constructed within the same calendar year and under common
22 ownership are combined for determining total capacity.

23 Applications for the tax credit must be submitted to the
24 utilities board along with a copy of a contract to purchase
25 electricity from a qualified renewable energy facility. The
26 board must give notice of approval or denial within 15 working
27 days. Tax credit certificates expire seven years after
28 issuance and are transferable. The board shall develop a
29 system of registration of renewable energy purchase tax credit
30 certificates issued.

31 The bill is effective upon enactment and applies
32 retroactively to taxable years beginning on or after January
33 1, 2005.

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