

SENATE FILE 390

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 371)

(SUCCESSOR TO SSB 1187)

Passed Senate, Date 4-7-05 Passed House, Date 5-16-05
Vote: Ayes 48 Nays 0 Vote: Ayes 79 Nays 16
Approved 6/15/05

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:

SF 390

H-1546

SENATE FILE 390

1 Amend Senate File 390, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 4, by inserting after line 20 the
4 following:
5 "(8) A community college as defined in section
6 260C.2."
7 2. Page 4, line 26, by striking the word "July"
8 and inserting the following: "January".

H-1546 FILED APRIL 27, 2005

By FREVERT of Palo Alto

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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Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 390 - Alternate Energy Purchase Program (LSB 2699 SZ)
Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)
Fiscal Note Version - New
Requested by Senator David Miller

Description

Senate File 390 creates a tax credit available to specified purchasers of renewable energy. The credit is equal to:

- For electricity, \$0.015 cents per kilowatt-hour.
- For heat, \$4.50 per British Thermal Unit (BTU).
- For hydrogen fuel, \$1.44 per standard cubic foot.

Each form of energy must be generated by and purchased from an eligible renewable energy facility located in Iowa.

Credits are available for ten years from the initial operation of the facility. No more than 90 megawatts of nameplate wind energy capacity and 10 megawatts of other energy source capacity may be approved under the tax credit program.

Once issued, the tax credits may be sold once, but a sale to the energy producer does not count as a sale. Tax credits cannot be utilized prior to July 1, 2006. Unused tax credits may be carried forward to a future tax year.

The Bill also strikes Chapter 476B, Code of Iowa. This Chapter was created during the 2004 General Assembly and also relates to renewable energy production. Chapter 478B has not been utilized.

Assumptions

1. Each megawatt or nameplate capacity could generate \$131,500 in tax credits if operating at full capacity for an entire year.
2. The facilities will not operate at full capacity. Wind production facilities will operate at 36.5% of maximum capacity, and other energy sources will operate at 90.0% of capacity over the life of the tax credit program.
3. All 100 megawatts of capacity authorized by the Bill will be construction and operational by FY 2008 (three years).
4. Tax credits earned in one fiscal year will be redeemed over three fiscal years.
5. The tax credits will be redeemed through a combination of personal income tax, corporate income tax, and state sales tax reductions.
6. The portion of the credit redemption impacting personal income tax will be less than 25.0%.

Fiscal Impact

The energy production tax credits authorized in SF 390 will reduce net General Fund revenue by the following estimated amounts:

<u>Fiscal Year</u>	<u>General Fund Impact</u>
FY 2006	\$ 0.0 million
FY 2007	\$ - 2.8 million
FY 2008	\$ - 4.4 million
FY 2009	\$ - 5.4 million
FY 2010	\$ - 5.5 million
FY 2011	\$ - 5.5 million
FY 2012	\$ - 5.5 million
FY 2013	\$ - 5.5 million
FY 2014	\$ - 5.5 million
FY 2015	\$ - 5.5 million
FY 2016	\$ - 5.2 million
FY 2017	\$ - 3.1 million
FY 2018	\$ - 1.0 million
FY 2019	\$ - 0.1 million
Total	\$- 55.0 million

If the portion of the credit redemption impacting personal income tax is less than 25.0%, the impact on any local option income surtax for schools will be less than \$50,000 per year.

Project and credit approval, as well as credit monitoring, will increase administrative costs of the Utilities Board and the Department of Revenue. The Utilities Board is financed by fees paid by utilities and the Department of Revenue is financed by General Fund appropriations.

Sources

Iowa Energy Center
Legislative Services Agency

/s/ Holly M. Lyons

March 28, 2005

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 Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

SENATE FILE 390

S-3079

1 Amend Senate File 390 as follows:

2 1. Page 1, by striking lines 3 and 4 and

3 inserting the following:

4 "422.11J WIND ENERGY PRODUCTION TAX CREDIT CREDITS
5 FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY."

6 2. Page 1, by striking lines 7 and 8 and

7 inserting the following: "a wind energy production
8 tax credit credits for wind energy production allowed
9 under chapter 476B and for renewable energy allowed
10 under chapter 476C."

11 3. Page 1, by striking lines 12 and 13 and

12 inserting the following: "by a wind energy production
13 tax credit credits for wind energy production allowed
14 under chapter 476B and for renewable energy allowed
15 under chapter 476C."

16 4. Page 1, by striking lines 17 and 18 and

17 inserting the following: "by a wind energy production
18 tax credit credits for wind energy production allowed
19 under chapter 476B and for renewable energy allowed
20 under chapter 476C."

21 5. Page 1, line 21, by striking the words

22 "purchaser of renewable energy" and inserting the
23 following: "person in possession of a renewable
24 energy tax credit certificate issued pursuant to
25 chapter 476C".

26 6. Page 1, by striking lines 23 through 26 and

27 inserting the following: "tax imposed and paid upon
28 purchases made by the applicant."

29 7. By striking page 1, line 29 through page 2,
30 line 5, and inserting the following:

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

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

40 (3) If required by the department, the applicant
41 shall prove that the person making the sales".

42 8. Page 2, by striking lines 10 and 11 and
43 inserting the following:

44 "(4) The applicant shall provide the tax credit
45 certificates issued pursuant to".

46 9. Page 2, line 16, by striking the words

47 "purchaser of renewable energy" and inserting the
48 following: "applicant".

49 10. Page 2, by striking lines 21 through 25 and
50 inserting the following:

S-3079

- 1 "432.12E ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS~~
2 FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.
3 The taxes imposed under this chapter shall be
4 reduced by a ~~wind energy production tax credit credits~~
5 for wind energy production allowed under chapter 476B
6 and for renewable energy allowed under chapter 476C."
7 11. Page 2, by striking lines 26 through 29.
8 12. Page 2, line 32, by inserting after the word
9 "person" the following: "in possession of a renewable
10 energy tax credit certificate issued pursuant to
11 chapter 476C".
12 13. Page 4, line 25, by striking the word "five"
13 and inserting the following: "two and one-half".
14 14. Page 5, line 2, by striking the words "for
15 commercial purposes".
16 15. Page 5, line 20, by inserting after the word
17 "fuel," the following: "methane gas or other biogas
18 used to generate electricity,".
19 16. Page 5, line 30, by inserting after the word
20 "A" the following: "producer or".
21 17. Page 5, line 34, by inserting after the word
22 "purpose," the following: "or four dollars and fifty
23 cents per million British thermal units of methane gas
24 or other biogas used to generate electricity,".
25 18. Page 6, line 3, by striking the word
26 "purchase".
27 19. Page 6, line 5, by inserting after the word
28 "purpose," the following: "British thermal unit of
29 methane gas or other biogas used to generate
30 electricity,".
31 20. Page 6, line 28, by inserting after the word
32 "fuel," the following: "methane or other biogas,".
33 21. Page 6, line 29, by inserting after the word
34 "purpose" the following: "which shall designate
35 either the producer or purchaser of renewable energy
36 as eligible to apply for the renewable energy tax
37 credit".
38 22. Page 6, line 35, by striking the words
39 "fifteen working" and inserting the following:
40 "thirty".
41 23. Page 7, line 3, by striking the words
42 "fifteen working" and inserting the following:
43 "thirty".
44 24. Page 7, line 6, by striking the words
45 "fifteen working" and inserting the following:
46 "thirty".
47 25. Page 7, line 8, by inserting after the word
48 "final." the following: "If the application is
49 incomplete, the board may grant an extension of time
50 for the provision of additional information."

- 1 26. Page 7, by inserting after line 21 the
2 following:
- 3 "5. An owner meeting the requirements of section
4 476C.1, subsection 6, paragraph "b" shall not be an
5 owner of more than two eligible renewable energy
6 facilities."
- 7 27. Page 7, line 24, by inserting after the word
8 "A" the following: "producer or".
- 9 28. Page 7, line 25, by striking the word
10 "department" and inserting the following: "board".
- 11 29. Page 7, line 25, by striking the word
12 "purchase".
- 13 30. Page 7, line 26, by striking the word
14 "department" and inserting the following: "board".
- 15 31. Page 7, line 28, by striking the word
16 "department" and inserting the following: "board".
- 17 32. Page 7, line 33, by inserting after the word
18 "fuel," the following: "methane or other biogas,".
- 19 33. Page 7, line 35, by inserting after the word
20 "facility" the following: "which shall designate
21 either the producer or purchaser of renewable energy
22 as eligible to apply for the renewable energy tax
23 credit".
- 24 34. Page 8, line 1, by striking the word "energy"
25 and inserting the following: "electricity, heat for a
26 commercial purpose, methane gas or other biogas, or
27 hydrogen fuel".
- 28 35. Page 8, by striking lines 3 and 4 and
29 inserting the following: "to the purchaser of
30 renewable energy."
- 31 36. Page 8, line 5, by striking the word
32 "department" and inserting the following: "board".
- 33 37. Page 8, line 6, by inserting after the figure
34 "2." the following: "The board shall notify the
35 department of the amount of kilowatt-hours, British
36 thermal units of heat for a commercial purpose,
37 British thermal units of methane gas or other biogas
38 used to generate electricity, or standard cubic feet
39 of hydrogen fuel generated and purchased from an
40 eligible renewable energy facility."
- 41 38. Page 8, line 6, by striking the word
42 "determine" and inserting the following: "calculate".
- 43 39. Page 8, by striking lines 9 through 13 and
44 inserting the following: "in writing of its refusal
45 to do so. An applicant whose application is denied
46 may".
- 47 40. Page 8, line 14, by striking the words
48 "fifteen working" and inserting the following:
49 "sixty".
- 50 41. Page 8, line 18, by striking the word

1 "purchaser's" and inserting the following: "person's".
2 42. Page 8, by striking lines 20 through 22 and
3 inserting the following: "may be used, the type of
4 tax to which the tax credits shall be applied, and any
5 other information required by the".

6 43. Page 8, line 23, by inserting after the word
7 "department." the following: "The tax credit
8 certificate shall only list one type of tax to which
9 the amount of the tax credit may be applied."

10 44. Page 8, line 28, by inserting after the word
11 "beneficiaries," the following: "for the taxes
12 imposed under chapter 422, division II or III,".

13 45. Page 8, by striking line 29 and inserting the
14 following: "credit certificate shall be".

15 46. Page 8, line 31, by striking the word
16 "purchaser" and inserting the following: "applicant".

17 47. Page 8, by striking lines 32 through 34 and
18 inserting the following: "of such entity. The
19 applicant shall, in the application made".

20 48. Page 9, line 2, by inserting after the word
21 "beneficiary." the following: "If the tax credit
22 application is filed by a partnership, limited
23 liability company, S corporation, estate, trust, or
24 other reporting entity, all of whose income is taxed
25 directly to its equity holders or beneficiaries for
26 the taxes imposed under chapter 422, division V, or
27 under chapter 423, 432, or 437A, the tax credit
28 certificate shall be issued directly to the
29 partnership, limited liability company, S corporation,
30 estate, trust, or other reporting entity."

31 49. Page 9, by inserting after line 6 the
32 following:

33 "6. The department shall not issue a tax credit
34 certificate to any person who has received a tax
35 credit pursuant to chapter 476B.

36 7. Once a tax credit certificate is issued
37 pursuant to this section, the tax credit may only be
38 claimed against the type of tax reflected on the
39 certificate."

40 50. Page 9, line 9, by inserting after the word
41 "A" the following: "producer or".

42 51. Page 9, lines 12 and 13, by striking the
43 words "to a purchaser".

44 52. Page 9, line 14, by inserting after the word
45 "fuel," the following: "methane gas or other biogas
46 used to generate electricity,".

47 53. Page 9, by striking line 16 and inserting the
48 following: "facility for which a tax credit is issued
49 under".

50 54. Page 9, line 22, by striking the word

1 "purchase".

2 55. Page 9, by striking lines 25 through 29 and
3 inserting the following: "However, for purposes of
4 this transfer provision, a decision between a producer
5 and purchaser of renewable energy regarding who claims
6 the tax credit issued pursuant to this chapter shall
7 not be considered a transfer and must be set forth in
8 the application for the tax credit pursuant to section
9 476C.4. Within thirty days of transfer, the".

10 56. Page 10, line 11, by inserting after the word
11 "issued." the following: "The replacement tax credit
12 certificate may reflect a different type of tax than
13 the type of tax noted on the original tax credit
14 certificate."

15 57. Page 10, by striking line 14 and inserting
16 the following: "II, III, and V, and chapter 432 for".

17 58. Page 10, line 16, by inserting after the word
18 "credit." the following: "The transferee may claim a
19 refund under chapter 423 or 437A for any tax year
20 within the time period set forth in section 423.47 or
21 437A.14 for which the original transferor could have
22 claimed the refund."

23 59. Page 10, line 21, by striking the word
24 "purchase".

25 60. Page 10, line 25, by inserting after the
26 figure "4" the following: ", or if used against taxes
27 imposed under chapter 437A, the taxpayer shall comply
28 with section 437A.17B".

29 61. Page 10, line 35, by striking the words
30 "future years; however," and inserting the following:
31 "the following seven tax years or until the credit is
32 depleted, whichever is earlier. If the tax credit is
33 applied against the taxes imposed under chapter 423 or
34 437A, any credit in excess of the taxpayer's tax
35 liability is carried over and can be filed with the
36 refund claim for the following seven tax years or
37 until depleted, whichever is earlier. However,".

38 62. Page 11, by striking line 17.

39 63. By renumbering as necessary.

By DAVID MILLER
JOE BOLKCOM

SENATE FILE 390
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 371)
(SUCCESSOR TO SSB 1187)

(AS AMENDED AND PASSED BY THE SENATE APRIL 7, 2005)

~~_____~~ - New Language by the Senate
* - Language Stricken by the Senate

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:

7

8 **H-1698**

SENATE FILE 390

9 Amend Senate File 390, as amended, passed, and
10 reprinted by the Senate, as follows:

11 1. Page 5, line 30, by striking the words "one
12 and one-half cents" and inserting the following: "one
13 cent".

14 2. Page 9, line 34, by striking the word "ten-
15 year" and inserting the following: "five-year".

16 3. Page 10, line 1, by striking the word "ten-
17 year" and inserting the following: "five-year".

By JENKINS of Black Hawk
WATTS of Dallas

18 **H-1698** FILED MAY 16, 2005
LOST

S.F. 390

SF 390

kk/cc/26

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.

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 for renewable energy
9 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 for renewable energy
15 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 for renewable energy
21 allowed under chapter 476C.

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

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

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

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

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

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

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

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

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

19 432.12E WIND-ENERGY-PRODUCTION TAX CREDIT CREDITS FOR WIND
20 ENERGY PRODUCTION AND RENEWABLE ENERGY.

21 The taxes imposed under this chapter shall be reduced by a
22 wind-energy-production tax credit credits for wind energy
23 production allowed under chapter 476B and for renewable energy
24 allowed under chapter 476C.

* 25 Sec. 6. NEW SECTION. 437A.17B REIMBURSEMENT FOR
26 RENEWABLE ENERGY.

27 A person in possession of a renewable energy tax credit
28 certificate issued pursuant to chapter 476C may apply to the
29 director for a reimbursement of the amount of taxes imposed
30 and paid by the person pursuant to this chapter in an amount
31 not more than the person received in renewable energy tax
32 credit certificates pursuant to chapter 476C. To obtain the
33 reimbursement, the person shall attach to the return required
34 under section 437A.8 the renewable energy tax credit
35 certificates issued to the person pursuant to chapter 476C,

1 and provide any other information the director may require.
2 The director shall direct a warrant to be issued to the person
3 for an amount equal to the tax imposed and paid by the person
4 pursuant to this chapter but for not more than the amount of
5 the renewable energy tax credit certificates attached to the
6 return.

7 Sec. 7. NEW SECTION. 476C.1 DEFINITIONS.

8 For purposes of this chapter, unless the context otherwise
9 requires:

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

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

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

23 4. "Board" means the utilities board within the utilities
24 division of the department of commerce.

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

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

31 a. Is located in this state.

32 b. Is at least fifty-one percent owned by one or more of
33 any combination of the following:

34 (1) A resident of this state.

35 (2) Any of the following as defined in section 9H.1:

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

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

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

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

14 11. "Producer of renewable energy" means a person who owns
15 an eligible renewable energy facility.

16 12. "Purchaser of renewable energy" means a person who
17 buys electric energy, hydrogen fuel, methane gas or other
18 biogas used to generate electricity, or heat for a commercial
19 purpose from an eligible renewable energy facility.

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

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

26 Sec. 8. NEW SECTION. 476C.2 TAX CREDIT AMOUNT --
27 LIMITATIONS.

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

1 cubic feet of hydrogen fuel generated by and purchased from an
2 eligible renewable energy facility.

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

12 Sec. 9. NEW SECTION. 476C.3 DETERMINATION OF
13 ELIGIBILITY.

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

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

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

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

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

28 e. A copy of the power purchase agreement or other
29 agreement to purchase electricity, hydrogen fuel, methane or
30 other biogas, or heat for a commercial purpose which shall
31 designate either the producer or purchaser of renewable energy
32 as eligible to apply for the renewable energy tax credit.

33 f. Any other information the board may require.

34 2. The board shall review the application and supporting
35 information and shall make a preliminary determination

1 regarding whether the facility is an eligible renewable energy
2 facility. The board shall notify the applicant of the
3 approval or denial of the application within thirty days of
4 receipt of the application and information required. If the
5 board fails to notify the applicant of the approval or denial
6 within thirty days, the application shall be deemed denied.
7 An applicant who receives a determination denying an
8 application may file an appeal with the board within thirty
9 days from the date of the denial pursuant to the provisions of
10 chapter 17A. In the absence of a timely appeal, the
11 preliminary determination shall be final. If the application
12 is incomplete, the board may grant an extension of time for
13 the provision of additional information.

14 3. A facility that is not operational within eighteen
15 months after issuance of an approval for the facility by the
16 board shall cease to be an eligible renewable energy facility.
17 A facility that is granted and thereafter loses approval may
18 reapply to the board for a new determination.

19 4. The maximum amount of nameplate generating capacity of
20 all wind energy conversion facilities the board may find
21 eligible under this chapter shall not exceed ninety megawatts
22 of nameplate generating capacity. The maximum amount of
23 energy production capacity equivalent of all other facilities
24 the board may find eligible under this chapter shall not
25 exceed a combined output of ten megawatts of nameplate
26 generating capacity.

27 5. An owner meeting the requirements of section 476C.1,
28 subsection 6, paragraph "b" shall not be an owner of more than
29 two eligible renewable energy facilities.

30 Sec. 10. NEW SECTION. 476C.4 TAX CREDIT CERTIFICATE
31 PROCEDURE.

32 1. A producer or purchaser of renewable energy may apply
*33 to the board for the renewable energy tax credit by submitting
34 to the board all of the following:

35 a. A completed application in a form prescribed by the

1 board.

2 b. A copy of the determination granting approval of the
3 facility as an eligible renewable energy facility by the
4 board.

5 c. A copy of a signed power purchase agreement or other
6 agreement to purchase electricity, hydrogen fuel, methane or
7 other biogas, or heat for a commercial purpose from an
8 eligible renewable energy facility which shall designate
9 either the producer or purchaser of renewable energy as
10 eligible to apply for the renewable energy tax credit.

11 d. Sufficient documentation that the electricity, heat for
12 a commercial purpose, methane gas or other biogas, or hydrogen
13 fuel has been generated by the eligible renewable energy
14 facility and sold to the purchaser of renewable energy.

15 e. Any other information the board deems necessary.

16 2. The board shall notify the department of the amount of
17 kilowatt-hours, British thermal units of heat for a commercial
18 purpose, British thermal units of methane gas or other biogas
19 used to generate electricity, or standard cubic feet of
20 hydrogen fuel generated and purchased from an eligible
21 renewable energy facility. The department shall calculate the
22 amount of the tax credit for which the applicant is eligible
23 and shall issue the tax credit certificate for that amount or
24 notify the applicant in writing of its refusal to do so. An
25 applicant whose application is denied may file an appeal with
26 the department within sixty days from the date of the denial
27 pursuant to the provisions of chapter 17A.

28 3. Each tax credit certificate shall contain the person's
29 name, address, and tax identification number, the amount of
30 tax credits, the first taxable year the certificate may be
31 used, the type of tax to which the tax credits shall be
32 applied, and any other information required by the department.
33 The tax credit certificate shall only list one type of tax to
34 which the amount of the tax credit may be applied. Once
35 issued by the department, the tax credit certificate shall not

1 be terminated or rescinded.

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, for the
6 taxes imposed under chapter 422, division II or III, the tax
7 credit certificate shall be issued directly to equity holders
8 or beneficiaries of the applicant in proportion to their pro
9 rata share of the income of such entity. The applicant shall,
10 in the application made under this section, identify its
11 equity holders or beneficiaries, and the percentage of such
12 entity's income that is allocable to each equity holder or
13 beneficiary. If the tax credit application is filed by a
14 partnership, limited liability company, S corporation, estate,
15 trust, or other reporting entity, all of whose income is taxed
16 directly to its equity holders or beneficiaries for the taxes
17 imposed under chapter 422, division V, or under chapter 423,
18 432, or 437A, the tax credit certificate shall be issued
19 directly to the partnership, limited liability company, S
20 corporation, estate, trust, or other reporting entity.

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

25 6. The department shall not issue a tax credit certificate
26 to any person who has received a tax credit pursuant to
27 chapter 476B.

28 7. Once a tax credit certificate is issued pursuant to
29 this section, the tax credit may only be claimed against the
30 type of tax reflected on the certificate.

31 Sec. 11. NEW SECTION. 476C.5 CERTIFICATE ISSUANCE
32 PERIOD.

33 A producer or purchaser of renewable energy may receive
34 renewable energy tax credit certificates for a ten-year period
35 for each eligible renewable energy facility under this

1 chapter. The ten-year period for issuance of the tax credit
* 2 certificates begins with the date the purchaser of renewable
3 energy first purchases electricity, hydrogen fuel, methane gas
4 or other biogas used to generate electricity, or heat for
5 commercial purposes from the eligible renewable energy
6 facility for which a tax credit is issued under this chapter.
7 Renewable energy tax credit certificates shall not be issued
8 for renewable energy purchased after December 31, 2020.

9 Sec. 12. NEW SECTION. 476C.6 TRANSFERABILITY AND USE OF
10 TAX CREDIT CERTIFICATES -- REGISTRATION.

* 11 1. Renewable energy tax credit certificates issued under
12 this chapter may be transferred to any person. A tax credit
13 certificate shall only be transferred once. However, for
14 purposes of this transfer provision, a decision between a
15 producer and purchaser of renewable energy regarding who
16 claims the tax credit issued pursuant to this chapter shall
17 not be considered a transfer and must be set forth in the
18 application for the tax credit pursuant to section 476C.4.
19 Within thirty days of transfer, the transferee must submit the
20 transferred tax credit certificate to the department along
21 with a statement containing the transferee's name, tax
22 identification number, and address, and the denomination that
23 each new certificate is to carry and any other information
24 required by the department. Within thirty days of receiving
25 the transferred tax credit certificate and the transferee's
26 statement, the department shall issue one or more replacement
27 tax credit certificates to the transferee. Each replacement
28 tax credit certificate must contain the information required
29 under section 476C.4, subsection 3, and must have the same
30 effective taxable year and the same expiration date that
31 appeared in the transferred tax credit certificate. Tax
32 credit certificate amounts of less than the minimum amount
33 established by rule shall not be transferable. A tax credit
34 shall not be claimed by a transferee under this chapter until
35 a replacement tax credit certificate identifying the

1 transferee as the proper holder has been issued. The
2 replacement tax credit certificate may reflect a different
3 type of tax than the type of tax noted on the original tax
4 credit certificate.

5 The transferee may use the amount of the tax credit
6 transferred against taxes imposed under chapter 422, divisions
7 II, III, and V, and chapter 432 for any tax year the original
8 transferor could have claimed the tax credit. The transferee
9 may claim a refund under chapter 423 or 437A for any tax year
10 within the time period set forth in section 423.47 or 437A.14
11 for which the original transferor could have claimed the
12 refund. Any consideration received for the transfer of the
13 tax credit shall not be included as income under chapter 422,
14 divisions II, III, and V. Any consideration paid for the
15 transfer of the tax credit shall not be deducted from income
16 under chapter 422, divisions II, III, and V.

*17 2. To claim a renewable energy tax credit under this
18 chapter, a taxpayer must attach one or more tax credit
19 certificates to the taxpayer's tax return, or if used against
20 taxes imposed under chapter 423, the taxpayer shall comply
21 with section 423.4, or if used against taxes imposed under
22 chapter 437A, the taxpayer shall comply with section 437A.17B,
23 subsection 4. A tax credit certificate shall not be used or
24 attached to a return filed for a taxable year beginning prior
25 to July 1, 2006. The tax credit certificate or certificates
26 attached to the taxpayer's tax return shall be issued in the
27 taxpayer's name, expire on or after the last day of the
28 taxable year for which the taxpayer is claiming the tax
29 credit, and show a tax credit amount equal to or greater than
30 the tax credit claimed on the taxpayer's tax return. Any tax
31 credit in excess of the taxpayer's tax liability for the
32 taxable year may be credited to the taxpayer's tax liability
33 for the following seven tax years or until the credit is
34 depleted, whichever is earlier. If the tax credit is applied
35 against the taxes imposed under chapter 423 or 437A, any

1 credit in excess of the taxpayer's tax liability is carried
2 over and can be filed with the refund claim for the following
3 seven tax years or until depleted, whichever is earlier.
4 However, the certificate shall not be used to reduce tax
5 liability for a tax period ending after the expiration date of
6 the certificate.

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

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

17 The department and the board may adopt rules pursuant to
18 chapter 17A for the administration and enforcement of this
19 chapter.

* 20 Sec. 14. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment.

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SENATE FILE 390

H-1699

1 Amend Senate File 390, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 6, the
4 following:

5 "Sec. _____. Section 476B.1, subsection 4, paragraph
6 c, Code 2005, is amended to read as follows:

7 c. Was originally placed in service on or after
8 July 1, ~~2004~~ 2005, but before July 1, ~~2007~~ 2008.

9 Sec. _____. Section 476B.3, Code 2005, is amended to
10 read as follows:

11 476B.3 CREDIT AMOUNT.

12 ~~1. Except as limited by subsection 2, the~~ The wind
13 energy production tax credit allowed under this
14 chapter equals the product of one cent multiplied by
15 the number of kilowatt-hours of qualified electricity
16 sold by the owner during the taxable year.

17 ~~2. a. The maximum amount of tax credit which a~~
18 ~~group of qualified facilities operating as one unit~~
19 ~~may receive for a taxable year equals the rate of~~
20 ~~credit times thirty-two percent of the total number of~~
21 ~~kilowatts of nameplate generating capacity.~~

22 ~~b. However, if for the previous taxable year the~~
23 ~~amount of the tax credit for the group of qualified~~
24 ~~facilities operating as one unit is less than the~~
25 ~~maximum amount available as provided in paragraph "a",~~
26 ~~the maximum amount for the next taxable year shall be~~
27 ~~increased by the amount of the previous year's unused~~
28 ~~maximum credit.~~

29 Sec. _____. Section 476B.4, subsection 1, paragraph
30 b, Code 2005, is amended by striking the paragraph.

31 Sec. _____. Section 476B.5, Code 2005, is amended by
32 striking the section and inserting in lieu thereof the
33 following:

34 476B.5 DETERMINATION OF ELIGIBILITY.

35 1. An owner may apply to the board for a written
36 determination regarding whether a facility is a
37 qualified facility by submitting to the board a
38 written application containing all of the following:

39 a. Information regarding the ownership of the
40 facility including the percentage of equity interest
41 held by each owner.

42 b. The nameplate generating capacity of the
43 facility.

44 c. Information regarding the facility's initial
45 placement in service.

46 d. Information regarding the type of facility.

47 e. A copy of an executed power purchase agreement
48 or other agreement to purchase electricity upon
49 completion of the project.

50 f. Any other information the board may require.

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1 2. The board shall review the application and
2 supporting information and shall make a preliminary
3 determination regarding whether the facility is a
4 qualified facility. The board shall notify the
5 applicant of the approval or denial of the application
6 within thirty days of receipt of the application and
7 information required. If the board fails to notify
8 the applicant of the approval or denial within thirty
9 days, the application shall be deemed denied. An
10 applicant who receives a determination denying an
11 application may file an appeal with the board within
12 thirty days from the date of the denial pursuant to
13 the provisions of chapter 17A. In the absence of a
14 timely appeal, the preliminary determination shall be
15 final. If the application is incomplete, the board
16 may grant an extension of time for the provision of
17 additional information.

18 3. A facility that is not operational within
19 eighteen months after issuance of an approval for the
20 facility by the board shall cease to be a qualified
21 facility. A facility that is granted and thereafter
22 loses approval may reapply to the board for a new
23 determination.

24 4. The maximum amount of nameplate generating
25 capacity of all qualified facilities the board may
26 find eligible under this chapter shall not exceed four
27 hundred fifty megawatts of nameplate generating
28 capacity.

29 5. An owner shall not be an owner of more than two
30 qualified facilities.

31 Sec. _____. Section 476B.6, Code 2005, is amended by
32 striking the section and inserting in lieu thereof the
33 following:

34 476B.6 TAX CREDIT CERTIFICATE PROCEDURE.

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

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 acceptance
5 by the applicant for the assessment of the qualified
6 facility for property tax purposes for a period of
7 twelve years and approval by the board of supervisors
8 for the payment of the property taxes levied on the
9 qualified property to the state. For purposes of
10 property taxation, the qualified facility shall be
11 centrally assessed and shall be exempt from any
12 replacement tax under section 437A.6 for the period
13 during which the facility is subject to property
14 taxation. The property taxes to be paid to the state
15 are those property taxes which make up the
16 consolidated tax levied on the qualified facility and
17 which are due and payable in the twelve-year period
18 beginning with the first fiscal year beginning on or
19 after the end of the owner's first taxable year for
20 which the credit is applied for. Upon approval of the
21 application, the board of supervisors shall notify the
22 county treasurer to state on the tax statement which
23 lists the taxes on the qualified facility that the
24 amount of the property taxes shall be paid to the
25 department. Payment of the designated property taxes
26 to the department shall be in the same manner as
27 required for the payment of regular property taxes and
28 failure to pay designated property taxes to the
29 department shall be treated the same as failure to pay
30 property taxes to the county treasurer.
31 c. Once the owner of the qualified facility
32 receives approval under paragraph "a", subsequent
33 approval under paragraph "a" is not required for the
34 same qualified facility for subsequent taxable years.
35 2. An owner of a qualified facility may apply to
36 the board for the wind energy production tax credit by
37 submitting to the board all of the following:
38 a. A completed application in a form prescribed by
39 the board.
40 b. A copy of the determination granting approval
41 of the facility as a qualified facility by the board.
42 c. A copy of a signed power purchase agreement or
43 other agreement to purchase electricity.
44 d. Sufficient documentation that the electricity
45 has been generated by the qualified facility and sold
46 to a purchaser.
47 e. Any other information the board deems
48 necessary.
49 3. The board shall notify the department of the
50 amount of kilowatt-hours generated and purchased from

1 a qualified facility. The department shall calculate
2 the amount of the tax credit for which the applicant
3 is eligible and shall issue the tax credit certificate
4 for that amount or notify the applicant in writing of
5 its refusal to do so. An applicant whose application
6 is denied may file an appeal with the department
7 within sixty days from the date of the denial pursuant
8 to the provisions of chapter 17A.

9 4. Each tax credit certificate shall contain the
10 owner's name, address, and tax identification number,
11 the amount of tax credits, the first taxable year the
12 certificate may be used, the type of tax to which the
13 tax credits shall be applied, and any other
14 information required by the department. The tax
15 credit certificate shall only list one type of tax to
16 which the amount of the tax credit may be applied.
17 Once issued by the department, the tax credit
18 certificate shall not be terminated or rescinded.

19 5. If the tax credit application is filed by a
20 partnership, limited liability company, S corporation,
21 estate, trust, or other reporting entity all of the
22 income of which is taxed directly to its equity
23 holders or beneficiaries, for the taxes imposed under
24 chapter 422, division II or III, the tax credit
25 certificate shall be issued directly to equity holders
26 or beneficiaries of the applicant in proportion to
27 their pro rata share of the income of such entity.
28 The applicant shall, in the application made under
29 this section, identify its equity holders or
30 beneficiaries, and the percentage of such entity's
31 income that is allocable to each equity holder or
32 beneficiary. If the tax credit application is filed
33 by a partnership, limited liability company, S
34 corporation, estate, trust, or other reporting entity,
35 all of whose income is taxed directly to its equity
36 holders or beneficiaries for the taxes imposed under
37 chapter 422, division V, or under chapter 432, the tax
38 credit certificate shall be issued directly to the
39 partnership, limited liability company, S corporation,
40 estate, trust, or other reporting entity.

41 6. The department shall not issue a tax credit
42 certificate if the facility approved by the board as a
43 qualified facility is not operational within eighteen
44 months after the approval is issued.

45 7. Once a tax credit certificate is issued
46 pursuant to this section, the tax credit may only be
47 claimed against the type of tax reflected on the
48 certificate.

49 8. A tax credit certificate shall not be used or
50 attached to a return filed for a taxable year

1 beginning prior to July 1, 2006.

2 Sec. _____. Section 476B.7, unnumbered paragraph 1,
3 Code 2005, is amended to read as follows:

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

28 Sec. _____. Section 476B.8, Code 2005, is amended to
29 read as follows:

30 476B.8 USE OF TAX CREDIT CERTIFICATES.

31 To claim a wind energy production tax credit under
32 this chapter, a taxpayer must attach one or more tax
33 credit certificates to the taxpayer's tax return. A
34 tax credit certificate shall not be used or attached
35 to a return filed for a taxable year beginning prior
36 to July 1, ~~2005~~ 2006. The tax credit certificate or
37 certificates attached to the taxpayer's tax return
38 shall be issued in the taxpayer's name, expire on or
39 after the last day of the taxable year for which the
40 taxpayer is claiming the tax credit, and show a tax
41 credit amount equal to or greater than the tax credit
42 claimed on the taxpayer's tax return. Any tax credit
43 in excess of the taxpayer's tax liability for the
44 taxable year may be credited to the taxpayer's tax
45 liability for the following seven taxable years or
46 until depleted, whichever is the earlier.

47 Sec. _____. Section 476B.9, Code 2005, is amended to
48 read as follows:

49 476B.9 REGISTRATION OF TAX CREDIT CERTIFICATES.

50 The ~~board shall, in conjunction with the~~

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

11 Sec. ____ . NEW SECTION. 476B.10 RULES.

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

15 2. Title page, by striking lines 2 through 4, and
16 inserting the following: "energy, including by
17 providing tax credits associated with renewable
18 energy, and".

19 3. By renumbering as necessary.

By DIX of Butler

H-1699 FILED MAY 16, 2005

NOT GERMANE

SSB# 1187

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

Natural Resources

SENATE FILE _____

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

Succeeded By
(SF) HF 390

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.

34
35

SENATE FILE 390

AN ACT

RELATING TO THE GENERATION AND PURCHASE OF RENEWABLE ENERGY INCLUDING ESTABLISHING A RENEWABLE ENERGY TAX CREDIT PROGRAM ADMINISTERED BY THE UTILITIES DIVISION OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE, AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. NEW SECTION. 437A.17B REIMBURSEMENT FOR RENEWABLE ENERGY.

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

Sec. 7. NEW SECTION. 476C.1 DEFINITIONS.

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

1. "Anaerobic digester system" means a system of components that processes plant or animal materials based on the absence of oxygen and produces methane or other biogas used to generate electricity, hydrogen fuel, or heat for a commercial purpose.
2. "Biogas recovery facility" means an anaerobic digester system that is located in this state.
3. "Biomass conversion facility" means a facility in this state that converts plant-derived organic matter including, but not limited to, agricultural food and feed crops, crop wastes and residues, wood wastes and residues, or aquatic

plants to generate electricity, hydrogen fuel, or heat for a commercial purpose.

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

5. "Department" means the department of revenue.

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

- a. Is located in this state.
- b. Is at least fifty-one percent owned by one or more of any combination of the following:
 - (1) A resident of this state.
 - (2) Any of the following as defined in section 9H.1:
 - (a) An authorized farm corporation.
 - (b) An authorized limited liability company.
 - (c) An authorized trust.
 - (d) A family farm corporation.
 - (e) A family farm limited liability company.
 - (f) A family trust.
 - (g) A revocable trust.
 - (h) A testamentary trust.
 - (3) A small business as defined in section 15.102.
 - (4) An electric cooperative association organized pursuant to chapter 499 that sells electricity to end users located in this state.
 - (5) An electric cooperative association that has one or more members organized pursuant to chapter 499.
 - (6) A cooperative corporation organized pursuant to chapter 497 or a limited liability corporation organized pursuant to chapter 490A whose shares and membership are held by an entity that is not prohibited from owning agricultural land under chapter 9H.

(7) A school district located in this state.

c. Has at least one owner that meets the requirements of paragraph "b" for each two and one-half megawatts of nameplate generating capacity or the energy production capacity equivalent for hydrogen fuel or heat for a commercial purpose of the otherwise eligible renewable energy facility.

d. Was initially placed into service on or after July 1, 2005, and before January 1, 2011.

7. "Energy production capacity equivalent" means the amount of energy in a standard cubic foot of hydrogen gas or the number of British thermal units that are equal to the energy in a kilowatt-hour of electricity. For the purposes of this chapter, one kilowatt-hour shall be deemed equivalent to three thousand three hundred thirty-three British thermal units of heat or ten and forty-five one hundredths of standard cubic feet of hydrogen gas.

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

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

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

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

12. "Purchaser of renewable energy" means a person who buys electric energy, hydrogen fuel, methane gas or other biogas used to generate electricity, or heat for a commercial purpose from an eligible renewable energy facility.

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

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

Sec. 8. NEW SECTION. 476C.2 TAX CREDIT AMOUNT -- LIMITATIONS.

1. A producer or purchaser of renewable energy may receive renewable energy tax credits under this chapter in an amount equal to one and one-half cents per kilowatt-hour of electricity, or four dollars and fifty cents per million British thermal units of heat for a commercial purpose, or four dollars and fifty cents per million British thermal units of methane gas or other biogas used to generate electricity, or one dollar and forty-four cents per one thousand standard cubic feet of hydrogen fuel generated by and purchased from an eligible renewable energy facility.

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

Sec. 9. NEW SECTION. 476C.3 DETERMINATION OF ELIGIBILITY.

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

- a. Information regarding the ownership of the facility including the percentage of equity interest held by each owner.
 - b. The nameplate generating capacity of the facility or energy production capacity equivalent.
 - c. Information regarding the facility's initial placement in service.
 - d. Information regarding the type of facility and what type of renewable energy the facility will produce.
 - e. A copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose which shall designate either the producer or purchaser of renewable energy as eligible to apply for the renewable energy tax credit.
 - f. Any other information the board may require.
2. The board shall review the application and supporting information and shall make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board shall notify the applicant of the approval or denial of the application within thirty days of receipt of the application and information required. If the board fails to notify the applicant of the approval or denial within thirty days, the application shall be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within thirty days from the date of the denial pursuant to the provisions of chapter 17A. In the absence of a timely appeal, the preliminary determination shall be final. If the application is incomplete, the board may grant an extension of time for the provision of additional information.
 3. A facility that is not operational within eighteen months after issuance of an approval for the facility by the board shall cease to be an eligible renewable energy facility. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

4. The maximum amount of nameplate generating capacity of all wind energy conversion facilities the board may find eligible under this chapter shall not exceed ninety megawatts of nameplate generating capacity. The maximum amount of energy production capacity equivalent of all other facilities the board may find eligible under this chapter shall not exceed a combined output of ten megawatts of nameplate generating capacity.
 5. An owner meeting the requirements of section 476C.1, subsection 6, paragraph "b" shall not be an owner of more than two eligible renewable energy facilities.
- Sec. 10. NEW SECTION. 476C.4 TAX CREDIT CERTIFICATE PROCEDURE.
1. A producer or purchaser of renewable energy may apply to the board for the renewable energy tax credit by submitting to the board all of the following:
 - a. A completed application in a form prescribed by the board.
 - b. A copy of the determination granting approval of the facility as an eligible renewable energy facility by the board.
 - c. A copy of a signed power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose from an eligible renewable energy facility which shall designate either the producer or purchaser of renewable energy as eligible to apply for the renewable energy tax credit.
 - d. Sufficient documentation that the electricity, heat for a commercial purpose, methane gas or other biogas, or hydrogen fuel has been generated by the eligible renewable energy facility and sold to the purchaser of renewable energy.
 - e. Any other information the board deems necessary.
 2. The board shall notify the department of the amount of kilowatt-hours, British thermal units of heat for a commercial purpose, British thermal units of methane gas or other biogas

used to generate electricity, or standard cubic feet of hydrogen fuel generated and purchased from an eligible renewable energy facility. The department shall calculate the amount of the tax credit for which the applicant is eligible and shall issue the tax credit certificate for that amount or notify the applicant in writing of its refusal to do so. An applicant whose application is denied may file an appeal with the department within sixty days from the date of the denial pursuant to the provisions of chapter 17A.

3. Each tax credit certificate shall contain the person's name, address, and tax identification number, the amount of tax credits, the first taxable year the certificate may be used, the type of tax to which the tax credits shall be applied, and any other information required by the department. The tax credit certificate shall only list one type of tax to which the amount of the tax credit may be applied. Once issued by the department, the tax credit certificate shall not be terminated or rescinded.

4. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity all of the income of which is taxed directly to its equity holders or beneficiaries, for the taxes imposed under chapter 422, division II or III, the tax credit certificate shall be issued directly to equity holders or beneficiaries of the applicant in proportion to their pro rata share of the income of such entity. The applicant shall, in the application made under this section, identify its equity holders or beneficiaries, and the percentage of such entity's income that is allocable to each equity holder or beneficiary. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for the taxes imposed under chapter 422, division V, or under chapter 423, 432, or 437A, the tax credit certificate shall be issued

directly to the partnership, limited liability company, S corporation, estate, trust, or other reporting entity.

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

6. The department shall not issue a tax credit certificate to any person who has received a tax credit pursuant to chapter 476B.

7. Once a tax credit certificate is issued pursuant to this section, the tax credit may only be claimed against the type of tax reflected on the certificate.

Sec. 11. NEW SECTION. 476C.5 CERTIFICATE ISSUANCE PERIOD.

A producer or purchaser of renewable energy may receive renewable energy tax credit certificates for a ten-year period for each eligible renewable energy facility under this chapter. The ten-year period for issuance of the tax credit certificates begins with the date the purchaser of renewable energy first purchases electricity, hydrogen fuel, methane gas or other biogas used to generate electricity, or heat for commercial purposes from the eligible renewable energy facility for which a tax credit is issued under this chapter. Renewable energy tax credit certificates shall not be issued for renewable energy purchased after December 31, 2020.

Sec. 12. NEW SECTION. 476C.6 TRANSFERABILITY AND USE OF TAX CREDIT CERTIFICATES -- REGISTRATION.

1. Renewable energy tax credit certificates issued under this chapter may be transferred to any person. A tax credit certificate shall only be transferred once. However, for purposes of this transfer provision, a decision between a producer and purchaser of renewable energy regarding who claims the tax credit issued pursuant to this chapter shall not be considered a transfer and must be set forth in the application for the tax credit pursuant to section 476C.4.

Within thirty days of transfer, the transferee must submit the transferred tax credit certificate to the department along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each new certificate is to carry and any other information required by the department. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required under section 476C.4, subsection 3, and must have the same effective taxable year and the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

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

2. To claim a renewable energy tax credit under this chapter, a taxpayer must attach one or more tax credit

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

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

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

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

Sec. 14. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

JOHN P. KIBBIE
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 390, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 6/15, 2005

THOMAS J. VILSACK
Governor