

No. Pass 4/4 (p. 1342)
No. Pass per 3773 4/9 (p. 1344)

SENATE FILE 344
By COMMITTEE ON ENERGY
Approved 3/1 (p. 633)

Passed Senate, Date 3-12-79 (p. 733) Passed House, Date 4-17-79 (p. 1570)
Vote: Ayes 44 Nays 0 Vote: Ayes 91 Nays 2

Approved _____
Committee Report: 1-17-80 (p. 119)
46-1

Water to remain 1/7 w/d 1/24

A BILL FOR

- 1 An Act relating to access to and use of solar energy.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Conference Committee Appointed
Eggers, Evans, chair; McLean, Mullens, Howell, Rapp 5/7 (p. 2166)
Senators Ramsey, chair; Scott; Hudart; Rindinger, Gallagher 5/8 (p. 1574)

Two House members appointed 11/14/80 (p. 20)
Poffenberger, Hanson of Delaware, Hurlinger

Second Conference Committee
Burr Feltus, chair; Peterson, Smalley, Bruner, O'Kane 1/29 (p. 250)
Senators Holden, " ; Creamer, Small, Hansen, Delubery 1/30 (p. 230)

Final Senate 4/26/80 (p. 1822)
22-25

SENATE FILE 344

H-3898

- 1 Amend the committee amendment, H-3773, to
- 2 Senate File 344 as follows:
- 3 1. Page 5, line 31, by striking the words
- 4 "twenty-five" and inserting in lieu thereof the
- 5 word "fifteen".

H-3898 FILED Adopted 4/17 (p. 1569) BY O'KANE of Woodbury
APRIL 12, 1979

1 Section 1. POLICY. It is the policy of this state to
2 encourage the development and use of renewable nonpolluting
3 energy sources to supplement or replace nonrenewable sources
4 of energy. The general assembly encourages local units of
5 government to develop appropriate solar access protections
6 to meet local needs and conditions.

7 Sec. 2. PURPOSE. The purpose of this Act is to encourage
8 and facilitate the use of solar energy systems by protect-
9 ing the right of access to incident sunlight through volun-
10 tary solar easements.

11 Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act
12 unless the context otherwise requires:

13 1. "Solar energy system" means a system designed pri-
14 marily to perform any of the following functions:

15 a. Heat space or water or cool space.

16 b. Produce electrical power.

17 c. Produce mechanical power by collecting, transferring,
18 or storing solar energy for immediate or future use.

19 2. "Solar easement" means an easement developed and
20 recorded pursuant to section four (4) of this Act, the purpose
21 of which is to provide continued access to incident sunlight
22 necessary to operate a solar energy system.

23 3. "Solar energy" means energy collected from the sun
24 in the form of heat or light.

25 Sec. 4. NEW SECTION. EASEMENTS.

26 1. A solar easement is subject to the same recording and
27 conveyance requirements as other easements except as provided
28 in subsection two (2) of this section. A solar easement shall
29 be created in writing and may include, but the contents are
30 not limited to the following:

31 a. The legal description of the benefited and burdened
32 properties.

33 b. A description of the space which must remain unob-
34 structed with reference to the solar energy system.

35 c. Any limitations on the growth of existing and future

1 vegetation or the height of buildings or other potential ob-
2 structions of the solar energy system.

3 d. Terms or conditions under which the solar easement
4 may be abandoned or terminated.

5 e. Provisions for compensating the owner of the prop-
6 erty benefiting from the solar easement in the event of
7 interference with the enjoyment of the solar easement, or
8 for compensating the owner of the property subject to the
9 solar easement for maintaining that easement.

10 2. Solar easements authorized by this section are exempt
11 from sections six hundred fourteen point seventeen (614.17)
12 and six hundred fourteen point twenty-four (614.24) of the
13 Code. A statute which limits or extinguishes a right of use
14 does not apply to a solar easement unless the statute expressly
15 states that it applies.

16 Sec. 5. NEW SECTION. ZONING. Local legislative bodies,
17 city and county zoning commissions and boards of adjustment
18 shall not adopt, enact or enforce a rule or ordinance that
19 prevents the construction or use of a solar energy system
20 that is reasonable for the type of property upon which it
21 is located.

22 Sec. 6. NEW SECTION. RESTRICTIVE COVENANTS. City coun-
23 cils, city and county zoning commissions and boards of ad-
24 justment may include in ordinances relating to subdivisions
25 a provision requiring deeds for property located in new
26 subdivisions to contain restrictive covenants that guarantee
27 reasonable access to solar energy for a solar energy system
28 to and across neighboring properties.

29 Sec. 7. Section one hundred three A point eight (103A.8),
30 Code 1979, is amended by adding the following new subsection:

31 NEW SUBSECTION. Facilitate the development and use of
32 solar energy.

33 Sec. 8. Section three hundred fifty-eight A point five
34 (358A.5), Code 1979, is amended to read as follows:

35 358A.5 OBJECTIVES. Such regulations shall be made in

1 accordance with a comprehensive plan and designed to lessen
2 congestion in the street or highway; to secure safety from
3 fire, flood, panic, and other dangers; to protect health and
4 the general welfare; to provide adequate light and air; to
5 assure reasonable access to solar energy for a solar energy
6 system; to prevent the overcrowding of land; to avoid undue
7 concentration of population; to facilitate the adequate
8 provision of transportation, water, sewerage, schools, parks
9 and other public requirements.

10 Such regulations shall be made with reasonable
11 consideration, among other things, as to the character of
12 the area of the district and the peculiar suitability of such
13 area for particular uses, and with a view to conserving the
14 value of buildings and encouraging the most appropriate use
15 of land throughout such county.

16 Sec. 9. Chapter three hundred fifty-eight A (358A), Code
17 1979, is amended by adding the following new section:

18 NEW SECTION. ACCESS TO SOLAR ENERGY. A county board of
19 supervisors, zoning commission or board of adjustment shall
20 consider providing access to solar energy for a solar energy
21 system a valid public purpose when formulating zoning
22 decisions. A county board of supervisors shall not enact
23 or enforce an ordinance preventing the construction or use
24 of a solar energy system which is reasonable for the type
25 of property upon which it is located.

26 Sec. 10. Section four hundred nine point fourteen (409.14),
27 unnumbered paragraph four (4), Code 1979, is amended to read
28 as follows:

29 ~~Said~~ The plats shall be examined by ~~such~~ the city council,
30 and city plan commission where such exists, ~~with-a-view-to~~
31 ~~ascertaining~~ to determine whether the ~~same~~ plats conform to
32 the statutes relating to plats within the city and within
33 the limits prescribed by this section, and whether streets,
34 alleys, boulevards, parks and public places shall conform
35 to the general plat of the city and ~~conduce~~ contribute to

1 an orderly development thereof, and do not conflict or
2 interfere with rights of way or extensions of streets or
3 alleys already established, or otherwise interfere with the
4 carrying out of the comprehensive city plan, in case such
5 has been adopted by such city. The city council may require
6 by ordinance that deeds in new subdivisions contain restrictive
7 covenants guaranteeing reasonable access to solar energy for
8 a solar energy system to and across neighboring properties.
9 If ~~such~~ the plats ~~shall~~ conform to the statutes of the state
10 and ordinances of ~~such~~ the city, and if they ~~shall~~ fall within
11 the general plan for ~~such~~ the city and the extensions thereof,
12 regard being had for public streets, alleys, parks, sewer
13 connections, water service, and service of other utilities,
14 and access to solar energy through restrictive covenants
15 if applicable then it ~~shall-be~~ is the duty of said the council
16 and commission to endorse their approval upon the plat
17 submitted to it; provided that the city council may require
18 as a condition of approval of such plats that the owner of
19 the land bring all streets to a grade acceptable to the
20 council, and comply with such other reasonable requirements
21 in regard to installation of public utilities, or other
22 improvements, as the council may deem ~~requisite~~ necessary
23 for the protection of the public interest.

24 Sec. 11. Chapter four hundred fourteen (414), Code 1979,
25 is amended by adding the following new section:

26 NEW SECTION. ACCESS TO SOLAR ENERGY. A city council,
27 zoning commission or board of adjustment shall consider pro-
28 viding access to solar energy for a solar energy system a
29 valid public purpose when formulating zoning decisions. A
30 city council, zoning commission or board of adjustment shall
31 not enact or enforce an ordinance preventing the construction
32 or use of a solar energy system which is reasonable for the
33 type of property upon which it is located.

34 Sec. 12. Section four hundred fourteen point three (414.3),
35 Code 1979, is amended to read as follows:

1 414.3 BASIS OF REGULATIONS. Such regulations shall be
2 made in accordance with a comprehensive plan and designed
3 to lessen congestion in the street; to secure safety from
4 fire, flood, panic, and other dangers; to promote health and
5 the general welfare; to provide adequate light and air; to
6 assure reasonable access to solar energy for a solar energy
7 system; to prevent the overcrowding of land; to avoid undue
8 concentration of population; to facilitate the adequate
9 provision of transportation, water, sewerage, schools, parks,
10 and other public requirements.

11 Such regulations shall be made with reasonable
12 consideration, among other things, ~~as-to~~ of the character
13 of the area of the district and the peculiar suitability of
14 such area for particular uses, and with a view to conserving
15 the value of buildings and encouraging the most appropriate
16 use of land throughout such city.

17 Sec. 13. This Act is effective January first following
18 its enactment.

19 EXPLANATION

20 This bill allows the creation and recording of voluntary
21 easements to assure access to solar energy for a solar energy
22 system. It outlines what the easement may include and makes
23 current procedures for the recording and conveyancing of ease-
24 ments applicable to solar easements.

25 The bill also provides that assuring access to solar energy
26 is a valid public purpose for local zoning decisions. It
27 prohibits a political subdivision, from enforcing or enacting
28 an ordinance that prevents construction or use of a solar
29 energy system that is reasonable for the type of property
30 on which it is located.

31 The bill allows a city council to require by ordinance
32 restrictive covenants for new subdivisions guaranteeing ac-
33 cess to solar energy for a solar energy system.

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HOUSE CLIP SHEET

TUESDAY, APRIL 10, 1979

SENATE FILE 344

-3773

1 Amend Senate File 344 as passed by the Senate as
2 follows:

3 1. Page 1, by striking lines 1 through 35.

4 2. Page 2, by striking lines 1 through 21 and
5 inserting in lieu thereof the following:

6 "Section 1. The general assembly finds that:

7 1. The needs of a viable society depend upon an
8 ample supply of energy.

9 2. The current national imbalance between energy
10 supplies and demands suggests the need for the
11 development of new energy resources.

12 3. Increased national dependence upon foreign
13 energy supplies is not desirable and new alternative
14 energy resources should be developed.

15 4. National dependence upon nonrenewable energy
16 resources cannot be continued indefinitely,
17 particularly at current rates of consumption.

18 5. Solar energy is a very desirable, renewable
19 energy resource which is nonpolluting, easily
20 developed, and generally available across the state.

21 6. Virtually all of Iowa's energy needs are now
22 being met from sources beyond the borders of the state
23 and development of solar energy would reduce the flow
24 of energy dollars out of the state.

25 7. A principal obstacle to orderly development
26 and use of solar energy in this state is the absence
27 of adequate laws and precedents defining rights of
28 access to solar energy.

29 8. It is therefore in the public interest and
30 the interest of the state to provide adequate laws
31 which will expedite the development and use of solar
32 energy.

33 Sec. 2. It is the purpose of this Act to facilitate
34 the orderly development and use of solar energy by
35 establishing and providing for certain rights of
36 access to solar energy.

37 Sec. 3. NEW SECTION. DEFINITIONS. As used in
38 sections one (1) through thirteen (13) of this Act,
39 unless the context otherwise requires:

40 1. "Solar access right" means a property right
41 to use solar energy in a solar energy system as
42 provided in this Act.

43 2. "Solar energy" means energy emitted from the
44 sun and collected in the form of heat or light by
45 a solar collector.

46 3. "Solar collector" means a device or array of
47 devices other than living organisms having a total
48 surface area exposed to the sun of at least fifty
49 square feet constructed to collect solar energy in
50 a manner appropriate for the intended use and part

1 of a solar energy system.

2 4. "Solar energy system" means an active or passive
3 system of either equipment or structural components
4 or both that includes a solar collector and that is
5 constructed to put solar energy to beneficial use.

6 5. "Beneficial use" means application of solar
7 energy from a solar energy system to a useful and
8 economically significant purpose in a manner that
9 diminishes the dominant estate owner's use of other
10 forms of energy.

11 6. "Development of property" means construction,
12 landscaping, growth of vegetation planted after the
13 recording of a declaration of solar access rights,
14 or other alteration of property that interferes with
15 the operation of a solar energy system. Growth of
16 vegetation existing at the time of installation of
17 a solar energy system is not development of property.

18 7. "Dominant estate" means that parcel of land
19 to which the benefits of a solar access right attach.

20 8. "Servient estate" means land other than the
21 dominant estate within three hundred feet of the
22 center of the collector and south of a line drawn
23 east and west and tangent to the northern most boundary
24 of the collector and listed in the declaration of
25 solar access rights recorded pursuant to section
26 seven (7) of this Act.

27 9. "Solar access regulatory board" means the
28 following:

29 a. The municipal board of adjustment if the
30 dominant estate is located in an area under the zoning
31 jurisdiction of a city that has adopted a zoning
32 ordinance pursuant to chapter four hundred fourteen
33 (414) of the Code.

34 b. The city council if the dominant estate is
35 located in a city that has not adopted a zoning
36 ordinance pursuant to chapter four hundred fourteen
37 (414) of the Code.

38 c. The county board of adjustment if the dominant
39 estate is located outside of the zoning jurisdiction
40 of a city and within a county that has adopted a
41 zoning ordinance pursuant to chapter three hundred
42 fifty-eight A (358A) of the Code.

43 d. The board of supervisors if the dominant estate
44 is located outside of a city and within a county that
45 has not adopted a zoning ordinance pursuant to chapter
46 three hundred fifty-eight A (358A) of the Code.

47 Sec. 4. NEW SECTION. DECLARATION OF SOLAR ACCESS
48 RIGHTS.

49 1. The general assembly declares that the right
50 to use the natural resource of solar energy is a

1 property right, the exercise of which is to be
2 encouraged and regulated by the laws of this state.

3 2. The following concepts apply to the regulation
4 of disputes over the use of a solar energy system
5 located on land for which a declaration of solar
6 access rights has been recorded pursuant to section
7 seven (7) of this Act.

8 a. In areas which are unzoned or zoned for
9 agricultural use or zoned for detached one and two
10 family housing, beneficial use is the basis, the
11 measure and the limit of a solar access right, except
12 as otherwise provided by written contract. If the
13 amount of solar energy which the user of a solar
14 energy system can beneficially use varies with the
15 time of day, the season of the year, or in some other
16 manner, then the extent of the solar right varies
17 likewise.

18 b. In disputes involving solar rights in areas
19 which are unzoned or zoned for agricultural use or
20 zoned for detached one and two family housing, priority
21 in time of beneficial use has the superior right.
22 A change in the zoning classification of property
23 does not terminate or diminish a solar access right
24 based on priority in time of beneficial use.

25 c. Solar access rights are freely transferable
26 within the bounds of regulation imposed by the general
27 assembly.

28 Sec. 5. NEW SECTION. LIMIT OF A SOLAR ACCESS
29 RIGHT.

30 1. A solar access right based on priority in time
31 of beneficial use is not absolute and does not bar
32 development of property on servient estates. However,
33 if development of property on servient estates ob-
34 structs or diminishes a solar access right recorded
35 pursuant to section seven (7) of this Act, the
36 beneficiary of the solar access right shall be
37 furnished reasonable compensation unless other
38 settlement is agreed to.

39 2. a. Vegetation located on a servient estate
40 and planted prior to the recording of a declaration
41 of solar access rights shall be trimmed by the servient
42 estate owner when growth of such vegetation subsequent
43 to recording substantially interferes with the use
44 of a solar energy system and the dominant estate owner
45 has delivered written notice of the need for trimming
46 to the servient estate owner. However, trimming shall
47 not be required beyond the point necessary to eliminate
48 the obstruction unless some other point is agreed
49 to by the parties. The cost of trimming shall be
50 paid by the dominant estate owner who shall provide

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1 security for the cost of trimming to the servient
2 estate owner as a condition precedent to trimming.
3 b. If a servient estate owner fails to trim
4 vegetation planted prior to the recording of a
5 declaration of solar access rights within thirty days
6 of receipt of the written notice of the need for
7 trimming as required under paragraph a of this
8 subsection, then the dominant estate owner may petition
9 the solar access regulatory board to perform the
10 necessary trimming. After giving reasonable notice
11 and an opportunity for all parties to be heard, the
12 solar access regulatory board shall order such trimming
13 as it deems necessary and perform or contract for
14 the trimming, after receiving adequate security from
15 the dominant estate owner for the payment of the costs
16 of trimming.

17 Sec. 6. NEW SECTION. COMPENSATION FOR OBSTRUCTION
18 OF SOLAR ACCESS. When a solar access right based
19 upon priority in time of beneficial use is abridged
20 by a development of property, reasonable compensation
21 shall be determined as follows:

22 1. If the solar energy system can no longer be
23 reasonably used because of interference caused by
24 the development, reasonable compensation consists
25 of the following:

26 a. The solar energy system's replacement cost
27 after depreciation for ordinary use, less the system's
28 resale value, plus the cost of replacing the system
29 with an alternative energy system that is capable
30 of providing the energy furnished by the solar energy
31 system.

32 b. The increase in annual cost of operating the
33 replacement energy system, relative to the cost of
34 operating the solar energy system, capitalized at
35 the long-term interest rate prevailing at the time.

36 2. If the solar energy system can still be used
37 but its efficiency or output is diminished because
38 of interference, reasonable compensation shall consist
39 of the following:

40 a. The cost to modify or relocate the solar energy
41 system, including the cost of installing a supplemental
42 energy system, to replace the energy capacity lost
43 because of interference.

44 b. The increase in annual cost of operating the
45 modified energy system, relative to the cost of
46 operating the solar energy system, capitalized at
47 the long-term interest rate prevailing at the time.

48 Sec. 7. NEW SECTION. RECORDING OF SOLAR ACCESS
49 RIGHTS.

50 1. Before the provisions of section four (4)

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1 through ten (10) and section twelve (12) of this Act
2 apply, the owner of the dominant estate must have
3 recorded a written declaration of solar access rights
4 in the office of the county recorder in the counties
5 where the dominant and servient estates are located.
6 If the declaration meets the requirements of subsection
7 five (5) of this section, the county recorder shall
8 record the declaration and list the dominant estate
9 owner as grantee and the servient estate owner as
10 grantor in the deed index.

11 2. Upon receipt of the declaration, the county
12 recorder in which the dominant estate is located shall
13 send by certified mail a notice of the recording to
14 the servient estate owners of record which shall
15 contain the following:

16 a. The name and address of the dominant estate
17 owner.

18 b. That a declaration of solar access rights has
19 been recorded against the servient estate and may
20 affect the rights of the servient estate owner to
21 develop the estate.

22 c. The time and place where the declaration can
23 be reviewed.

24 d. That the servient estate owner may contest
25 the recording within thirty days of the mailing date
26 of the notice on the grounds that the servient estate
27 owner has already made a substantial financial
28 commitment to build a structure that will shade the
29 collector.

30 3. The dominant estate owner shall pay a filing
31 fee of twenty-five dollars to the county recorder
32 in which the dominant estate is located prior to
33 recording. The money collected shall be deposited
34 in the county's general fund. Upon the written request
35 of the county recorder, the solar access regulatory
36 board shall revoke a declaration of solar access
37 rights for failure to pay the filing fee.

38 4. If the solar energy system has not been
39 installed and made operational within nine months
40 after the date of recording or the date of resolution
41 of the contest to the recording pursuant to section
42 eight (8) of this Act, whichever date is later, then
43 upon the written request of a servient estate owner
44 the solar access regulatory board shall revoke the
45 declaration of solar access rights.

46 5. The declaration of solar access rights must
47 contain the following:

48 a. An acknowledgement by the owner of the dominant
49 estate.

50 b. A description of the dominant and servient

1 estates.

2 c. The name and address of the dominant and
3 servient estate owners of record.

4 d. A statement that the solar energy system is
5 installed or will be installed within nine months
6 of the date of recording or resolution of a contest
7 to the recording, whichever is later.

8 e. A description of the solar energy system to
9 be used.

10 f. The size and location of the collector,
11 including heights, its orientation with respect to
12 south, and its slope from the horizontal shown either
13 by drawings or in words.

14 g. An explanation of how the applicant has done
15 everything reasonable, taking cost and efficiency
16 into account, to design and locate the collector in
17 a manner to minimize the impact on development of
18 servient estates.

19 Sec. 8. NEW SECTION. RIGHT TO CONTEST RECORD-
20 ING.

21 1. Within thirty days of mailing a notice of the
22 recording of the declaration of solar access rights
23 pursuant to the provisions of subsection two (2) of
24 section seven (7) of this Act, a servient estate owner
25 may file a written request to contest the recording
26 of the declaration of solar access rights with the
27 solar access regulatory board.

28 2. The solar access regulatory board shall hold
29 a hearing to consider the request after giving
30 reasonable notice to the dominant estate owner and
31 the petitioner of the time, place, and purpose of
32 the hearing.

33 3. The solar access regulatory board shall revoke
34 the recording of the declaration of solar access
35 rights if it finds that prior to the date of recording
36 the written declaration of solar access rights with
37 the county recorder, the servient estate owner made
38 a substantial financial commitment to build a structure
39 that will shade the solar collector. Such revocation
40 applies only to the servient estate on which the
41 structure is to be built.

42 4. The solar access regulatory board may condition
43 the recording of the declaration upon changes in the
44 position or location of the solar collector that will
45 minimize the impact on the servient estate.

46 5. The solar access regulatory board may order
47 a party to a contest of a recording to not engage
48 in activity that will change the status quo until
49 the appeal is resolved by the board.

50 Sec. 9. NEW SECTION. REVOCATION OF DECLARATION

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1 OF SOLAR ACCESS RIGHTS.

2 1. Revocation of a declaration of a solar access
3 right by a solar access regulatory board shall be
4 in writing and state the reason for the revocation.
5 A copy of the revocation shall be sent by ordinary
6 mail to the parties to the revocation proceeding.

7 2. The solar access regulatory board shall file
8 with the county recorder for recording a certified
9 copy of a revocation of a declaration of solar access
10 rights. The county recorder shall record the
11 revocation and list the dominant estate owner as
12 grantor and the servient estate owner as grantee in
13 the deed index. Upon recording the revocation, the
14 declaration is void.

15 3. If a declaration of solar access rights for
16 an estate is revoked, the estate owner with the written
17 approval of the solar access regulatory board may
18 have a subsequent declaration of solar access rights
19 recorded pursuant to the provisions of sections seven
20 (7) and eight (8) of this Act under the following
21 conditions:

22 a. If the revocation was pursuant to subsection
23 three (3) of section eight (8) of this Act because
24 the servient estate owner has made a substantial
25 commitment to build a structure that will shade the
26 solar collector, upon proof that the structure's
27 construction was not begun within two years of the
28 date of revocation.

29 b. If the revocation was for nonuse pursuant to
30 section ten (10) of this Act, upon proof of actual
31 installation and operation of a solar energy system.
32 However, if the revocation for nonuse occurred more
33 than three years prior to the recording of a subsequent
34 declaration of solar access rights the declaration
35 may be recorded without the written approval of the
36 solar access regulatory and proof of installation
37 and operation.

38 c. If the revocation is for failure to install
39 and operate a solar energy system pursuant to
40 subsection four (4) of section seven (7) of this Act,
41 then upon proof of actual installation and operation
42 of the system on the dominant estate.

43 Sec. 10. NEW SECTION. ABANDONMENT OF SOLAR ACCESS
44 RIGHT.

45 1. A solar access right not put to beneficial
46 use for three consecutive years is deemed abandoned
47 until such time as it is again put to beneficial use.
48 During the period of abandonment the owner of a
49 servient estate may file a written request for
50 revocation of the declaration of solar access rights

1 with the appropriate solar access regulatory board.

2 2. The solar access regulatory board shall hold
3 a hearing to consider the request after giving
4 reasonable notice to the owner of the dominant estate
5 and the person making the request of the time, place
6 and purpose of the hearing.

7 3. The solar access regulatory board shall
8 terminate the solar access right and revoke the
9 recording of the declaration of solar access rights
10 if it finds that for three consecutive years the solar
11 access right was not put to beneficial use.

12 Sec. 11. NEW SECTION. VOLUNTARY EASEMENTS.

13 1. Persons, including public bodies may voluntarily
14 create an easement for the purpose of insuring a right
15 of solar access. The easement shall be in writing
16 and is subject to the same conveyancing and instrument
17 recording requirements as other easements except as
18 provided in section twelve (12) of this Act. An
19 instrument creating a solar easement may include,
20 among other things, the following:

21 a. The vertical and horizontal angles, expressed
22 in degrees, through which the solar easement extends
23 over the real property subject to the solar easement.
24 and the points from which these angles are measured.

25 b. The stipulation that the growth of existing
26 and future vegetation or the height of buildings is
27 subject to the solar easement.

28 c. Terms or conditions under which the solar
29 easement can be abandoned or terminated.

30 d. Provisions for compensating the owner of the
31 property benefiting from the solar easement in the
32 event of interference with the enjoyment of the solar
33 easement, or for compensating the owner of the property
34 subject to the solar easement for maintaining that
35 easement.

36 Sec. 12. NEW SECTION. TERMINATION BY STATUTE.

37 Voluntary easements and solar access rights authorized
38 by sections one (1) through thirteen (13) of this
39 Act are exempt from sections six hundred fourteen
40 point seventeen (614.17) and six hundred fourteen
41 point twenty-four (614.24) of the Code. A statute
42 other than sections one (1) through thirteen (13)
43 of this Act which limits or extinguishes a right of
44 use does not apply to a voluntary easement or solar
45 access right authorized by sections one (1) through
46 thirteen (13) of this Act unless the statute
47 specifically states that it applies."

48 3. Page 3, line 1, by striking the word "and"
49 and inserting in lieu thereof the words "and which
50 is".

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- 1 4. Page 3, line 6, by inserting after the word
- 2 "system;" the words "to promote the conservation of
- 3 energy resources;".
- 4 5. Page 5, line 2, by striking the word "and"
- 5 and inserting in lieu thereof the words "and which
- 6 is".
- 7 6. Page 5, line 7, by inserting after the word
- 8 "system;" the words "to promote the conservation of
- 9 energy resources".
- 10 7. Page 5, by inserting after the line 16 the
- 11 following section:
- 12 "Sec. _____. This Act does not alter, amend, deny,
- 13 impair or modify a solar right, lease, easement or
- 14 contract right which was vested prior to the effective
- 15 date of this Act."
- 16 8. By renumbering as necessary in conformance
- 17 with this amendment.

H-3773 FILED *Adopted as amended* BY COMMITTEE ON ENERGY
APRIL 9, 1979 *by 3878, 3934, 7* Evans, Chairperson
3872 4/17 (p. 1547)

SENATE FILE 344

H-3943

- 1 Amend amendment H-3773, to Senate File 344, as
- 2 passed by the Senate and reprinted, as follows:
- 3 1. Page 1, by inserting after line 36 the
- 4 following section:
- 5 "Sec. _____. It is the intent of the general
- 6 assembly that sections one (1) and two (2) of this
- 7 Act shall not appear in the Code of Iowa."

H-3943 FILED *Adopted 4/17 (p. 1549)* BY SPEAR of Lee
APRIL 17, 1979 MILLER of Buchanan

SENATE FILE 344

H-3934

- 1 Amend the Committee on Energy amendment H-3773
- 2 to Senate File 344 as passed by the Senate as follows:
- 3 1. Page 3, line 8, by inserting after the word
- 4 "zoned" the word "exclusively".
- 5 2. Page 3, line 9, by inserting after the word
- 6 "zoned" the word "exclusively".
- 7 3. Page 3, line 19, by inserting after the word
- 8 "zoned" the word "exclusively".
- 9 4. Page 3, line 20, by inserting after the word
- 10 "zoned" the word "exclusively".

H-3934 FILED *Adopted 4/17 (p. 1568)* BY EVANS of Grundy
APRIL 17, 1979

H-3878

SENATE FILE 344

- 1 Amend the Committee on Energy amendment, H-3773,
- 2 to Senate File 344 as passed by the Senate as follows:
- 3 1. Page 5, line 10, by inserting after the period
- 4 the following: "An abstractor shall note the record-
- 5 ing of the declaration of solar access rights on any
- 6 abstract of title prepared for a servient or dominant
- 7 estate."
- 8 2. Page 5, by striking line 14 and inserting in
- 9 lieu thereof the words "the servient estate owners
- 10 of record and the solar access regulatory board or
- 11 other person designated by the board of supervisors
- 12 or city council. The notice shall".
- 13 3. Page 7, line 14, by inserting after the period
- 14 the following: "An abstractor shall note the record-
- 15 ing of the revocation of the declaration of solar
- 16 access rights on any abstract of title prepared for
- 17 a servient or dominant estate."

H-3878 FILED *Adopted 4/17 (p. 1563)* BY DOYLE of Woodbury
APRIL 11, 1979

SENATE FILE 344

H-3890

- 1 Amend the Energy Committee amendment H-3773 to
- 2 Senate File 344 as passed by the Senate as follows:
- 3 1. Page 3, line 7, by striking the word "Act." and
- 4 inserting in lieu thereof the word "Act:".
- 5 2. Page 3, by striking lines 8 through 10 and
- 6 inserting in lieu thereof the following:
- 7 "a. Beneficial use is the basis, the".
- 8 3. Page 3, by striking lines 18 through 20 and
- 9 inserting in lieu thereof the following:
- 10 "b. In disputes involving solar rights priority".

H-3890 FILED *Adopted 4/17 (p. 1567)* BY HOWELL of Floyd
APRIL 12, 1979

SENATE FILE 344

H-3893

- 1 Amend the committee amendment, H-3773, to
- 2 Senate File 344 as follows:
- 3 1. Page 5, line 27, by striking the word
- 4 "already" and inserting in lieu thereof the
- 5 words and figure "at least six (6) months prior
- 6 to the date of recording".
- 7 2. Page 6, line 35, by inserting after the
- 8 word "that" the words and figure "at least
- 9 six (6) months".

H-3893 FILED *Adopted 4/17 (p. 1565)* BY HOWELL of Floyd
APRIL 12, 1979

1 Amend Senate File 344 as passed by the Senate as
 2 follows:
 3 1. Page 5, by inserting following line 16 the
 4 following new section:
 5 "Sec. _____. NEW SECTION. ASSISTANCE TO PUBLIC.
 6 The energy policy council is authorized and encouraged
 7 to make available information and guidelines to assist
 8 the public to understand and use the provisions of
 9 this Act. The information and guidelines should in-
 10 clude model easements, model restrictive covenants,
 11 and instructions and aids for preparing and recording
 12 declarations of solar access rights."

H-3869 FILED *Adopted 4/17 (p. 1570)* BY EVANS of Grundy
 APRIL 11, 1979

SENATE FILE 344

H-3872

1 Amend the House Committee amendment H-3773 to
 2 Senate File 344 as passed by the Senate as follows:
 3 1. Page 2, line 1, by inserting after the word
 4 "system." the words "For the purposes of this Act,
 5 a greenhouse shall be considered a solar collector."
 6 2. Page 3, line 10, by inserting after the
 7 word "housing," the words "or for greenhouses,".
 8 3. Page 3, line 18, by inserting after the
 9 word "rights" the words "of greenhouses, or".
 10 4. Page 6, line 33, by striking the word
 11 "shall" and inserting in lieu thereof the word
 12 "may".

H-3872 FILED *Adopted 4/17 (p. 1507)* BY HANSON of Delaware
 APRIL 11, 1979 JOCHUM of Dubuque

SENATE FILE 344

H-3870

1 Amend Senate File 344 as passed by the Senate
 2 as follows:
 3 1. Page 5, by striking lines 17 and 18 and
 4 inserting in lieu thereof the following:
 5 "Sec. 13. This Act, being deemed of immediate
 6 importance, shall take effect from and after its
 7 publication in The Grundy Register, a newspaper
 8 published in Grundy Center, Iowa, and in the
 9 Clayton County Press-Journal, a newspaper
 10 published in Strawberry Point, Iowa."

H-3870 FILED *Adopted 4/17 (p. 1570)* BY HANSON of Delaware
 APRIL 11, 1979 JOCHUM of Dubuque

SENATE CLIP SHEET
APRIL 23, 1979

HOUSE AMENDMENT TO SENATE FILE 344

S-3561

1 Amend Senate File 344 as passed by the Senate as
2 follows:

3 1. Page 1, by striking lines 1 through 35.

4 2. Page 2, by striking lines 1 through 21 and
5 inserting in lieu thereof the following:

6 "Section 1. The general assembly finds that:

7 1. The needs of a viable society depend upon an
8 ample supply of energy.

9 2. The current national imbalance between energy
10 supplies and demands suggests the need for the
11 development of new energy resources.

12 3. Increased national dependence upon foreign
13 energy supplies is not desirable and new alternative
14 energy resources should be developed.

15 4. National dependence upon nonrenewable energy
16 resources cannot be continued indefinitely,
17 particularly at current rates of consumption.

18 5. Solar energy is a very desirable, renewable
19 energy resource which is nonpolluting, easily
20 developed, and generally available across the state.

21 6. Virtually all of Iowa's energy needs are now
22 being met from sources beyond the borders of the state
23 and development of solar energy would reduce the flow
24 of energy dollars out of the state.

25 7. A principal obstacle to orderly development
26 and use of solar energy in this state is the absence
27 of adequate laws and precedents defining rights of
28 access to solar energy.

29 8. It is therefore in the public interest and
30 the interest of the state to provide adequate laws
31 which will expedite the development and use of solar
32 energy.

33 Sec. 2. It is the purpose of this Act to facilitate
34 the orderly development and use of solar energy by
35 establishing and providing for certain rights of
36 access to solar energy.

37 Sec. 3. It is the intent of the general assembly
38 that sections one (1) and two (2) of this Act shall
39 not appear in the Code of Iowa.

40 Sec. 4. NEW SECTION. DEFINITIONS. As used in
41 sections one (1) through thirteen (13) of this Act,
42 unless the context otherwise requires:

43 1. "Solar access right" means a property right
44 to use solar energy in a solar energy system as
45 provided in this Act.

46 2. "Solar energy" means energy emitted from the
47 sun and collected in the form of heat or light by
48 a solar collector.

49 3. "Solar collector" means a device or array of
50 devices other than living organisms having a total

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1 surface area exposed to the sun of at least fifty
2 square feet constructed to collect solar energy in
3 a manner appropriate for the intended use and part
4 of a solar energy system. For the purposes of this
5 Act, a greenhouse shall be considered a solar
6 collector.

7 4. "Solar energy system" means an active or passive
8 system of either equipment or structural components
9 or both that includes a solar collector and that is
10 constructed to put solar energy to beneficial use.

11 5. "Beneficial use" means application of solar
12 energy from a solar energy system to a useful and
13 economically significant purpose in a manner that
14 diminishes the dominant estate owner's use of other
15 forms of energy.

16 6. "Development of property" means construction,
17 landscaping, growth of vegetation planted after the
18 recording of a declaration of solar access rights,
19 or other alteration of property that interferes with
20 the operation of a solar energy system. Growth of
21 vegetation existing at the time of installation of
22 a solar energy system is not development of property.

23 7. "Dominant estate" means that parcel of land
24 to which the benefits of a solar access right attach.

25 8. "Servient estate" means land other than the
26 dominant estate within three hundred feet of the
27 center of the collector and south of a line drawn
28 east and west and tangent to the northern most boundary
29 of the collector and listed in the declaration of
30 solar access rights recorded pursuant to section seven
31 (7) of this Act.

32 9. "Solar access regulatory board" means the
33 following:

34 a. The municipal board of adjustment if the
35 dominant estate is located in an area under the zoning
36 jurisdiction of a city that has adopted a zoning
37 ordinance pursuant to chapter four hundred fourteen
38 (414) of the Code.

39 b. The city council if the dominant estate is
40 located in a city that has not adopted a zoning
41 ordinance pursuant to chapter four hundred fourteen
42 (414) of the Code.

43 c. The county board of adjustment if the dominant
44 estate is located outside of the zoning jurisdiction
45 of a city and within a county that has adopted a
46 zoning ordinance pursuant to chapter three hundred
47 fifty-eight A (358A) of the Code.

48 d. The board of supervisors if the dominant estate
49 is located outside of a city and within a county that
50 has not adopted a zoning ordinance pursuant to chapter

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1 three hundred fifty-eight A (358A) of the Code.

2 Sec. 5. NEW SECTION. DECLARATION OF SOLAR ACCESS
3 RIGHTS.

4 1. The general assembly declares that the right
5 to use the natural resource of solar energy is a
6 property right, the exercise of which is to be
7 encouraged and regulated by the laws of this state.

8 2. The following concepts apply to the regulation
9 of disputes over the use of a solar energy system
10 located on land for which a declaration of solar
11 access rights has been recorded pursuant to section
12 seven (7) of this Act.

13 a. In areas which are unzoned or zoned exclusively
14 for agricultural use or zoned exclusively for detached
15 one and two family housing, or for greenhouses,
16 beneficial use is the basis, the measure and the limit
17 of a solar access right, except as otherwise provided
18 by written contract. If the amount of solar energy
19 which the user of a solar energy system can
20 beneficially use varies with the time of day, the
21 season of the year, or in some other manner, then
22 the extent of the solar right varies likewise.

23 b. In disputes involving solar rights of
24 greenhouses, or in areas which are unzoned or zoned
25 exclusively for agricultural use or zoned exclusively
26 for detached one and two family housing, priority
27 in time of beneficial use has the superior right.
28 A change in the zoning classification of property
29 does not terminate or diminish a solar access right
30 based on priority in time of beneficial use.

31 c. Solar access rights are freely transferable
32 within the bounds of regulation imposed by the general
33 assembly.

34 Sec. 6. NEW SECTION. LIMIT OF A SOLAR ACCESS
35 RIGHT.

36 1. A solar access right based on priority in time
37 of beneficial use is not absolute and does not bar
38 development of property on servient estates. However,
39 if development of property on servient estates ob-
40 structs or diminishes a solar access right recorded
41 pursuant to section seven (7) of this Act, the
42 beneficiary of the solar access right shall be
43 furnished reasonable compensation unless other
44 settlement is agreed to.

45 2. a. Vegetation located on a servient estate
46 and planted prior to the recording of a declaration
47 of solar access rights shall be trimmed by the servient
48 estate owner when growth of such vegetation subsequent
49 to recording substantially interferes with the use
50 of a solar energy system and the dominant estate owner

1 has delivered written notice of the need for trimming
2 to the servient estate owner. However, trimming shall
3 not be required beyond the point necessary to eliminate
4 the obstruction unless some other point is agreed
5 to by the parties. The cost of trimming shall be
6 paid by the dominant estate owner who shall provide
7 security for the cost of trimming to the servient
8 estate owner as a condition precedent to trimming.

9 b. If a servient estate owner fails to trim
10 vegetation planted prior to the recording of a
11 declaration of solar access rights within thirty days
12 of receipt of the written notice of the need for
13 trimming as required under paragraph a of this
14 subsection, then the dominant estate owner may petition
15 the solar access regulatory board to perform the
16 necessary trimming. After giving reasonable notice
17 and an opportunity for all parties to be heard, the
18 solar access regulatory board shall order such trimming
19 as it deems necessary and perform or contract for
20 the trimming, after receiving adequate security from
21 the dominant estate owner for the payment of the costs
22 of trimming.

23 Sec. 7. NEW SECTION. COMPENSATION FOR OBSTRUCTION
24 OF SOLAR ACCESS. When a solar access right based
25 upon priority in time of beneficial use is abridged
26 by a development of property, reasonable compensation
27 shall be determined as follows:

28 1. If the solar energy system can no longer be
29 reasonably used because of interference caused by
30 the development, reasonable compensation consists
31 of the following:

32 a. The solar energy system's replacement cost
33 after depreciation for ordinary use, less the system's
34 resale value, plus the cost of replacing the system
35 with an alternative energy system that is capable
36 of providing the energy furnished by the solar energy
37 system.

38 b. The increase in annual cost of operating the
39 replacement energy system, relative to the cost of
40 operating the solar energy system, capitalized at
41 the long-term interest rate prevailing at the time.

42 2. If the solar energy system can still be used
43 but its efficiency or output is diminished because
44 of interference, reasonable compensation shall consist
45 of the following:

46 a. The cost to modify or relocate the solar energy
47 system, including the cost of installing a supplemental
48 energy system, to replace the energy capacity lost
49 because of interference.

50 b. The increase in annual cost of operating the

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1 modified energy system, relative to the cost of
2 operating the solar energy system, capitalized at
3 the long-term interest rate prevailing at the time.

4 Sec. 8. NEW SECTION. RECORDING OF SOLAR ACCESS
5 RIGHTS.

6 1. Before the provisions of section four (4)
7 through ten (10) and section twelve (12) of this Act
8 apply, the owner of the dominant estate must have
9 recorded a written declaration of solar access rights
10 in the office of the county recorder in the counties
11 where the dominant and servient estates are located.
12 If the declaration meets the requirements of subsection
13 five (5) of this section, the county recorder shall
14 record the declaration and list the dominant estate
15 owner as grantee and the servient estate owner as
16 grantor in the deed index. An abstractor shall note
17 the recording of the declaration of solar access
18 rights on any abstract of title prepared for a servient
19 or dominant estate.

20 2. Upon receipt of the declaration, the county
21 recorder in which the dominant estate is located shall
22 send by certified mail a notice of the recording to
23 the servient estate owners of record and the solar
24 access regulatory board or other person designated
25 by the board of supervisors or city council. The
26 notice shall contain the following:

27 a. The name and address of the dominant estate
28 owner.

29 b. That a declaration of solar access rights has
30 been recorded against the servient estate and may
31 affect the rights of the servient estate owner to
32 develop the estate.

33 c. The time and place where the declaration can
34 be reviewed.

35 d. That the servient estate owner may contest
36 the recording within thirty days of the mailing date
37 of the notice on the grounds that the servient estate
38 owner has at least six (6) months prior to the date
39 of recording made a substantial financial commitment
40 to build a structure that will shade the collector.

41 3. The dominant estate owner shall pay a filing
42 fee of fifteen dollars to the county recorder in which
43 the dominant estate is located prior to recording.
44 The money collected shall be deposited in the county's
45 general fund. Upon the written request of the county
46 recorder, the solar access regulatory board shall
47 revoke a declaration of solar access rights for failure
48 to pay the filing fee.

49 4. If the solar energy system has not been
50 installed and made operational within nine months

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1 after the date of recording or the date of resolution
2 of the contest to the recording pursuant to section
3 eight (8) of this Act, whichever date is later, then
4 upon the written request of a servient estate owner
5 the solar access regulatory board shall revoke the
6 declaration of solar access rights.

7 5. The declaration of solar access rights must
8 contain the following:

9 a. An acknowledgement by the owner of the dominant
10 estate.

11 b. A description of the dominant and servient
12 estates.

13 c. The name and address of the dominant and
14 servient estate owners of record.

15 d. A statement that the solar energy system is
16 installed or will be installed within nine months
17 of the date of recording or resolution of a contest
18 to the recording, whichever is later.

19 e. A description of the solar energy system to
20 be used.

21 f. The size and location of the collector,
22 including heights, its orientation with respect to
23 south, and its slope from the horizontal shown either
24 by drawings or in words.

25 g. An explanation of how the applicant has done
26 everything reasonable, taking cost and efficiency
27 into account, to design and locate the collector in
28 a manner to minimize the impact on development of
29 servient estates.

30 Sec. 9. NEW SECTION. RIGHT TO CONTEST RECORD-
31 ING.

32 1. Within thirty days of mailing a notice of the
33 recording of the declaration of solar access rights
34 pursuant to the provisions of subsection two (2) of
35 section seven (7) of this Act, a servient estate owner
36 may file a written request to contest the recording
37 of the declaration of solar access rights with the
38 solar access regulatory board.

39 2. The solar access regulatory board shall hold
40 a hearing to consider the request after giving
41 reasonable notice to the dominant estate owner and
42 the petitioner of the time, place, and purpose of
43 the hearing.

44 3. The solar access regulatory board may revoke
45 the recording of the declaration of solar access
46 rights if it finds that at least six (6) months prior
47 to the date of recording the written declaration of
48 solar access rights with the county recorder, the
49 servient estate owner made a substantial financial
50 commitment to build a structure that will shade the

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1 solar collector. Such revocation applies only to
2 the servient estate on which the structure is to be
3 built.

4 4. The solar access regulatory board may condition
5 the recording of the declaration upon changes in the
6 position or location of the solar collector that will
7 minimize the impact on the servient estate.

8 5. The solar access regulatory board may order
9 a party to a contest of a recording to not engage
10 in activity that will change the status quo until
11 the appeal is resolved by the board.

12 Sec. 10. NEW SECTION. REVOCATION OF DECLARATION
13 OF SOLAR ACCESS RIGHTS.

14 1. Revocation of a declaration of a solar access
15 right by a solar access regulatory board shall be
16 in writing and state the reason for the revocation.
17 A copy of the revocation shall be sent by ordinary
18 mail to the parties to the revocation proceeding.

19 2. The solar access regulatory board shall file
20 with the county recorder for recording a certified
21 copy of a revocation of a declaration of solar access
22 rights. The county recorder shall record the
23 revocation and list the dominant estate owner as
24 grantor and the servient estate owner as grantee in
25 the deed index. Upon recording the revocation, the
26 declaration is void. An abstractor shall note the
27 recording of the revocation of the declaration of
28 solar access rights on any abstract of title prepared
29 for a servient or dominant estate.

30 3. If a declaration of solar access rights for
31 an estate is revoked, the estate owner with the written
32 approval of the solar access regulatory board may
33 have a subsequent declaration of solar access rights
34 recorded pursuant to the provisions of sections seven
35 (7) and eight (8) of this Act under the following
36 conditions:

37 a. If the revocation was pursuant to subsection
38 three (3) of section eight (8) of this Act because
39 the servient estate owner has made a substantial
40 commitment to build a structure that will shade the
41 solar collector, upon proof that the structure's
42 construction was not begun within two years of the
43 date of revocation.

44 b. If the revocation was for nonuse pursuant to
45 section ten (10) of this Act, upon proof of actual
46 installation and operation of a solar energy system.
47 However, if the revocation for nonuse occurred more
48 than three years prior to the recording of a subsequent
49 declaration of solar access rights the declaration
50 may be recorded without the written approval of the

1 solar access regulatory and proof of installation
2 and operation.

3 c. If the revocation is for failure to install
4 and operate a solar energy system pursuant to
5 subsection four (4) of section seven (7) of this Act,
6 then upon proof of actual installation and operation
7 of the system on the dominant estate.

8 Sec. 11. NEW SECTION. ABANDONMENT OF SOLAR ACCESS
9 RIGHT.

10 1. A solar access right not put to beneficial
11 use for three consecutive years is deemed abandoned
12 until such time as it is again put to beneficial use.
13 During the period of abandonment the owner of a
14 servient estate may file a written request for
15 revocation of the declaration of solar access rights
16 with the appropriate solar access regulatory board.

17 2. The solar access regulatory board shall hold
18 a hearing to consider the request after giving
19 reasonable notice to the owner of the dominant estate
20 and the person making the request of the time, place
21 and purpose of the hearing.

22 3. The solar access regulatory board shall
23 terminate the solar access right and revoke the
24 recording of the declaration of solar access rights
25 if it finds that for three consecutive years the solar
26 access right was not put to beneficial use.

27 Sec. 12. NEW SECTION. VOLUNTARY EASEMENTS.

28 1. Persons, including public bodies may voluntarily
29 create an easement for the purpose of insuring a right
30 of solar access. The easement shall be in writing
31 and is subject to the same conveyancing and instrument
32 recording requirements as other easements except as
33 provided in section twelve (12) of this Act. An
34 instrument creating a solar easement may include,
35 among other things, the following:

36 a. The vertical and horizontal angles, expressed
37 in degrees, through which the solar easement extends
38 over the real property subject to the solar easement
39 and the points from which these angles are measured.

40 b. The stipulation that the growth of existing
41 and future vegetation or the height of buildings is
42 subject to the solar easement.

43 c. Terms or conditions under which the solar
44 easement can be abandoned or terminated.

45 d. Provisions for compensating the owner of the
46 property benefiting from the solar easement in the
47 event of interference with the enjoyment of the solar
48 easement, or for compensating the owner of the property
49 subject to the solar easement for maintaining that
50 easement.

1 Sec. 13. NEW SECTION. TERMINATION BY STATUTE.
2 Voluntary easements and solar access rights authorized
3 by sections one (1) through thirteen (13) of this
4 Act are exempt from sections six hundred fourteen
5 point seventeen (614.17) and six hundred fourteen
6 point twenty-four (614.24) of the Code. A statute
7 other than sections one (1) through thirteen (13)
8 of this Act which limits or extinguishes a right of
9 use does not apply to a voluntary easement or solar
10 access right authorized by sections one (1) through
11 thirteen (13) of this Act unless the statute
12 specifically states that it applies."

13 3. Page 3, line 1, by striking the word "and"
14 and inserting in lieu thereof the words "and which
15 is".

16 4. Page 3, line 6, by inserting after the word
17 "system;" the words "to promote the conservation of
18 energy resources;".

19 5. Page 5, line 2, by striking the word "and"
20 and inserting in lieu thereof the words "and which
21 is".

22 6. Page 5, line 7, by inserting after the word
23 "system;" the words "to promote the conservation of
24 energy resources".

25 7. Page 5, by inserting following line 16 the
26 following new section:

27 "Sec. ____ . NEW SECTION. ASSISTANCE TO PUBLIC.
28 The energy policy council is authorized and encouraged
29 to make available information and guidelines to assist
30 the public to understand and use the provisions of
31 this Act. The information and guidelines should
32 include model easements, model restrictive covenants,
33 and instructions and aids for preparing and recording
34 declarations of solar access rights."

35 8. Page 5, by inserting after line 16 the following
36 section:

37 "Sec. ____ . This Act does not alter, amend, deny,
38 impair or modify a solar right, lease, easement or
39 contract right which was vested prior to the effective
40 date of this Act."

41 9. Page 5, by striking lines 17 and 18 and
42 inserting and inserting in lieu thereof the following:

43 "Sec. ____ . This Act, being deemed of immediate
44 importance, shall take effect from and after its
45 publication in The Grundy Register, a newspaper
46 published in Grundy Center, Iowa, and in the Clayton
47 County Press-Journal, a newspaper published in
48 Strawberry Point, Iowa."

49 10. By renumbering as necessary in conformance
50 with this amendment.

REPORT OF THE FIRST CONFERENCE COMMITTEE
ON SENATE FILE 344

To the President of the Senate and the Speaker of the House.

We, the undersigned members of the Conference Committee appointed to consider the differences between the House and the Senate on Senate File 344 a bill for An Act relating to access to and use of solar energy respectfully make the following report:

1. That the House recede from its amendment S-3561 to Senate File 344 as passed by the Senate.

2. That Senate File 344 as passed by the Senate be amended as follows:

1. Page 1, by striking lines 13 through 18 and inserting in lieu thereof the following:

"1. "Solar energy system" means any of the following:

a. A system of equipment capable of collecting and converting incident solar energy into heat, mechanical or electrical energy and transforming those forms of energy by a separate apparatus to a point of storage or end use.

b. Structural and operable components of a structure that are designed to heat or cool the structure by using solar energy by means of conduction, convection, radiation or evaporation.

c. A greenhouse."

2. Page 1, by striking lines 27 and 28 and inserting in lieu thereof the words "conveyance requirements as other

easements. A solar easement shall".

3. Page 1, line 26, by striking the number "1."

4. Page 1, line 31, by striking the letter "a." and inserting in lieu thereof the number "1."

5. Page 1, by striking lines 33 and 34 and inserting in lieu thereof the following:

"2. A legal description of the space which must remain unobstructed expressed in terms of the degrees of the vertical and horizontal angles through which the solar easement extends over the burdened property and the points from which these angles are measured."

6. Page 1, line 35, by striking the letter "c." and inserting in lieu thereof the number "3."

7. Page 2, line 3, by striking the letter "d." and inserting in lieu thereof the number "4."

8. Page 2, line 5, by striking the letter "e." and inserting in lieu thereof the number "5."

9. Page 2, by striking lines 10 through 21.

10. Page 3, line 1, by striking the word "and" and inserting in lieu thereof the words "and which is".

11. Page 3, line 6, by inserting after the word "system;" the words "to promote the conservation of energy resources:"

12. Page 3, by striking lines 22 through 25 and inserting in lieu thereof the word "decisions."

13. Page 4, line 29, by striking the word "A".

14. Page 4, by striking lines 30 through 33.

15. Page 5, line 2, by striking the word "and" and inserting in lieu thereof the words "and which is".

16. Page 5, line 7, by inserting after the word "system;" the words "to promote the conservation of energy resources:".

17. Page 5, by inserting after line 16 the following new section:

"Sec. ____ . NEW SECTION. ASSISTANCE TO LOCAL GOVERNMENT BODIES AND THE PUBLIC. The energy policy council shall make available information and guidelines to assist local government

(PAGE 3 (CONFERENCE COMMITTEE REPORT ON S.F. 344)

bodies and the public to understand and use the provisions of this Act. The information and guidelines shall include model easements, model restrictive covenants, and instructions and aids for preparing and recording solar easements."

18. By renumbering and correcting internal references in accordance with this amendment.

ON THE PART OF THE SENATE:

RICHARD R. RAMSEY, CHAIRPERSON
A. R. (BUD) KUDART
DAVID M. READINGER
JOHN R. SCOTT
JAMES GALLAGHER

ON THE PART OF THE HOUSE:

VIRGINIA POFFENBERGER, CHAIRPERSON
DARRELL HANSON
SUE MULLINS

FILED JANUARY 16, 1980

Senat. adopted 1/17 (f. 119)
House refused 1/23 (f. 240)

SENATE CLIP SHEET

APRIL 24, 1980

REPORT OF THE SECOND CONFERENCE COMMITTEE
ON SENATE FILE 344

To the President of the Senate and the Speaker of the House.

We, the undersigned members of the Second Conference Committee appointed to consider the differences between the House and the Senate on Senate File 344 a bill for An Act relating to access to and use of solar energy respectfully make the following report:

1. That the House recede from its amendment S-3561 to Senate File 344 as passed by the Senate.
2. That Senate File 344 as passed by the Senate be amended as follows:

1. Page 1, lines 8 through 10, by striking the words "protecting the right of access to incident sunlight through voluntary solar easements" and inserting in lieu thereof the words "providing access to incident sunlight through solar easements".

2. Page 1, by striking lines 13 through 18 and inserting in lieu thereof the following:

- "1. "Solar energy system" means any of the following:

- a. A system of equipment capable of collecting and converting incident solar energy into heat, mechanical or electrical energy and transforming those forms of energy by a separate apparatus to a point of storage or end use.

- b. Structural and operable components of a structure that are designed to heat or cool the structure by using the solar energy by means of conduction, convection, radiation or evaporation.

c. A greenhouse."

3. Page 1, lines 19 and 20, by striking the words "developed and recorded pursuant to section four (4) of this Act" and inserting in lieu thereof the words "acquired by agreement or eminent domain".

4. Page 1, by inserting after line 24 the following:

"4. "Dominant estate" means that parcel of land to which the benefits of the solar easement apply.

5. "Servient estate" means that parcel of land burdened by the solar easement."

5. Page 1, by striking lines 25 through page 2, line 15 and inserting in lieu thereof the following:

"Sec. 4. NEW SECTION. SOLAR EASEMENTS. A solar easement is subject to the same recording and conveyance requirements as other easements. A solar easement shall be created in writing and may include, but the contents are not limited to the following:

1. The legal description of the dominant and servient estates.

2. A description of the space which must remain unobstructed with reference to the solar energy system.

3. Any limitations on the growth of existing and future vegetation or the height of buildings or other potential obstructions of the solar energy system.

4. Terms or conditions under which the solar easement may be abandoned or terminated.

5. Provisions for compensating the owner of the dominant estate in the event of interference with the enjoyment of the solar easement, or for compensating the owner of the servient estate for maintaining that easement."

6. Page 2, by inserting after line 15 the following:

"Sec. 5. NEW SECTION. EMINENT DOMAIN. A landowner may exercise the power of eminent domain as provided in chapter

four hundred seventy-two (472) of the Code to acquire a solar easement to provide access to sunlight to operate a solar energy system if the following conditions are satisfied:

1. The dominant estate and the servient estate are unzoned, zoned exclusively for agricultural use, or zoned exclusively for detached one or one and two family residential use.

2. The airspace to be included in the solar easement is unimproved and the servient estate owner has not, at least six months prior to the filing of the application, made a substantial financial commitment to build a structure in that airspace that will shade the solar energy system.

3. The solar energy system provides or would provide significant amounts of energy in a manner that diminishes or would diminish the dominant estate owner's use of other forms of energy."

7. Page 3, line 1, by striking the word "and" and inserting in lieu thereof the words "and which is".

8. Page 3, line 6, by inserting after the word "system;" the words "to promote the conservation of energy resources;".

9. Page 5, line 2, by striking the word "and" and inserting in lieu thereof the words "and which is".

10. Page 5, line 7, by inserting after the word "system;" the words "to promote the conservation of energy resources".

11. Page 5, by inserting after line 16 the following:

"Sec. 14. NEW SECTION. ASSISTANCE TO LOCAL GOVERNMENT BODIES AND THE PUBLIC. The energy policy council shall make available information and guidelines to assist local government bodies and the public to understand and use the provisions of this Act. The information and guidelines shall include model solar easements, model restrictive covenants, and instructions and aids for establishing and recording solar easements."

12. Page 5, by striking lines 17 and 18.

SENATE 4
APRIL 24, 1980

13. By renumbering and correcting internal references
to conform with this amendment.

ON THE PART OF THE SENATE:

EDGAR H. HOLDEN, CHAIRPERSON
STEPHEN W. BIENIUS
PATRICK J. DELUHERY
W. R. BILL HANSEN
ARTHUR A. SMALL, JR.

ON THE PART OF THE HOUSE:

JOHN PELTON, CHAIRPERSON
CHARLES H. BRUNER
JAMES O'KANE
DOUGLAS RITSEMA
DOUGLAS R. SMALLEY

FILED:
APRIL 23, 1980

Senate adopted 4/26 (p. 132)