

3/5/96 Amend/Do Pass w/H. 5174

JAN 19 1996

COMMERCE - REGULATION

HOUSE FILE 2087  
BY NUTT

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

**A BILL FOR**

1 An Act relating to alternate energy production and providing an  
2 applicability provision, a conditional repeal, and an  
3 effective date.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2087

1 Section 1. Section 476.42, subsection 3, Code 1995, is  
2 amended by striking the subsection.

3 Sec. 2. Section 476.43, Code 1995, is amended by striking  
4 the section and inserting in lieu thereof the following:

5 476.43 ALTERNATE ENERGY PURCHASE.

6 An electric utility shall purchase any energy which is made  
7 available from an alternate energy production facility or  
8 small hydro facility at a rate which does not exceed the  
9 avoided costs to the electric utility of the alternate energy  
10 purchase. For purposes of this section "avoided costs" means  
11 the incremental costs to an electric utility of electric  
12 energy, capacity, or both, which, but for the purchase from  
13 the alternate energy production facility or small hydro  
14 facility, the electric utility would generate itself or  
15 purchase from another source.

16 Sec. 3. Section 476.44, subsection 2, Code 1995, is  
17 amended by striking the subsection.

18 Sec. 4. APPLICABILITY TO EXISTING CONTRACTS. This Act  
19 shall not affect a contract between an alternate energy  
20 production facility or small hydro facility and an electric  
21 utility that was entered into pursuant to sections 476.43 and  
22 476.44 for purchase of alternate energy if the contract was  
23 entered into prior to the effective date of this Act.

24 Sec. 5. CONDITIONAL REPEAL. In the event that the federal  
25 requirements for purchase of alternate energy contained in 16  
26 U.S.C. § 824a-3 are repealed, section 476.43 is repealed.

27 Sec. 6. EFFECTIVE DATE. This Act, being deemed of  
28 immediate importance, takes effect upon enactment.

29 EXPLANATION

30 This bill repeals current alternate energy purchasing  
31 requirements and instead requires that an electric utility  
32 purchase any energy which is made available from an alternate  
33 energy production facility or small hydro facility at a rate  
34 which does not exceed the avoided costs to the electric  
35 utility of the alternate energy purchase. For purposes of

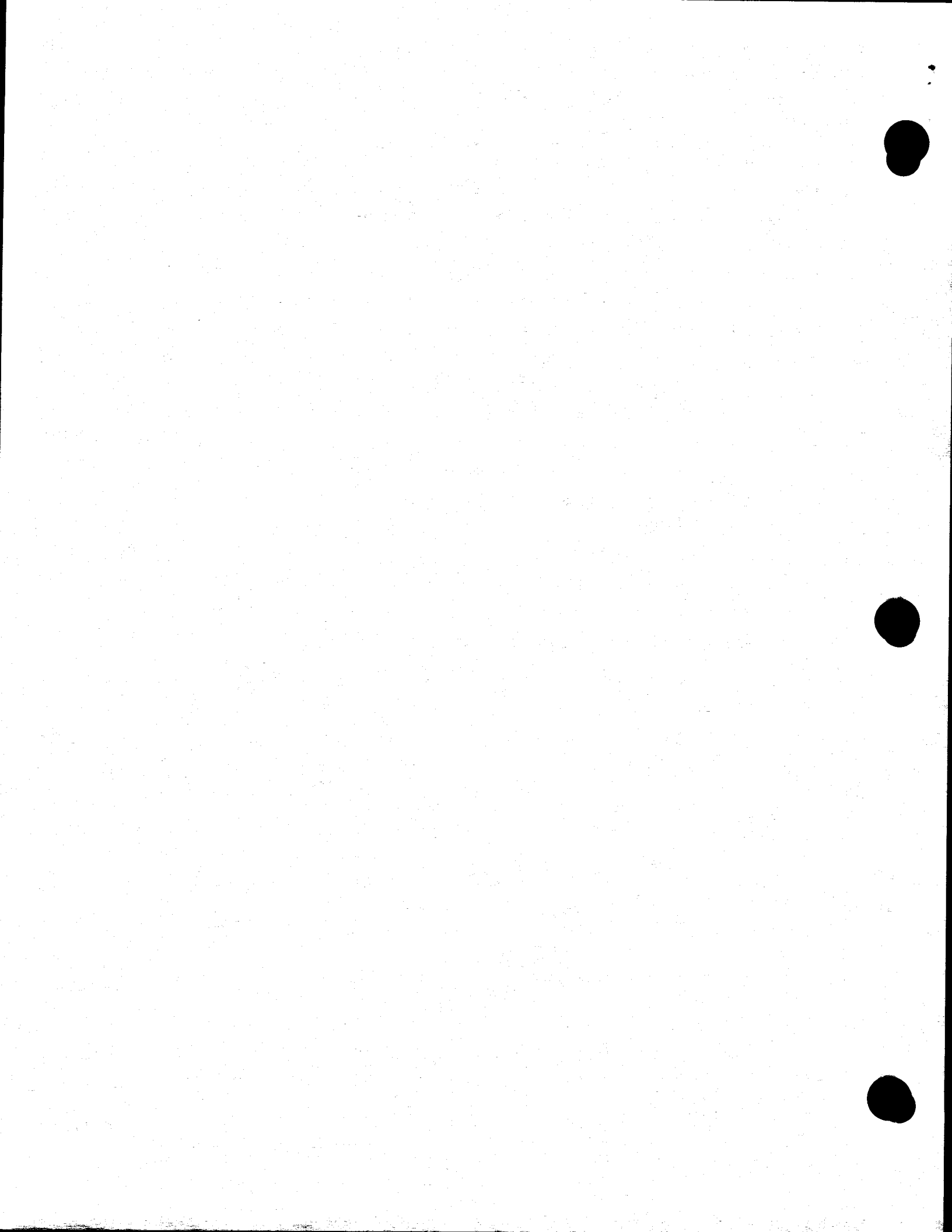
1 this section "avoided costs" means the incremental costs to  
2 the electric utility of the electric energy, capacity, or  
3 both, which, but for the purchase from the alternate energy  
4 production facility or small hydro facility, the electric  
5 utility would have generated or purchased from another source.  
6 Current law requires each of the investor-owned electric  
7 utilities to purchase a portion of their 105-megawatt share of  
8 alternate energy at a rate determined by the Iowa utilities  
9 board.

10 The bill provides that repeal of the current alternate  
11 energy purchasing requirements does not affect a contract  
12 between an alternate energy production facility or small hydro  
13 facility and an electric utility that was entered into prior  
14 to the repeal of those requirements. The bill makes several  
15 conforming changes.

16 The bill provides that in the event the federal government  
17 repeals their alternate energy purchasing requirements, the  
18 requirements of this Act shall be repealed.

19 The bill is effective upon enactment.

20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35



SEVENTY-SIXTH GENERAL ASSEMBLY  
1996 REGULAR SESSION  
DAILY  
HOUSE CLIP SHEET

MARCH 6, 1996

HOUSE FILE 2087

H-5174

1 Amend House File 2087 as follows:

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

4 "Section 1. Section 476.1A, Code 1995, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 7. Purchase of electricity from  
7 alternate energy production facilities as required in  
8 sections 476.41 through 476.45.

9 Sec. 2. Section 476.1A, unnumbered paragraph 3,  
10 Code 1995, is amended to read as follows:

11 However, sections 476.20, 476.21, ~~476.41-through~~  
12 ~~476.44,~~ 476.51, 476.56, 476.62, and 476.66 and  
13 chapters 476A and 478, to the extent applicable, apply  
14 to such electric utilities.

15 Sec. 3. Section 476.1B, subsection 1, paragraph g,  
16 Code 1995, is amended by striking the paragraph and  
17 inserting in lieu thereof the following:

18 g. Purchase of electricity from alternate energy  
19 production as required in sections 476.41 through  
20 476.45.

21 Sec. 4. Section 476.6, Code 1995, is amended by  
22 adding the following new subsection:

23 NEW SUBSECTION. 22. ALTERNATE ENERGY PROMOTIONAL  
24 RATES. The board shall require that electric  
25 utilities offer to their customers the opportunity to  
26 pay, on a voluntary basis, an alternate energy  
27 promotional rate. This rate shall exceed the rate for  
28 electricity otherwise payable and shall be designed  
29 and encouraged by the electric utility to maximize  
30 voluntary financial support for alternate energy  
31 production. The alternate energy promotional rate  
32 shall be filed as a tariff with the board pursuant to  
33 section 476.4. Retaining only amounts approved by the  
34 board for its administrative and marketing costs, the  
35 electric utility shall remit that portion of the  
36 electric rate attributable to the alternate energy  
37 promotional rate to the department of revenue and  
38 finance in the same manner as sales tax is remitted  
39 under chapter 422.

40 Sec. 5. Section 476.41, Code 1995, is amended to  
41 read as follows:

42 476.41 PURPOSE.

43 It is the policy of this state to encourage the  
44 development of cost-effective alternate energy  
45 production facilities and small hydro facilities in  
46 ~~order-to-serve-our-finite-and-expensive-energy~~  
47 ~~resources-and-to-provide-for-their-most-efficient-use.~~

48 Sec. 6. Section 476.42, subsection 1, Code 1995,  
49 is amended to read as follows:

50 1. "Alternate energy production facility" means

H-5174

H-5174

Page 2

1 any or all of the following:

2 a. ~~A solar, wind turbine, waste management,~~  
3 ~~resource, methane recovery, refuse-derived-fuel, or~~  
4 ~~agricultural crops or residues, or woodburning~~  
5 ~~facility. Alternate energy production facility~~  
6 ~~includes a small hydro facility as defined in~~  
7 ~~subsection 4.~~

8 b. Land, systems, buildings, or improvements that  
9 are located at the project site and are necessary or  
10 convenient to the construction, completion, or  
11 operation of the facility.

12 c. Transmission or distribution facilities  
13 necessary to conduct the energy produced by the  
14 facility to ~~users located at or near the project site~~  
15 ~~the electric utility purchasing the electricity.~~

16 A facility which is a qualifying facility under 18  
17 C.F.R. part 292, subpart B is not precluded from  
18 being an alternate energy production facility under  
19 this division. A facility which is owned by an  
20 electric utility is considered to be an alternate  
21 energy production facility for purposes of this  
22 division.

23 Sec. 7. Section 476.42, subsection 3, Code 1995,  
24 is amended by striking the subsection.

25 Sec. 8. Section 476.42, subsection 4, Code 1995,  
26 is amended to read as follows:

27 4. "Small hydro facility" means any or all of the  
28 following:

29 a. A hydroelectric facility at a dam, located  
30 within this state.

31 b. Land, systems, buildings, or improvements that  
32 are located at the project site and are necessary or  
33 convenient to the construction, completion, or  
34 operation of the facility.

35 c. Transmission or distribution facilities  
36 necessary to conduct the energy produced by the  
37 facility to ~~users located at or near the project site~~  
38 ~~the electric utility purchasing the electricity.~~

39 A facility which is a qualifying facility under 18  
40 C.F.R. part 292, subpart B is not precluded from  
41 being a small hydro facility under this division. A  
42 facility which is owned by an electric utility is  
43 considered to be a small hydro facility for purposes  
44 of this division.

45 Sec. 9. Section 476.43, Code 1995, is amended by  
46 striking the section and inserting in lieu thereof the  
47 following:

48 476.43 ALTERNATE ENERGY PURCHASE REQUIREMENTS.

49 1. PURCHASE REQUIREMENT. The board shall require  
50 an electric utility, within the state, to enter into

H-5174

H-5174

Page 3

1 contracts for the purchase of the utility's allotted  
2 portion of eighty-nine megawatts of electricity  
3 generated from alternate energy production facilities  
4 located in the utility's service area and subject to  
5 the terms and conditions established by the board  
6 pursuant to this section.

7 2. ALLOCATION. By August 31, 1996, the board  
8 shall allocate among the classes of alternate energy  
9 production facilities, the amount of electricity to be  
10 purchased from that class of facility. The board's  
11 action shall result in an allotment of electricity  
12 purchases assigned each class of alternate energy.  
13 Alternate energy classes include wind, methane  
14 recovery, agricultural crops or residue recovery, and  
15 hydro generated electricity.

16 3. COMPETITIVE BIDDING. Within each class of  
17 alternate energy production facility, the board shall  
18 require competitive bidding to be conducted by  
19 electric utilities for the purchase of electricity  
20 assigned that class.

21 The board shall establish the required  
22 specifications for a qualifying bid, and a schedule  
23 for the conduct of all rounds of competitive bidding,  
24 including a detailed timeline for facility  
25 construction and energy delivery, and any other  
26 contract terms the board deems necessary and  
27 commercially reasonable. In the conduct of  
28 competitive bidding, the board shall require  
29 compliance with all applicable provisions of the  
30 competitive bidding procedures of the department of  
31 general services printing division as stated in 401  
32 IAC ch. 5. The first round of competitive bidding  
33 shall be completed not later than December 31, 1996,  
34 and the last shall be completed not later than  
35 December 31, 1997. If the first round of competitive  
36 bidding is not fully successful in fulfilling the  
37 allotments as specified by the board, the board shall  
38 require the repeat of competitive bidding as necessary  
39 to fulfill the allotments. Upon the completion of  
40 each round, the board shall designate as successful  
41 the lowest responsible bid or bids that meet all  
42 bidding specifications.

43 4. PURCHASES. Upon designation of a successful  
44 proposal, the board shall require the successful  
45 bidder and the electric utility in whose service area  
46 the facility is to be located to enter into a contract  
47 for the purchase of electricity from that alternate  
48 energy production facility in the amount specified by  
49 the board. The contract shall be executed within  
50 ninety days after designation of the successful

H-5174

-3-

H-5174

Page 4

1 bidder. Any item in dispute shall be submitted to the  
2 board for resolution. The contract shall require the  
3 electric utility to pay to the facility during the  
4 contract term the utility's incremental cost of  
5 electricity as certified not later than the bidding  
6 deadline by the board. For purposes of this section,  
7 "incremental cost" means the cost to the electric  
8 utility of the electricity which, but for the purchase  
9 from the alternate energy production facility, the  
10 electric utility would have generated or purchased  
11 from another source. The board shall pay to the  
12 facility the balance of the purchase price designated  
13 in the facility's successful bid.

14 5. PRIVATE CONTRACTS. Notwithstanding other  
15 provisions of this section to the contrary, an  
16 electric utility and an alternate energy production  
17 facility may enter into a long-term contract and may  
18 agree to rates for purchase and sale transactions. A  
19 contract entered into under this subsection must be  
20 filed with the board in the manner provided for  
21 tariffs under section 476.4.

22 6. ADDITIONAL FACILITIES AND BACKUP POWER. This  
23 section does not require an electric utility to  
24 construct additional facilities unless those  
25 facilities are paid for by the owner or operator of  
26 the affected alternate energy production facility.  
27 The electric utility shall provide for the  
28 availability of supplemental or backup power to  
29 alternate energy production facilities on a  
30 nondiscriminatory basis and at just and reasonable  
31 rates.

32 Sec. 10. Section 476.44, Code 1995, is repealed.

33 Sec. 11. GOOD FAITH INVESTMENT -- REIMBURSEMENT  
34 MECHANISM. It is the intent of the general assembly  
35 that persons who have proceeded in good faith under  
36 the terms and conditions of sections 476.43 and  
37 476.44, Code 1995, prior to their amendment in this  
38 Act, and who choose not to submit competitive bids  
39 pursuant to section 476.43, not suffer economic loss  
40 as a result of this Act. The Iowa utilities board  
41 shall recommend a mechanism for reimbursement from the  
42 general fund of the state for those reasonable good  
43 faith development costs by those persons deemed by the  
44 board to have been incurred in good faith. This  
45 recommendation shall be made to the general assembly  
46 by December 31, 1996.

47 Sec. 12. EXISTING CONTRACTS. Notwithstanding the  
48 amendments to section 476.43 and 476.44, as contained  
49 in this Act, nothing in this Act shall be construed to  
50 modify the terms of any contract entered into prior to

H-5174

H-5174

Page 5

1 December 31, 1995, between an electric utility and an  
2 alternate energy production facility or small hydro  
3 facility. The Iowa utilities board shall continue to  
4 allow the recovery of costs incurred, until the  
5 termination of such contracts."

6 2. Title page, by striking lines 1 through 3 and  
7 inserting the following: "An Act relating to  
8 alternate energy production and purchase, requiring  
9 the purchase of eighty-nine megawatts of alternate  
10 energy, requiring consideration of a reimbursement  
11 mechanism for good faith investment, and requiring the  
12 use of an alternate energy promotional rate."

13 3. By renumbering as necessary.

By COMMITTEE ON COMMERCE AND  
REGULATION  
METCALF of Polk, Chairperson

H-5174 FILED MARCH 5, 1996



HOUSE FILE 2087

H-5427

1 Amend the amendment, H-5174, to House File 2087 as  
2 follows:

3 1. By striking page 1, line 2, through page 5,  
4 line 13, and inserting the following:

5 "\_\_\_\_\_. By striking everything after the enacting  
6 clause and inserting the following:

7 "Section 1. Section 476.1A, Code 1995, is amended  
8 by adding the following new subsection:

9 NEW SUBSECTION. 7. Encouragement of alternate  
10 energy production and the purchase of alternate  
11 energy.

12 Sec. 2. Section 476.1A, unnumbered paragraph 3,  
13 Code 1995, is amended to read as follows:

14 However, sections 476.20, 476.21, ~~476.41~~-through  
15 ~~476.44~~, 476.51, 476.56, 476.62, and 476.66 and  
16 chapters 476A and 478, to the extent applicable, apply  
17 to such electric utilities.

18 Sec. 3. Section 476.1B, subsection 1, paragraph g,  
19 Code 1995, is amended by striking the paragraph and  
20 inserting in lieu thereof the following:

21 g. Encouragement of alternate energy production  
22 and the purchase of alternate energy.

23 Sec. 4. Section 476.42, subsection 1, paragraph a,  
24 Code 1995, is amended to read as follows:

25 a. A solar, wind turbine, waste-management,  
26 resource methane recovery, refuse-derived-fuel,  
27 agricultural crops or residues, or woodburning  
28 facility.

29 Sec. 5. Section 476.42, subsection 3, Code 1995,  
30 is amended by striking the subsection.

31 Sec. 6. Section 476.42, Code 1995, is amended by  
32 adding the following new subsection:

33 NEW SUBSECTION. 5. "Alternate energy" means  
34 electricity derived from hydro, solar, wind, methane  
35 recovery, agricultural crops or residues, or  
36 woodburning energy.

37 Sec. 7. Section 476.43, Code 1995, is amended by  
38 striking the section and inserting in lieu thereof the  
39 following:

40 476.43 ALTERNATE ENERGY -- RATES -- PENALTIES.

41 1. a. By December 31, 1997, an electric utility  
42 shall derive a minimum of two percent of the electric  
43 utility's annual peak demand from alternate energy  
44 sources. By July 1, 1999, an electric utility shall  
45 derive a minimum of five percent of the utility's  
46 annual peak demand from alternate energy sources.

47 b. A utility shall derive at least thirty percent  
48 of the utility's alternate energy generation, required  
49 under paragraph "a", from the following sources in the  
50 amounts as indicated:

H-5427

H-5427

Page 2

1 (1) Ten percent shall be derived from dedicated  
2 energy crops grown within the state, fifty percent of  
3 which shall be from projects of five hundred kilowatts  
4 or less.

5 (2) Ten percent shall be derived from agricultural  
6 wastes produced from agricultural crops grown within  
7 the state, fifty percent of which shall be from  
8 projects of five hundred kilowatts or less.

9 (3) Ten percent shall be derived from small scale  
10 wind generation projects located within the state of  
11 two hundred fifty kilowatts or less.

12 2. The board shall establish a uniform competitive  
13 bidding process so that an electric utility may  
14 acquire alternate energy at a just and economically  
15 based market rate. An electric utility may produce  
16 its own alternate energy by constructing and operating  
17 an alternate energy production facility or small hydro  
18 facility. However, the electric utility shall  
19 participate in the competitive bidding process using a  
20 third-party evaluator. A bid from an electric utility  
21 producing its own alternate energy shall not take into  
22 account regulated industry-based factors in order to  
23 produce a lower cost bid. Regulated industry-based  
24 factors include eminent domain and transmission  
25 ownership. An electric utility may combine with one  
26 or more electric utilities to construct and operate an  
27 alternate energy production facility or small hydro  
28 facility for purposes of this subsection.

29 3. Notwithstanding section 476.51, an electric  
30 utility which fails to comply with the requirements of  
31 subsection 1 shall be subject to a civil penalty,  
32 levied by the board, in an amount that is equivalent  
33 to three times the amount of the lowest bid filed with  
34 the board to comply with the requirements of  
35 subsection 1. Civil penalties collected under this  
36 subsection shall be forwarded to the treasurer of  
37 state to be credited to the general fund of the state  
38 to be used only for the alternate energy demonstration  
39 projects administered by the Iowa energy center.  
40 These penalties shall be excluded from the electric  
41 utility's costs when determining the electric  
42 utility's revenue requirement, and shall not be  
43 included either directly or indirectly in the electric  
44 utility's rates or charges to customers.

45 4. If the state adopts a full and open competitive  
46 retail electric market, a retail electric supplier  
47 shall be prohibited from supplying electricity at  
48 retail in this state unless the retail supplier  
49 derives at least five percent of the supplier's energy  
50 supply from alternate energy sources.

H-5427

-2-

**H-5427**

Page 3

1 Sec. 8. Section 476.44, Code 1995, is repealed.  
 2 Sec. 9. APPLICABILITY TO EXISTING CONTRACTS. This  
 3 Act shall not affect the terms and conditions of any  
 4 contract between an alternate energy production  
 5 facility or small hydro facility and an electric  
 6 utility that was entered into pursuant to sections  
 7 476.43 and 476.44 for purchase of alternate energy if  
 8 the contract was entered into prior to the effective  
 9 date of this Act. In addition, the Act shall not  
 10 affect potential contracts between alternate energy  
 11 production facilities and electric utilities if a  
 12 petition relating to the potential contracts has been  
 13 filed and an action is currently pending before the  
 14 Iowa utilities board. For purposes of the pending  
 15 actions, the Iowa utilities board shall not take into  
 16 account the changes contained in this Act.  
 17 Sec. 10. EFFECTIVE DATE. This Act, being deemed  
 18 of immediate importance, takes effect upon  
 19 enactment.""

20 2. By renumbering as necessary.

By SHOULTZ of Black Hawk	WITT of Black Hawk
BURNETT of Story	MASCHER of Johnson
VANDE HOEF of Osceola	HOLVECK of Polk

H-5427 FILED MARCH 18, 1996

**HOUSE FILE 2087****H-5428**

1 Amend the amendment, H-5174, to House File 2087, as  
 2 follows:  
 3 1. Page 1, by striking lines 37 through 39 and  
 4 inserting the following: "promotional rate to the  
 5 Iowa energy center to be used for grants to nonprofit  
 6 agencies for alternate energy projects."

By BURNETT of Story	MASCHER of Johnson
SHOULTZ of Black Hawk	VANDE HOEF of Osceola
HOLVECK of Polk	WITT of Black Hawk

H-5428 FILED MARCH 18, 1996

**HOUSE FILE 2087****H-5429**

1 Amend the amendment, H-5174, to House File 2087 as  
 2 follows:

3 1. Page 1, by striking lines 40 through 47.  
 4 2. By renumbering as necessary.

By VANDE HOEF of Osceola	BURNETT of Story
WITT of Black Hawk	MASCHER of Johnson
SHOULTZ of Black Hawk	HOLVECK of Polk

H-5429 FILED MARCH 18, 1996



## HOUSE FILE 2087

H-5435

1 Amend the amendment, H-5174, to House File 2087 as  
2 follows:

3 1. Page 3, line 12, by inserting after the word  
4 "energy." the following: "At a minimum, the board  
5 shall require that thirty percent of the total  
6 allotments be in accordance with the following  
7 amounts:

8 a. At least ten percent shall be allotted from  
9 dedicated energy crops grown within the state, fifty  
10 percent of which shall be from projects of five  
11 hundred kilowatts or less.

12 b. At least ten percent shall be allotted from  
13 agricultural wastes produced from agricultural crops  
14 grown within the state, fifty percent of which shall  
15 be from projects of five hundred kilowatts or less.

16 c. At least ten percent shall be allotted from  
17 small scale wind generation projects located within  
18 the state of two hundred fifty kilowatts or less."

By MASCHER of Johnson

WITT of Black Hawk

BURNETT of Story

VANDE HOEF of Osceola

SHOULTZ of Black Hawk

HOLVECK of Polk

H-5435 FILED MARCH 18, 1996

## HOUSE FILE 2087

H-5436

1 Amend the amendment, H-5174, to House File 2087 as  
2 follows:

3 1. Page 4, by inserting after line 31 the  
4 following:

5 "7. CIVIL PENALTY. Notwithstanding section  
6 476.51, an electric utility which fails to comply with  
7 the requirements of this section shall be subject to a  
8 civil penalty, levied by the board, in an amount that  
9 is equivalent to three times the amount of the lowest  
10 bid filed with the board to comply with the  
11 requirements of this section. Civil penalties  
12 collected under this subsection shall be forwarded to  
13 the treasurer of state to be credited to the Iowa  
14 energy center. Any moneys allocated to the Iowa  
15 energy center pursuant to this subsection shall be  
16 used solely for providing grants to nonprofit agencies  
17 for alternate energy production. These penalties  
18 shall be excluded from the electric utility's costs  
19 when determining the electric utility's revenue  
20 requirement, and shall not be included either directly  
21 or indirectly in the electric utility's rates or  
22 charges to customers."

By SHOULTZ of Black Hawk

MASCHER of Johnson

BURNETT of Story

WITT of Black Hawk

VANDE HOEF of Osceola

HOLVECK of Polk

H-5436 FILED MARCH 18, 1996

## HOUSE FILE 2087

H-5430

1 Amend the amendment, H-5174, to House File 2087 as  
2 follows:

3 1. Page 1, by striking lines 45 through 47 and  
4 inserting the following: "production facilities and  
5 small hydro facilities in order to conserve our finite  
6 and expensive energy resources and to provide for  
7 their most efficient use. For purposes of determining  
8 the cost-effectiveness of a renewable resource  
9 investment, any measure of cost-effectiveness shall be  
10 analytically derived in terms of reduction in the  
11 overall energy expenditures by aggregated energy-using  
12 sections of the state economy, and enhancement of  
13 direct disposable income, gross state product, and new  
14 job creation in comparison with those same measures  
15 applied to expenditures for conventional energy supply  
16 reserves that are displaced by the renewable resource.  
17 These cost-effective indicators shall be analytically  
18 derived by multisector econometric analysis conducted  
19 by the utilities board. This analysis shall be  
20 revised annually to conform to improved methodologies  
21 and to incorporate improved input assumptions as  
22 experience is gained and new data becomes available.  
23 Renewable energy resources investments designed to  
24 accelerate the market development of these  
25 technologies shall be judged cost-effective on the  
26 basis of expected costs and benefits after attaining  
27 market acceptance."

By WITT of Black Hawk  
BURNETT of Story  
VANDE HOEF of Osceola

MASCHER of Johnson  
SHOULTZ of Black Hawk  
HOLVECK of Polk

H-5430 FILED MARCH 18, 1996

## HOUSE FILE 2087

H-5431

1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:

3 1. Page 2, by striking lines 14 and 15 and  
4 inserting the following: "facility to users located  
5 at or near the project site."

By VANDE HOEF of Osceola  
MASCHER of Johnson  
BURNETT of Story

SHOULTZ of Black Hawk  
HOLVECK of Polk  
WITT of Black Hawk

H-5431 FILED MARCH 18, 1996

## HOUSE FILE 2087

H-5432

1 Amend the amendment, H-5174, to House File 2087 as  
 2 follows:  
 3 1. By striking page 2, line 49, through page 3,  
 4 line 6, and inserting the following:  
 5 "1. PURCHASE REQUIREMENT. By December 31, 1997,  
 6 the board shall require an electric utility within the  
 7 state to enter into contracts for the purchase of the  
 8 utility's allotted share of eighty-nine megawatts of  
 9 electricity generated from alternate energy production  
 10 facilities, and by July 1, 1999, the board shall  
 11 require the utility to enter into contracts for the  
 12 purchase of the utility's allotted share of an  
 13 additional one hundred five megawatts. Contracts  
 14 shall be subject to the terms and conditions  
 15 established by the board pursuant to this section."

By JOCHUM of Dubuque

MASCHER of Johnson

BURNETT of Story

WITT of Black Hawk

VANDE HOEF of Osceola

HOLVECK of Polk

H-5432 FILED MARCH 18, 1996

## HOUSE FILE 2087

H-5433

1 Amend the amendment, H-5174, to House File 2087 as  
 2 follows:  
 3 1. Page 3, by striking line 4 and inserting the  
 4 following: "and subject to".

By HOLVECK of Polk

BURNETT of Story

MASCHER of Johnson

SHOULTZ of Black Hawk

WITT of Black Hawk

VANDE HOEF of Osceola

H-5433 FILED MARCH 18, 1996

## HOUSE FILE 2087

H-5434

1 Amend the amendment, H-5174, to House File 2087 as  
 2 follows:  
 3 1. Page 3, line 6, by inserting after the word  
 4 "section." the following: "For purposes of this  
 5 section, "megawatt" shall be determined in accordance  
 6 with a utility's average capacity. "Average capacity"  
 7 means a utility's total output over a year divided by  
 8 the number of hours in the year."

By WITT of Black Hawk

MASCHER of Johnson

BURNETT of Story

SHOULTZ of Black Hawk

VANDE HOEF of Osceola

HOLVECK of Polk

H-5434 FILED MARCH 18, 1996



## HOUSE FILE 2087

H-5442

1 Amend the amendment, H-5174, to House File 2087 as  
2 follows:

3 1. By striking page 1, line 2, through page 5,  
4 line 13, and inserting the following:

5 "\_\_\_\_. By striking everything after the enacting  
6 clause and inserting the following:

7 "Section 1. Section 422.51, Code 1995, is amended  
8 by adding the following new subsection:

9 NEW SUBSECTION. 5. The taxes remitted pursuant to  
10 this division shall be reduced by an alternate energy  
11 purchase tax credit. An electric utility which has  
12 purchased electricity from an alternate energy  
13 production facility or small hydro facility pursuant  
14 to section 476.43 shall be granted the credit. The  
15 credit shall equal the difference between the  
16 competitively bid rate that the utility paid for  
17 purchase of the electricity and the rate which is  
18 equivalent to the true economic cost attributed to  
19 production of the electricity by the electric utility,  
20 as established by the board pursuant to section  
21 476.43.

22 Sec. 2. Section 476.1A, Code 1995, is amended by  
23 adding the following new subsection:

24 NEW SUBSECTION. 7. Encouragement of alternate  
25 energy production and the purchase of alternate  
26 energy.

27 Sec. 3. Section 476.1A, unnumbered paragraph 3,  
28 Code 1995, is amended to read as follows:

29 However, sections 476.20, 476.21, ~~476.41-through~~  
30 ~~476.44~~, 476.51, 476.56, 476.62, and 476.66 and  
31 chapters 476A and 478, to the extent applicable, apply  
32 to such electric utilities.

33 Sec. 4. Section 476.1B, subsection 1, paragraph g,  
34 Code 1995, is amended by striking the paragraph and  
35 inserting in lieu thereof the following:

36 g. Encouragement of alternate energy production  
37 and the purchase of alternate energy.

38 Sec. 5. Section 476.42, subsection 1, paragraph a,  
39 Code 1995, is amended to read as follows:

40 a. A solar, wind turbine, ~~waste-management,~~  
41 ~~resource methane~~ recovery, ~~refuse-derived-fuel,~~  
42 agricultural crops or residues, or woodburning  
43 facility.

44 Sec. 6. Section 476.42, subsection 3, Code 1995,  
45 is amended by striking the subsection.

46 Sec. 7. Section 476.42, Code 1995, is amended by  
47 adding the following new subsection:

48 NEW SUBSECTION. 5. "Alternate energy" means  
49 electricity derived from hydro, solar, wind, methane  
50 recovery, agricultural crops or residues, or

H-5442

H-5442

Page 2

1 woodburning energy.

2 Sec. 8. Section 476.43, subsection 1, Code 1995,  
3 is amended to read as follows:

4 1. Subject to section 476.44, the board shall  
5 require electric utilities to enter into long-term  
6 contracts to do the following:

7 a. Purchase or wheel electricity from alternate  
8 energy production facilities or small hydro facilities  
9 ~~located in the utility's service area~~ under the terms  
10 and conditions that the board finds are just and  
11 economically reasonable to the electric utilities'  
12 ratepayers, are nondiscriminatory to alternate energy  
13 producers and small hydro producers and will further  
14 the policy stated in section 476.41.

15 b. Provide for the availability of supplemental or  
16 backup power to alternate energy production facilities  
17 or small hydro facilities on a nondiscriminatory basis  
18 and at just and reasonable rates.

19 c. If the parties fail to agree on the terms of a  
20 contract required pursuant to this section, a party  
21 may request that the board intervene. The board shall  
22 have sixty days from the date of the intervention  
23 request to render a decision on the contract.

24 Sec. 9. Section 476.43, subsections 2, 3, and 4,  
25 Code 1995, are amended by striking the subsections and  
26 inserting in lieu thereof the following:

27 2. The board shall establish a uniform competitive  
28 bidding process so that an electric utility may  
29 acquire alternate energy at a just and economically  
30 based market rate. An electric utility may produce  
31 its own alternate energy by constructing and operating  
32 an alternate energy production facility or small hydro  
33 facility if the facility is constructed and operated  
34 as a separate affiliate entity. However, the electric  
35 utility shall participate in the competitive bidding  
36 process using a third-party evaluator. A bid from an  
37 electric utility producing its own alternate energy  
38 shall not take into account regulated industry-based  
39 factors including eminent domain and transmission  
40 ownership in order to produce a lower cost bid.

41 3. Notwithstanding section 476.51, an electric  
42 utility which fails to comply with the requirements of  
43 subsection 1 shall be subject to a civil penalty,  
44 levied by the board, in an amount that is equivalent  
45 to three times the amount of the lowest bid filed with  
46 the board to comply with the requirements of  
47 subsection 1. Civil penalties collected under this  
48 subsection shall be forwarded to the treasurer of  
49 state to be credited to the Iowa energy center. Any  
50 moneys allocated to the Iowa energy center pursuant to

H-5442

-2-

H-5442

Page 3

1 this subsection shall be used solely for providing  
2 grants to nonprofit agencies for alternate energy  
3 production. These penalties shall be excluded from  
4 the electric utility's costs when determining the  
5 electric utility's revenue requirement, and shall not  
6 be included either directly or indirectly in the  
7 electric utility's rates or charges to customers.

8 4. Notwithstanding subsection 2, alternate energy  
9 produced by recovery of methane at a sanitary landfill  
10 shall be purchased at the rate existing as of January  
11 1, 1996.

12 Sec. 10. Section 476.43, Code 1995, is amended by  
13 adding the following new subsection:

14 NEW SUBSECTION. 7. An electric utility purchasing  
15 alternate energy pursuant to this section shall be  
16 entitled to an alternate energy purchase tax credit.  
17 The electric utility shall reflect the tax credit  
18 received by the utility in the utility's automatic  
19 adjustment pursuant to section 476.6, subsection 11.  
20 The credit shall be equal to the difference between  
21 the rate established through the competitive bidding  
22 process and the rate that is equivalent to the true  
23 economic cost attributed to production of the  
24 electricity by the electric utility, as established by  
25 the board. The board shall establish a true economic  
26 cost rate for purposes of the tax credit provided  
27 under section 422.51. After January 1, 1997, this  
28 rate shall be based upon the conclusions of an  
29 independent study of the true economic value and cost  
30 of energy production.

31 Sec. 11. Section 476.44, subsection 1, Code 1995,  
32 is amended to by striking the subsection.

33 Sec. 12. Section 476.44, subsection 2, Code 1995,  
34 is amended to read as follows:

35 2. a. An electric utility subject to this  
36 division, except a utility which elects rate  
37 regulation pursuant to section 476.1A, shall ~~not~~ be  
38 required to purchase ~~at any one time, more than~~ its  
39 share of one two hundred five ten megawatts of power  
40 from alternative energy production facilities or small  
41 hydro facilities ~~at the rates in accordance with the~~  
42 competitive bidding process established pursuant to  
43 section 476.43. The board shall allocate the one two  
44 hundred five ten megawatts based upon each utility's  
45 percentage of the total Iowa retail peak demand, for  
46 the year beginning January 1, 1990, of all utilities  
47 subject to this section. If a utility undergoes  
48 reorganization as defined in section 476.76, the board  
49 shall combine the allocated purchases of power for  
50 each utility involved in the reorganization.

H-5442

-3-

H-5442

Page 4

1 Notwithstanding the one two hundred five ten  
2 megawatt maximum, the board may increase the amount of  
3 power that a utility is required to purchase at-the  
4 rates-established-pursuant-to-section-476.43 if the  
5 board finds that a utility, including a reorganized  
6 utility, exceeds its 1990 Iowa retail peak demand by  
7 twenty percent and the additional power the utility is  
8 required to purchase will encourage the development of  
9 alternate energy production facilities and small hydro  
10 facilities. The increase shall not exceed the  
11 utility's increase in peak demand multiplied by the  
12 ratio of the utility's share of the one two hundred  
13 five ten megawatt maximum to its 1990 Iowa retail peak  
14 demand.

15 b. Of that portion of alternate energy required to  
16 be purchased by a utility under this section, eighty-  
17 five percent shall be purchased from alternate energy  
18 production facilities or small hydro facilities  
19 generating electricity with current and viable  
20 technologies and fifteen percent shall be purchased  
21 from alternate energy production facilities generating  
22 electricity from new technologies. For purposes of  
23 this section, new technologies include only those  
24 technologies that use nonfossil fuel to derive  
25 renewable energy.

26 Sec. 13. TRUE ECONOMIC COST AND VALUE STUDY. The  
27 Iowa utilities board and the office of the Consumer  
28 Advocate shall conduct an independent study of the  
29 true economic cost of generating electricity. The  
30 report shall be sent to the general assembly by  
31 January 1, 1997. The study shall include an economic  
32 analysis of electric utility rates and alternate  
33 energy production rates. In addition to other  
34 relevant factors, a determination of a true economic  
35 rate shall consider the economic value of bringing the  
36 production of energy to the state versus the value of  
37 importing fossil fuels and the environmental impacts  
38 associated with energy production and use. The study  
39 shall provide a definitive statement of a true  
40 economic rate.

41 Sec. 14. APPLICABILITY TO EXISTING CONTRACTS.  
42 This Act shall not affect the terms and conditions of  
43 any contract between an alternate energy production  
44 facility or small hydro facility and an electric  
45 utility that was entered into pursuant to sections  
46 476.43 and 476.44 for purchase of alternate energy if  
47 the contract was entered into prior to the effective  
48 date of this Act." "

49 2. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-5442 FILED MARCH 18, 1996

HOUSE FILE 2087

H-5459

- 1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:  
3 1. Page 2, line 2, by striking the word "solar,"  
4 and inserting the following: "solar,".  
5 2. Page 2, line 4, by striking the words "~~7-or~~  
6 woodburning" and inserting the following: ", or  
7 woodburning".

By HOLVECK of Polk  
MASCHER of Johnson

H-5459 FILED MARCH 19, 1996

HOUSE FILE 2087

H-5460

- 1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:  
3 1. Page 3, line 2, by striking the word "eighty-  
4 nine" and inserting the following: "one hundred  
5 ninety-four".

By SHOULTZ of Black Hawk VANDE HOEF of Osceola  
MASCHER of Johnson WITT of Black Hawk  
BURNETT of Story

H-5460 FILED MARCH 19, 1996

HOUSE FILE 2087

H-5461

- 1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:  
3 1. Page 3, line 6, by inserting after the word  
4 "section." the following: "The board shall allocate  
5 the megawatts based upon each utility's percentage of  
6 the total Iowa retail peak demand as of January 1,  
7 1996."

By HOLVECK of Polk VANDE HOEF of Osceola  
SHOULTZ of Black Hawk BURNETT of Story  
MASCHER of Johnson

H-5461 FILED MARCH 19, 1996

HOUSE FILE 2087

H-5462

- 1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:  
3 1. Page 3, line 21, by inserting after the word  
4 "establish" the following: ", with the input of all  
5 stakeholders,".

By WITT of Black Hawk  
HOLVECK of Polk

H-5462 FILED MARCH 19, 1996

## HOUSE FILE 2087

H-5463

1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:

3 1. Page 4, by inserting after line 31 the  
4 following:

5 "7. ELECTRIC UTILITY PRODUCED ALTERNATIVE ENERGY.

6 An electric utility may produce its own alternate  
7 energy by constructing and operating an alternate  
8 energy production facility or small hydro facility.

9 However, the electric utility shall participate in the  
10 competitive bidding process using a third-party  
11 evaluator. A bid from an electric utility producing  
12 its own alternate energy shall not take into account  
13 regulated industry-based factors in order to produce a  
14 lower cost bid. Regulated industry-based factors  
15 include eminent domain and transmission ownership. An  
16 electric utility may combine with one or more electric  
17 utilities to construct and operate an alternate energy  
18 production facility or small hydro facility for  
19 purposes of this subsection."

By SHOULTZ of Black Hawk

VANDE HOEF of Osceola

MASCHER of Johnson

BURNETT of Story

H-5463 FILED MARCH 19, 1996

## HOUSE FILE 2087

H-5464

1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:

3 1. Page 4, by striking lines 2 through 13 and  
4 inserting the following: "board for resolution."

By SHOULTZ of Black Hawk

VANDE HOEF of Osceola

BURNETT of Story

HOLVECK of Polk

MASCHER of Johnson

H-5464 FILED MARCH 19, 1996

## HOUSE FILE 2087

H-5474

1 Amend House File 2087 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Section 1. Section 28F.1, Code 1995, is amended  
5 by striking the section and inserting in lieu thereof  
6 the following:

7 28F.1 SCOPE OF CHAPTER.

8 This chapter provides a means to reduce the cost of  
9 local government by assisting public agencies in the  
10 undertaking of joint financing and is intended to  
11 provide specific state legislation consistent with  
12 criteria established by regulations and rulings of the  
13 commissioner of internal revenue, United States  
14 department of treasury, in order for a separate joint  
15 financing entity to be treated as a constituted  
16 authority empowered to issue obligations on behalf of  
17 political subdivisions of this state. This chapter  
18 provides a means for the joint financing by public  
19 agencies of works or facilities which are part of any  
20 city enterprise as defined in section 384.24, county  
21 enterprise as defined in section 331.461, city utility  
22 as defined in section 362.2, joint water utility as  
23 defined in section 389.1, or sanitary district as  
24 defined in chapter 358. This chapter applies to the  
25 acquisition, construction, reconstruction, ownership,  
26 operation, repair, extension, or improvement of the  
27 works or facilities, by a separate administrative or  
28 legal entity created pursuant to chapter 28E or  
29 chapter 389. When the legal entity created under this  
30 chapter is comprised solely of cities, counties, or  
31 sanitary districts established under chapter 358 or  
32 any combination of these political subdivisions, or  
33 any combination of the public agencies previously  
34 specified in this section with other public agencies,  
35 the entity shall be both a corporation and a political  
36 subdivision with the name under which it was  
37 organized. The legal entity may sue and be sued,  
38 contract, acquire and hold real and personal property  
39 necessary for corporate purposes, adopt a corporate  
40 seal and alter the seal at pleasure, and execute all  
41 powers conferred by this chapter.

42 Sec. 2. Section 28F.2, Code 1995, is amended to  
43 read as follows:

44 28F.2 DEFINITIONS.

45 The terms "public agency", "state", and "private  
46 agency" shall have the meanings prescribed by section  
47 28E.2. The term "project" or "projects" shall mean  
48 any works or facilities referred to in section 28F.1  
49 and shall include all property real and personal,  
50 pertinent thereto or connected with such project or

H-5474

H-5474

Page 2

1 projects, and the existing works or facilities, if  
2 any, to which such project or projects are an  
3 extension, addition, betterment, or improvement.  
4 ~~"Electric-power-agency"-means-an-entity-financing-or~~  
5 ~~acquiring-electric-power-facilities-pursuant-to-this~~  
6 ~~chapter-or-chapter-28E-~~

7 Sec. 3. Section 28F.7, unnumbered paragraph 2,  
8 Code 1995, is amended by striking the paragraph."

9 2. Title page, line 1, by inserting after the  
10 word "production" the following: "and allowing for  
11 joint financing for municipal utilities".

12 3. By renumbering as necessary.

By VANDE HOEF of Osceola

KLEMME of Plymouth

HUSEMAN of Cherokee

EDDIE of Buena Vista

BURNETT of Story

H-5474 FILED MARCH 20, 1996

## HOUSE FILE 2087

H-5475

1 Amend the amendment, H-5174, to House File 2087, as  
2 follows:

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

5 "Sec. \_\_\_\_ . Section 28F.1, Code 1995, is amended  
6 by striking the section and inserting in lieu thereof  
7 the following:

8 28F.1 SCOPE OF CHAPTER.

9 This chapter provides a means to reduce the cost of  
10 local government by assisting public agencies in the  
11 undertaking of joint financing and is intended to  
12 provide specific state legislation consistent with  
13 criteria established by regulations and rulings of the  
14 commissioner of internal revenue, United States  
15 department of treasury, in order for a separate joint  
16 financing entity to be treated as a constituted  
17 authority empowered to issue obligations on behalf of  
18 political subdivisions of this state. This chapter  
19 provides a means for the joint financing by public  
20 agencies of works or facilities which are part of any  
21 city enterprise as defined in section 384.24, county  
22 enterprise as defined in section 331.461, city utility  
23 as defined in section 362.2, joint water utility as  
24 defined in section 389.1, or sanitary district as  
25 defined in chapter 358. This chapter applies to the  
26 acquisition, construction, reconstruction, ownership,  
27 operation, repair, extension, or improvement of the  
28 works or facilities, by a separate administrative or  
29 legal entity created pursuant to chapter 28E or  
30 chapter 389. When the legal entity created under this  
31 chapter is comprised solely of cities, counties, or  
32 sanitary districts established under chapter 358 or  
33 any combination of these political subdivisions, or  
34 any combination of the public agencies previously  
35 specified in this section with other public agencies,  
36 the entity shall be both a corporation and a political  
37 subdivision with the name under which it was  
38 organized. The legal entity may sue and be sued,  
39 contract, acquire and hold real and personal property  
40 necessary for corporate purposes, adopt a corporate  
41 seal and alter the seal at pleasure, and execute all  
42 powers conferred by this chapter.

43 Sec. \_\_\_\_ . Section 28F.2, Code 1995, is amended to  
44 read as follows:

45 28F.2 DEFINITIONS.

46 The terms "public agency", "state", and "private  
47 agency" shall have the meanings prescribed by section  
48 28E.2. The term "project" or "projects" shall mean  
49 any works or facilities referred to in section 28F.1  
50 and shall include all property real and personal,

H-5475

H-5475

Page 2

1 pertinent thereto or connected with such project or  
2 projects, and the existing works or facilities, if  
3 any, to which such project or projects are an  
4 extension, addition, betterment, or improvement.

5 ~~"Electric-power-agency"-means-an-entity-financing-or~~  
6 ~~acquiring-electric-power-facilities-pursuant-to-this~~  
7 ~~chapter-or-chapter-28E.~~

8 Sec. \_\_\_\_ . Section 28F.7, unnumbered paragraph 2,  
9 Code 1995, is amended by striking the paragraph."

10 2. Page 5, line 7, by inserting after the word  
11 "to" the following: "joint financing for municipal  
12 utilities,".

13 3. By renumbering as necessary.

By VANDE HOEF of Osceola

EDDIE of Buena Vista

KLEMME of Plymouth

BURNETT of Story

HUSEMAN of Cherokee

H-5475 FILED MARCH 20, 1996

## HOUSE FILE 2087

H-5866

1 Amend the amendment, H-5174, to House File 2087 as  
2 follows:

- 3 1. Page 1, by striking lines 4 through 20.
- 4 2. By renumbering as necessary.

By NUTT of Woodbury

H-5866 FILED APRIL 8, 1996