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2/19/96 Nat. Rea
2/29/96 Amend/Do Pass W/

FILED FEB 19 1996 S. 5151

3/4/96 Referred to W. & meow
3/14/96 DO Pass

SENATE FILE 2221

BY FINK

(P. 1096)

Passed Senate, Date 3/27/96

Passed House, Date _____

Vote: Ayes 44 Nays 6

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to alternate energy production and purchasing
2 requirements, and providing an applicability provision and an
3 effective date.

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

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SE. 2221

REPRINTED

2/19/96 Not. Res
2/29/96 Amend/Do Pass W/
FILED FEB 19 1996 S. 5151
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SENATE FILE 2221
BY FINK

(A.1096)
Passed Senate, Date 3/27/96 Passed House, Date _____
Vote: Ayes 44 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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2 requirements, and providing an applicability provision and an
3 effective date.

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

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SF. 2221

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

3 NEW SUBSECTION. 7. Encouragement of alternate energy
4 production and the purchase of alternate energy.

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

7 However, sections 476.20, 476.21, ~~476.41 through 476.44,~~
8 476.51, 476.56, 476.62, and 476.66 and chapters 476A and 478,
9 to the extent applicable, apply to such electric utilities.

10 Sec. 3. Section 476.1B, subsection 1, paragraph g, Code
11 1995, is amended by striking the paragraph and inserting in
12 lieu thereof the following:

13 g. Encouragement of alternate energy production and the
14 purchase of alternate energy.

15 Sec. 4. Section 476.42, subsection 1, paragraph a, Code
16 1995, is amended to read as follows:

17 a. A solar, wind turbine, ~~waste-management,~~ resource
18 ~~methane~~ recovery, ~~refuse-derived-fuel,~~ agricultural crops or
19 residues, or woodburning facility.

20 Sec. 5. Section 476.42, subsection 3, Code 1995, is
21 amended by striking the subsection.

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

24 NEW SUBSECTION. 5. "Alternate energy" means electricity
25 derived from hydro, solar, wind, methane recovery,
26 agricultural crops or residues, or woodburning energy.

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

29 476.43 ALTERNATE ENERGY -- RATES -- PENALTIES.

30 1. a. By December 31, 1997, an electric utility shall
31 derive a minimum of two percent of the electric utility's
32 annual peak demand from alternate energy sources. By July 1,
33 1999, an electric utility shall derive a minimum of five
34 percent of the utility's annual peak demand from alternate
35 energy sources.

1 b. A utility shall derive at least thirty percent of the
2 utility's alternate energy generation, required under
3 paragraph "a", from the following sources in the amounts as
4 indicated:

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

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

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

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

30 3. Notwithstanding section 476.51, an electric utility
31 which fails to comply with the requirements of subsection 1
32 shall be subject to a civil penalty, levied by the board, in
33 an amount that is equivalent to three times the amount of the
34 lowest bid filed with the board to comply with the
35 requirements of subsection 1. Civil penalties collected under

1 this subsection shall be forwarded to the treasurer of state
2 to be credited to the general fund of the state to be used
3 only for the alternate energy demonstration projects
4 administered by the Iowa energy center. These penalties shall
5 be excluded from the electric utility's costs when determining
6 the electric utility's revenue requirement, and shall not be
7 included either directly or indirectly in the electric
8 utility's rates or charges to customers.

9 4. If the state adopts a full and open competitive retail
10 electric market, a retail electric supplier shall be
11 prohibited from supplying electricity at retail in this state
12 unless the retail supplier derives at least five percent of
13 the supplier's energy supply from alternate energy sources.

14 Sec. 8. Section 476.44, Code 1995, is repealed.

15 Sec. 9. APPLICABILITY TO EXISTING CONTRACTS. This Act
16 shall not affect the terms and conditions of any contract
17 between an alternate energy production facility or small hydro
18 facility and an electric utility that was entered into
19 pursuant to sections 476.43 and 476.44 for purchase of
20 alternate energy if the contract was entered into prior to the
21 effective date of this Act. In addition, the Act shall not
22 affect potential contracts between alternate energy production
23 facilities and electric utilities if a petition relating to
24 the potential contracts has been filed and an action is
25 currently pending before the Iowa utilities board. For
26 purposes of the pending actions, the Iowa utilities board
27 shall not take into account the changes contained in this Act.

28 Sec. 10. EFFECTIVE DATE. This Act, being deemed of
29 immediate importance, takes effect upon enactment.

30 EXPLANATION

31 The bill defines alternate energy to include hydro, solar,
32 wind, methane recovery, agricultural crops or residues, or
33 wood burning energy. The bill strikes refuse-derived fuel and
34 waste management from inclusion in the definition of alternate
35 energy production facility. This bill requires an electric

1 utility to eventually derive a minimum of five percent of the
2 utility's annual peak demand from alternate energy sources.
3 The bill requires that by December 31, 1997, an electric
4 utility must derive a minimum of two percent of the utility's
5 annual peak demand from alternate energy sources and by July
6 1, 1999, an electric utility must derive the full five
7 percent.

8 This bill requires a utility to derive at least 30 percent
9 of the utility's required generation from the following
10 sources and in the following amounts:

11 a. Ten percent from dedicated energy crops, 50 percent of
12 which is from projects of 500 kilowatts or less.

13 b. Ten percent from agricultural wastes, 50 percent of
14 which is from projects of 500 kilowatts or less.

15 c. Ten percent from small scale wind generation projects
16 of 250 kilowatts or less.

17 The Iowa utilities board is required to establish a uniform
18 competitive bidding process so that an electric utility may
19 acquire alternate energy at a just and economically based
20 market rate. The bill allows an electric utility to produce
21 its own alternate energy by constructing and operating an
22 alternate energy production facility, but requires the
23 electric utility to participate in the competitive bidding
24 process using a third-party evaluator. The bill allows one or
25 more electric utilities to combine together to produce
26 alternate energy.

27 The bill provides for the imposition of a civil penalty for
28 an electric utility which fails to comply with this bill. The
29 penalty is equivalent to three times the amount of the lowest
30 bid for which the electric utility could have purchased the
31 alternate energy. The civil penalties collected are to be
32 used only for alternate energy demonstration projects
33 administered by the Iowa energy center. The penalties are
34 excluded from the utility's costs when determining the
35 utility's revenue requirement, and may not be included either

1 directly or indirectly in the utility's rates or charges to
2 customers.

3 The bill requires that in the event the state adopts a full
4 and open competitive retail electric market, a retail electric
5 supplier shall be prohibited from supplying electricity at
6 retail in this state unless the retail supplier derives at
7 least five percent of the supplier's energy supply from
8 alternate energy sources.

9 This bill does not affect terms and conditions of current
10 contracts between an alternate energy production facility or
11 small hydro facility and an electric utility that were entered
12 into for the purchase of alternate energy if the contract was
13 entered into prior to the effective date of this bill. In
14 addition, the bill does not affect potential contracts between
15 alternate energy production facilities and electric utilities
16 if a petition relating to the potential contracts has been
17 filed and an action is currently pending before the Iowa
18 utilities board.

19 The bill is effective upon enactment.

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**SENATE FILE 2221
FISCAL NOTE**

A fiscal note for Senate File 2221 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2221 addresses the utilization of alternate energy sources, and creates a requirement that utilities eventually derive at least 5.0% of annual peak demand from alternate energy source.

Senate File 2221 is not expected to have any fiscal impact on the General Fund.

Senate File 2221 as Amended by S-5151

Amendment S-5151 strikes everything after the enacting clause. The Amendment would require the Iowa Utilities Board and the Office of the Consumer Advocate to conduct an independent study of the "true economic cost of generating electricity." Subsequent to this determination, a sales tax credit would be allowed for utility companies equal to the difference between the true economic cost of generating electricity and the competitive bid price of alternate energy. The Amendment would also increase the amount of required alternate energy utilization to 210 megawatts. Under current law, utilities are required to enter into contracts to utilize 105 megawatts of alternate energy.

FISCAL IMPACT

The fiscal impact of SF 2221 as amended by S-5151 is expected to be a decrease in revenues to the General Fund of an amount between zero and \$25.5 million in FY 1998 and subsequent fiscal years. This range was constructed by assuming that the true economic cost of generating electricity would be more than 3.3 cents per kilowatt-hour, and the alternate energy competitive bid price would be less than 4.8 cents per kilowatt-hour.

Amendment S-5151 as Amended by S-5466

Amendment S-5466 relates to the calculation of the tax credit created in S-5151. The Amendment would replace the "true economic cost" factor with "total annual average cost". Total annual average cost would be calculated by dividing annual operating expenses by the total annual number of kilowatt-hours sold. Utilities would be required to enter into contracts to purchase 89 megawatts of electricity generated by alternate energy sources by December 31, 1997. Utilities would be required to enter into contracts to purchase an additional 105 megawatts by July 1, 1999.

FISCAL IMPACT

Amendment S-5151 as amended by S-5466 is expected to result in an estimated decrease in revenues to the General Fund of less than \$2.9 million in FY 1998; less than \$5.8 million in FY 1999; and less than \$12.7 million in FY 2000 and

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subsequent fiscal years. The actual impact would depend on the extent to which alternate energy competitive bid prices are less than 4.8 cents per kilowatt-hour, and the extent to which utilities' total annual average costs exceed 4.0 cents per kilowatt-hour.

SOURCES

Iowa Utilities Board
MidAmerican Energy Company
Union of Concerned Scientists

(LSB 3747SS, JAM)

FILED MARCH 21, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2221

S-5151

1 Amend Senate File 2221 as follows:
2 1. By striking everything after the enacting
3 clause and inserting the following:
4 "Section 1. Section 422.51, Code 1995, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 5. The taxes remitted pursuant to
7 this division shall be reduced by an alternate energy
8 purchase tax credit. An electric utility which has
9 purchased electricity from an alternate energy
10 production facility or small hydro facility pursuant
11 to section 476.43 shall be granted the credit. The
12 credit shall equal the difference between the
13 competitively bid rate that the utility paid for
14 purchase of the electricity and the rate which is
15 equivalent to the true economic cost attributed to
16 production of the electricity by the electric utility,
17 as established by the board pursuant to section
18 476.43.
19 Sec. 2. Section 476.1A, Code 1995, is amended by
20 adding the following new subsection:
21 NEW SUBSECTION. 7. Encouragement of alternate
22 energy production and the purchase of alternate
23 energy.
24 Sec. 3. Section 476.1A, unnumbered paragraph 3,
25 Code 1995, is amended to read as follows:
26 However, sections 476.20, 476.21, ~~476.41~~-through
27 ~~476.44~~, 476.51, 476.56, 476.62, and 476.66 and
28 chapters 476A and 478, to the extent applicable, apply
29 to such electric utilities.
30 Sec. 4. Section 476.1B, subsection 1, paragraph g,
31 Code 1995, is amended by striking the paragraph and
32 inserting in lieu thereof the following:
33 g. Encouragement of alternate energy production
34 and the purchase of alternate energy.
35 Sec. 5. Section 476.42, subsection 1, paragraph a,
36 Code 1995, is amended to read as follows:
37 a. A solar, wind turbine, ~~waste-management,~~
38 ~~resource methane~~ recovery, ~~refuse-derived-fuel,~~
39 agricultural crops or residues, or woodburning
40 facility.
41 Sec. 6. Section 476.42, subsection 3, Code 1995,
42 is amended by striking the subsection.
43 Sec. 7. Section 476.42, Code 1995, is amended by
44 adding the following new subsection:
45 NEW SUBSECTION. 5. "Alternate energy" means
46 electricity derived from hydro, solar, wind, methane
47 recovery, agricultural crops or residues, or
48 woodburning energy.
49 Sec. 8. Section 476.43, subsection 1, Code 1995,
50 is amended to read as follows:

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1 1. Subject to section 476.44, the board shall
2 require electric utilities to enter into long-term
3 contracts to do the following:
4 a. Purchase or wheel electricity from alternate
5 energy production facilities or small hydro facilities
6 ~~located in the utility's service area~~ under the terms
7 and conditions that the board finds are just and
8 economically reasonable to the electric utilities'
9 ratepayers, are nondiscriminatory to alternate energy
10 producers and small hydro producers and will further
11 the policy stated in section 476.41.

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

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

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

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

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

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1 the electric utility's costs when determining the
2 electric utility's revenue requirement, and shall not
3 be included either directly or indirectly in the
4 electric utility's rates or charges to customers.

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

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

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

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

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

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

48 Notwithstanding the one two hundred five ten
49 megawatt maximum, the board may increase the amount of
50 power that a utility is required to purchase ~~at the~~

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

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

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

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

By COMMITTEE ON NATURAL RESOURCES,
ENERGY, AND ENVIRONMENT
BILL FINK, Chairperson

S-5151 FILED FEBRUARY 29, 1996

Adopted
3/27/96
(P. 1096)

SENATE FILE 2221

S-5396

1 Amend the amendment, S-5151, to Senate File 2221 as
2 follows:

3 1. Page 1, by inserting after line 34 the
4 following:

5 "Sec. _____. Section 476.6, Code 1995, is amended by
6 adding the following new subsection:

7 NEW SUBSECTION. 22. ALTERNATE ENERGY PROMOTIONAL
8 RATES. The board shall require that electric
9 utilities offer to their customers the opportunity to
10 pay, on a voluntary basis, an alternate energy
11 promotional rate. This rate shall exceed the rate for
12 electricity otherwise payable and shall be designed
13 and encouraged by the electric utility to maximize
14 voluntary financial support for alternate energy
15 production. The alternate energy promotional rate
16 shall be filed as a tariff with the board pursuant to
17 section 476.4. Retaining only amounts approved by the
18 board for its administrative and marketing costs, the
19 electric utility shall remit that portion of the
20 electric rate attributable to the alternate energy
21 promotional rate to the Iowa energy center to be used
22 solely for providing grants to nonprofit agencies for
23 alternate energy production."

24 2. Page 1, by inserting after line 42 the
25 following:

26 "Sec. _____. Section 476.42, subsection 4, paragraph
27 a, Code 1995, is amended to read as follows:

28 a. A hydroelectric facility at a dam located
29 within this state."

30 3. Page 2, line 25, by striking the word "may"
31 and inserting the following: "shall".

32 4. Page 2, line 36, by inserting after the word
33 "including" the following: ", but not limited to,".

34 5. Page 2, line 40, by inserting after the word
35 and figure "subsection 1" the following: "or which
36 obstructs the policy of this state as stated in
37 section 476.41".

38 6. Page 2, line 42, by striking the word "amount"
39 and inserting the following: "total project capital
40 cost".

41 7. Page 3, line 22, by inserting after the word
42 "true" the following: "long-term".

43 8. Page 3, line 40, by inserting after the figure
44 "476.43" the following: "and pursuant to timelines
45 established under paragraph "c". For purposes of this
46 section, "megawatt" shall be determined in accordance
47 with a utility's average capacity. "Average capacity"
48 means a utility's total output over a year divided by
49 the number of hours in the year."

50 9. Page 4, line 19, by inserting after the word

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1 "technologies." the following: "Of the eighty-five
2 percent, thirty percent shall be purchased in
3 accordance with the following:

4 (1) At least ten percent shall be from dedicated
5 energy crops grown within the state, fifty percent of
6 which shall be from projects of five hundred kilowatts
7 or less.

8 (2) At least ten percent shall be from
9 agricultural wastes produced from agricultural crops
10 grown within the state, fifty percent of which shall
11 be from projects of five hundred kilowatts or less.

12 (3) At least ten percent shall be from small scale
13 wind generation projects located within the state of
14 two hundred fifty kilowatts or less.

15 c. By December 31, 1997, the board shall require
16 an electric utility to enter into contracts for the
17 purchase of the utility's allotted share of eighty-
18 nine megawatts of electricity generated from alternate
19 energy production facilities, and by July 1, 1999, the
20 board shall require the utility to enter into
21 contracts for the purchase of the utility's allotted
22 share of an additional one hundred five megawatts."

23 10. Page 4, line 23, by inserting after the word
24 "TRUE" the following: "LONG-TERM".

25 11. Page 4, line 26, by inserting after the word
26 "true" the following: "long-term".

27 12. Page 4, line 31, by inserting after the word
28 "true" the following: "long-term".

29 13. Page 4, line 32, by inserting before the word
30 "economic" the following: "long-term".

31 14. Page 4, line 34, by striking the words
32 "environmental impacts" and inserting the following:
33 "long-term environmental impacts and costs".

34 15. Page 4, line 36, by inserting after the word
35 "true" the following: "long-term".

36 16. Page 4, line 45, by inserting after the word
37 "Act." the following: "In addition, this Act shall
38 not affect potential contracts between alternate
39 energy production facilities and electric utilities if
40 a petition relating to the potential contracts has
41 been filed by January 1, 1996, and an action is
42 currently pending before the Iowa utilities board.
43 For purposes of the pending actions, the Iowa
44 utilities board shall not take into account the
45 changes contained in this Act."

46 17. Page 4, by inserting after line 45 the
47 following:

48 "Sec. ____ . It is the intent of the general
49 assembly that persons who have proceeded in good faith
50 under the terms and conditions of sections 476.43 and

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1 476.44, prior to their amendment by this Act, not
2 suffer economic loss as a result of this Act. These
3 persons shall be reimbursed by the utilities for their
4 reasonable good faith development costs as determined
5 by the Iowa utilities board."

6 18. By renumbering as necessary.

By BILL FINK

o/og order 3/27/96 (p. 1096)

S-5396 FILED MARCH 19, 1996

SENATE FILE 2221

S-5400

1 Amend the amendment, S-5151, to Senate File 2221 as
2 follows:

3 1. Page 4, line 19, by inserting after the word
4 "technologies." the following: "The board shall
5 provide for a minimum of thirty percent of the eighty-
6 five percent required purchase of alternate energy
7 under this paragraph to be purchased from small hydro
8 facilities."

By ALLEN BORLAUG
JOHN W. JENSEN
MARY A. LUNDBY

TONY BISIGNANO
TOM FLYNN

S-5400 FILED MARCH 19, 1996

*adapted 3/27/96
(p. 1096)*



SENATE FILE 2221

S-5466

1 Amend the amendment, S-5151, to Senate File 2221 as
2 follows:

3 1. Page 1, line 13, by inserting after the word
4 "rate" the following: "per kilowatt hour".

5 2. Page 1, by striking lines 15 through 18 and
6 inserting the following: "equivalent to the utility's
7 total annual average cost per kilowatt hour of
8 electricity for the year prior to the year in which
9 the utility entered into the contract for purchase of
10 the alternate energy. A utility's total annual
11 average cost per kilowatt hour shall be calculated by
12 dividing annual operating expenses by the total annual
13 number of kilowatt hours sold. This difference shall
14 be used to determine the alternate energy purchase tax
15 credit for the remainder of the term of the contract.
16 The tax credit shall not be less than zero."

17 3. Page 1, by inserting after line 34 the
18 following:

19 "Sec. ____ . Section 476.6, Code 1995, is amended by
20 adding the following new subsection:

21 NEW SUBSECTION. 22. ALTERNATE ENERGY PROMOTIONAL
22 RATES. The board shall require that electric
23 utilities offer to their customers the opportunity to
24 pay, on a voluntary basis, an alternate energy
25 promotional rate. This rate shall exceed the rate for
26 electricity otherwise payable and shall be designed
27 and encouraged by the electric utility to maximize
28 voluntary financial support for alternate energy
29 production. The alternate energy promotional rate
30 shall be filed as a tariff with the board pursuant to
31 section 476.4. Retaining only amounts approved by the
32 board for its administrative and marketing costs, the
33 electric utility shall remit that portion of the
34 electric rate attributable to the alternate energy
35 promotional rate to the state treasurer to be
36 allocated to the general fund of the state to offset
37 the cost of the alternate energy purchase tax credit
38 under section 422.51."

39 4. Page 1, by inserting after line 42 the
40 following:

41 "Sec. ____ . Section 476.42, subsection 4, paragraph
42 a, Code 1995, is amended to read as follows:

43 a. A hydroelectric facility at a dam located
44 within this state."

45 5. Page 2, line 25, by striking the word "may"
46 and inserting the following: "shall".

47 6. Page 2, line 27, by inserting after the word
48 "rate." the following: "An alternate energy contract
49 shall require that the utility pay the competitive bid
50 rate to the facility during the contract term."

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Page 2

- 1 7. Page 2, line 36, by inserting after the word
2 "including" the following: ", but not limited to,".
- 3 8. Page 2, line 40, by inserting after the word
4 and figure "subsection 1" the following: "or which
5 obstructs the policy of this state as stated in
6 section 476.41".
- 7 9. Page 2, line 42, by striking the word "amount"
8 and inserting the following: "total project capital
9 cost".
- 10 10. Page 3, line 18, by inserting before the word
11 "rate" the following: "kilowatt hour".
- 12 11. Page 3, by striking lines 19 through 27 and
13 inserting the following: "process and the rate that
14 is equivalent to the utility's total annual average
15 cost per kilowatt hour of electricity for the year
16 prior to the year in which the utility entered into
17 the contract for purchase of the alternate energy as
18 determined under section 422.51, subsection 5."
- 19 12. Page 3, line 40, by inserting after the
20 figure "476.43" the following: "and pursuant to
21 timelines established under paragraph "c". For
22 purposes of this section, "megawatt" shall be
23 determined in accordance with a utility's average
24 capacity. "Average capacity" means a utility's total
25 output over a year divided by the number of hours in
26 the year."
- 27 13. Page 4, line 19, by inserting after the word
28 "technologies." the following: "Of the eighty-five
29 percent, thirty percent shall be purchased in
30 accordance with the following:
- 31 (1) At least ten percent shall be from dedicated
32 energy crops grown within the state, fifty percent of
33 which shall be from projects of five hundred kilowatts
34 or less.
- 35 (2) At least ten percent shall be from
36 agricultural wastes produced from agricultural crops
37 grown within the state, fifty percent of which shall
38 be from projects of five hundred kilowatts or less.
- 39 (3) At least ten percent shall be from small scale
40 wind generation projects located within the state of
41 two hundred fifty kilowatts or less.
- 42 c. By December 31, 1997, the board shall require
43 an electric utility to enter into contracts for the
44 purchase of the utility's allotted share of eighty-
45 nine megawatts of electricity generated from alternate
46 energy production facilities, and by July 1, 1999, the
47 board shall require the utility to enter into
48 contracts for the purchase of the utility's allotted
49 share of an additional one hundred five megawatts."
- 50 14. Page 4, by striking lines 23 through 37.

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Page 3

1 15. Page 4, line 45, by inserting after the word
2 "Act." the following: "In addition, this Act shall
3 not affect potential contracts between alternate
4 energy production facilities and electric utilities if
5 a petition relating to the potential contracts has
6 been filed by January 1, 1996, and an action is
7 currently pending before the Iowa utilities board.
8 For purposes of the pending actions, the Iowa
9 utilities board shall not take into account the
10 changes contained in this Act."

11 16. Page 4, by inserting after line 45 the
12 following:

13 "Sec. ____ . It is the intent of the general
14 assembly that persons who have proceeded in good faith
15 under the terms and conditions of sections 476.43 and
16 476.44, prior to their amendment by this Act, not
17 suffer economic loss as a result of this Act. These
18 persons shall be reimbursed by the utilities for their
19 reasonable good faith development costs as determined
20 by the Iowa utilities board."

21 17. By renumbering as necessary.

By BILL FINK

MARY LOU FREEMAN

MICHAEL E. GRONSTAL

PATRICK J. DELUHERY

MARY LUNDBY

S-5466 FILED MARCH 21, 1996

adoption 3/27/96 (P.1096)

SENATE FILE 2221

S-5559

1 Amend the amendment, S-5151, to Senate File 2221 as
2 follows:

3 1. Page 2, line 27, by inserting after the word
4 "rate." the following: "The kilowatt per hour
5 competitive bid rate shall not be less than the annual
6 average rate of off-peak kilowatt per hour rates and
7 peak kilowatt per hour rates at which an electric
8 utility would have had to purchase the power."

By BERL E. PRIEBE

S-5559 FILED MARCH 27, 1996

ADOPTED

(P.1096)



SENATE FILE 2221
BY FINK

(AS AMENDED AND PASSED BY THE SENATE MARCH 27, 1996)
ALL New Language by the Senate

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

A BILL FOR

1 An Act relating to alternate energy production and purchasing
2 requirements, and providing an applicability provision and an
3 effective date.

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

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S.F. 2221

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

3 NEW SUBSECTION. 5. The taxes remitted pursuant to this
4 division shall be reduced by an alternate energy purchase tax
5 credit. An electric utility which has purchased electricity
6 from an alternate energy production facility or small hydro
7 facility pursuant to section 476.43 shall be granted the
8 credit. The credit shall equal the difference between the
9 competitively bid rate per kilowatt hour that the utility paid
10 for purchase of the electricity and the rate which is
11 equivalent to the utility's total annual average cost per
12 kilowatt hour of electricity for the year prior to the year in
13 which the utility entered into the contract for purchase of
14 the alternate energy. A utility's total annual average cost
15 per kilowatt hour shall be calculated by dividing annual
16 operating expenses by the total annual number of kilowatt
17 hours sold. This difference shall be used to determine the
18 alternate energy purchase tax credit for the remainder of the
19 term of the contract. The tax credit shall not be less than
20 zero.

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

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

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

27 However, sections 476.20, 476.21, ~~476.41 through 476.44~~
28 476.51, 476.56, 476.62, and 476.66 and chapters 476A and 478,
29 to the extent applicable, apply to such electric utilities.

30 Sec. 4. Section 476.1B, subsection 1, paragraph g, Code
31 1995, is amended by striking the paragraph and inserting in
32 lieu thereof the following:

33 g. Encouragement of alternate energy production and the
34 purchase of alternate energy.

35 Sec. 5. Section 476.6, Code 1995, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 22. ALTERNATE ENERGY PROMOTIONAL RATES.

3 The board shall require that electric utilities offer to their
4 customers the opportunity to pay, on a voluntary basis, an
5 alternate energy promotional rate. This rate shall exceed the
6 rate for electricity otherwise payable and shall be designed
7 and encouraged by the electric utility to maximize voluntary
8 financial support for alternate energy production. The
9 alternate energy promotional rate shall be filed as a tariff
10 with the board pursuant to section 476.4. Retaining only
11 amounts approved by the board for its administrative and
12 marketing costs, the electric utility shall remit that portion
13 of the electric rate attributable to the alternate energy
14 promotional rate to the state treasurer to be allocated to the
15 general fund of the state to offset the cost of the alternate
16 energy purchase tax credit under section 422.51.

17 Sec. 6. Section 476.42, subsection 1, paragraph a, Code
18 1995, is amended to read as follows:

19 a. A solar, wind turbine, ~~waste-management, resource~~
20 methane recovery, ~~refuse-derived-fuel,~~ agricultural crops or
21 residues, or woodburning facility.

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

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

26 a. A hydroelectric facility at a dam located within this
27 state.

28 Sec. 9. Section 476.42, Code 1995, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 5. "Alternate energy" means electricity
31 derived from hydro, solar, wind, methane recovery,
32 agricultural crops or residues, or woodburning energy.

33 Sec. 10. Section 476.43, subsection 1, Code 1995, is
34 amended to read as follows:

35 1. Subject to section 476.44, the board shall require

1 electric utilities to enter into long-term contracts to do the
2 following:

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

10 b. Provide for the availability of supplemental or backup
11 power to alternate energy production facilities or small hydro
12 facilities on a nondiscriminatory basis and at just and
13 reasonable rates.

14 c. If the parties fail to agree on the terms of a contract
15 required pursuant to this section, a party may request that
16 the board intervene. The board shall have sixty days from the
17 date of the intervention request to render a decision on the
18 contract.

19 Sec. 11. Section 476.43, subsections 2, 3, and 4, Code
20 1995, are amended by striking the subsections and inserting in
21 lieu thereof the following:

22 2. The board shall establish a uniform competitive bidding
23 process so that an electric utility shall acquire alternate
24 energy at a just and economically based market rate. An
25 alternate energy contract shall require that the utility pay
26 the competitive bid rate to the facility during the contract
27 term. The kilowatt per hour competitive bid rate shall not be
28 less than the annual average rate of off-peak kilowatt per
29 hour rates and peak kilowatt per hour rates at which an
30 electric utility would have had to purchase the power. An
31 electric utility may produce its own alternate energy by
32 constructing and operating an alternate energy production
33 facility or small hydro facility if the facility is
34 constructed and operated as a separate affiliate entity.
35 However, the electric utility shall participate in the

1 competitive bidding process using a third-party evaluator. A
2 bid from an electric utility producing its own alternate
3 energy shall not take into account regulated industry-based
4 factors including, but not limited to, eminent domain and
5 transmission ownership in order to produce a lower cost bid.

6 3. Notwithstanding section 476.51, an electric utility
7 which fails to comply with the requirements of subsection 1 or
8 which obstructs the policy of this state as stated in section
9 476.41 shall be subject to a civil penalty, levied by the
10 board, in an amount that is equivalent to three times the
11 total project capital cost of the lowest bid filed with the
12 board to comply with the requirements of subsection 1. Civil
13 penalties collected under this subsection shall be forwarded
14 to the treasurer of state to be credited to the Iowa energy
15 center. Any moneys allocated to the Iowa energy center
16 pursuant to this subsection shall be used solely for providing
17 grants to nonprofit agencies for alternate energy production.
18 These penalties shall be excluded from the electric utility's
19 costs when determining the electric utility's revenue
20 requirement, and shall not be included either directly or
21 indirectly in the electric utility's rates or charges to
22 customers.

23 4. Notwithstanding subsection 2, alternate energy produced
24 by recovery of methane at a sanitary landfill shall be
25 purchased at the rate existing as of January 1, 1996.

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

28 NEW SUBSECTION. 7. An electric utility purchasing
29 alternate energy pursuant to this section shall be entitled to
30 an alternate energy purchase tax credit. The electric utility
31 shall reflect the tax credit received by the utility in the
32 utility's automatic adjustment pursuant to section 476.6,
33 subsection 11. The credit shall be equal to the difference
34 between the kilowatt hour rate established through the
35 competitive bidding process and the rate that is equivalent to

1 the utility's total annual average cost per kilowatt hour of
2 electricity for the year prior to the year in which the
3 utility entered into the contract for purchase of the
4 alternate energy as determined under section 422.51,
5 subsection 5.

6 Sec. 13. Section 476.44, subsection 1, Code 1995, is
7 amended to by striking the subsection.

8 Sec. 14. Section 476.44, subsection 2, Code 1995, is
9 amended to read as follows:

10 2. a. An electric utility subject to this division,
11 except a utility which elects rate regulation pursuant to
12 section 476.1A, shall ~~not~~ be required to purchase ~~at any one~~
13 ~~time more than~~ its share of one two hundred five ten
14 megawatts of power from alternative energy production
15 facilities or small hydro facilities ~~at the rates in~~
16 accordance with the competitive bidding process established
17 pursuant to section 476.43 and pursuant to timelines
18 established under paragraph "c". For purposes of this
19 section, "megawatt" shall be determined in accordance with a
20 utility's average capacity. "Average capacity" means a
21 utility's total output over a year divided by the number of
22 hours in the year. The board shall allocate the one two
23 hundred five ten megawatts based upon each utility's
24 percentage of the total Iowa retail peak demand, for the year
25 beginning January 1, 1990, of all utilities subject to this
26 section. If a utility undergoes reorganization as defined in
27 section 476.76, the board shall combine the allocated
28 purchases of power for each utility involved in the
29 reorganization.

30 Notwithstanding the one two hundred five ten megawatt
31 maximum, the board may increase the amount of power that a
32 utility is required to purchase ~~at the rates established~~
33 ~~pursuant to section 476.43~~ if the board finds that a utility,
34 including a reorganized utility, exceeds its 1990 Iowa retail
35 peak demand by twenty percent and the additional power the

1 utility is required to purchase will encourage the development
2 of alternate energy production facilities and small hydro
3 facilities. The increase shall not exceed the utility's
4 increase in peak demand multiplied by the ratio of the
5 utility's share of the ~~one~~ two hundred five ten megawatt
6 maximum to its 1990 Iowa retail peak demand.

7 b. Of that portion of alternate energy required to be
8 purchased by a utility under this section, eighty-five percent
9 shall be purchased from alternate energy production facilities
10 or small hydro facilities generating electricity with current
11 and viable technologies and fifteen percent shall be purchased
12 from alternate energy production facilities generating
13 electricity from new technologies. The board shall provide
14 for a minimum of thirty percent of the eighty-five percent
15 required purchase of alternate energy under this paragraph to
16 be purchased from small hydro facilities. Of the eighty-five
17 percent, thirty percent shall be purchased in accordance with
18 the following:

19 (1) At least ten percent shall be from dedicated energy
20 crops grown within the state, fifty percent of which shall be
21 from projects of five hundred kilowatts or less.

22 (2) At least ten percent shall be from agricultural wastes
23 produced from agricultural crops grown within the state, fifty
24 percent of which shall be from projects of five hundred
25 kilowatts or less.

26 (3) At least ten percent shall be from small scale wind
27 generation projects located within the state of two hundred
28 fifty kilowatts or less.

29 c. By December 31, 1997, the board shall require an
30 electric utility to enter into contracts for the purchase of
31 the utility's allotted share of eighty-nine megawatts of
32 electricity generated from alternate energy production
33 facilities, and by July 1, 1999, the board shall require the
34 utility to enter into contracts for the purchase of the
35 utility's allotted share of an additional one hundred five

1 megawatts. For purposes of this section, new technologies
2 include only those technologies that use nonfossil fuel to
3 derive renewable energy.

4 Sec. 15. APPLICABILITY TO EXISTING CONTRACTS. This Act
5 shall not affect the terms and conditions of any contract
6 between an alternate energy production facility or small hydro
7 facility and an electric utility that was entered into
8 pursuant to sections 476.43 and 476.44 for purchase of
9 alternate energy if the contract was entered into prior to the
10 effective date of this Act. In addition, this Act shall not
11 affect potential contracts between alternate energy production
12 facilities and electric utilities if a petition relating to
13 the potential contracts has been filed by January 1, 1996, and
14 an action is currently pending before the Iowa utilities
15 board. For purposes of the pending actions, the Iowa
16 utilities board shall not take into account the changes
17 contained in this Act.

18 Sec. 16. It is the intent of the general assembly that
19 persons who have proceeded in good faith under the terms and
20 conditions of sections 476.43 and 476.44, prior to their
21 amendment by this Act, not suffer economic loss as a result of
22 this Act. These persons shall be reimbursed by the utilities
23 for their reasonable good faith development costs as
24 determined by the Iowa utilities board.

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