

HSB 153

COMMERCE AND REGULATION

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HOUSE FILE SF 577

BY (PROPOSED COMMITTEE ON
COMMERCE AND REGULATION BILL
BY CHAIRPERSON HANSEN)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to electric power generation and transmission, by
2 addressing the criteria for construction of an electric
3 generating facility; waivers; approval of power purchase
4 contracts; management of regulated emissions from facilities
5 fueled by coal; providing for the development of a state
6 electric energy policy; and making certain other changes
7 related to electric transmission.

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

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1 Section 1. Section 476.6, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 16A. POWER PURCHASE CONTRACTS.

4 a. A rate-regulated public utility shall file with the
5 board any contract for the purchase of electric power to serve
6 Iowa retail electric consumers if the contract meets all of
7 the following conditions:

8 (1) The contract term is for a period of five years or
9 longer.

10 (2) The amount of power purchased equals or exceeds five
11 percent of the public utility's Iowa retail load.

12 (3) The power is being purchased from a new electric power
13 generating facility that is being planned or is under
14 construction as of the date of the contract.

15 b. A public utility, at its option, may file with the
16 board other contracts for the purchase of electric power.

17 c. The board shall issue its decision within ninety days
18 after the public utility's filing.

19 d. The board shall approve the contract if it finds, after
20 a contested case proceeding, that the terms of the contract
21 are reasonable and prudent.

22 e. Board approval of a contract shall constitute an
23 irrevocable determination of the prudence and reasonableness
24 of the contract and its terms.

25 f. The costs of the contract shall be included in the
26 public utility's regulated retail electric rates and, at the
27 option of the public utility, may be recovered through an
28 automatic adjustment of rates as provided in subsection 11.

29 g. The board shall adopt rules pursuant to chapter 17A
30 regarding the filing and approval of contracts under this
31 subsection.

32 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING FACILITY
33 EMISSIONS.

34 a. Each public utility that is an owner of one or more
35 electric power generating facilities fueled by coal and

1 located in this state on June 1, 2001, shall develop a
2 multiyear plan and budget for managing regulated emissions
3 from its facilities in a cost-effective manner.

4 (1) The initial multiyear plan and budget shall be filed
5 with the board by October 1, 2001. Updates to the plan and
6 budget shall be filed at least every twenty-four months.

7 (2) Copies of the initial plan and budget, as well as any
8 subsequent updates, shall be served on the environmental
9 protection division of the department of natural resources.

10 (3) The initial multiyear plan and budget and any
11 subsequent updates shall be considered in a contested case
12 proceeding pursuant to chapter 17A. The environmental
13 protection division of the department of natural resources and
14 the consumer advocate shall participate as parties to the
15 proceeding.

16 (4) The department of natural resources shall state
17 whether the plan or update meets applicable state
18 environmental requirements for regulated emissions. If the
19 plan does not meet these requirements, the department shall
20 recommend amendments that outline actions necessary to bring
21 the plan or update into compliance with the environmental
22 requirements.

23 b. The board shall not approve a plan or update that does
24 not meet applicable state environmental requirements for
25 regulated emissions from electric power generating facilities
26 located in the state.

27 c. The board shall review the plan or update and the
28 associated budget, and shall approve the plan or update and
29 the associated budget if the plan or update and the associated
30 budget are consistent with the electric energy policy of this
31 state as developed pursuant to section 476.53, and if the plan
32 or update and the associated budget reasonably balance costs,
33 environmental requirements, economic development potential,
34 and the reliability of the electric utility and generation
35 system.

1 d. The board shall issue an order approving or rejecting a
2 plan, update, or budget within one hundred eighty days after
3 the public utility's filing.

4 e. The reasonable costs incurred by a rate-regulated
5 public utility in preparing and filing the plan, update, or
6 budget and in participating in the proceedings before the
7 board and the costs of the approved budget and any approved
8 amendments shall be included in its regulated retail rates.

9 f. The board shall adopt rules pursuant to chapter 17A
10 regarding the filing and approval of plans and budgets under
11 this subsection.

12 Sec. 2. Section 476.53, Code 2001, is amended by striking
13 the section and inserting in lieu thereof the following:

14 476.53 ELECTRIC GENERATING FACILITIES.

15 1. It is the intent of the general assembly to attract the
16 development of electric power generating within the state in
17 sufficient quantity to ensure reliable electric service to
18 Iowa consumers and provide economic benefits to the state.

19 2. The general assembly's intent with regard to the
20 development of electric power generating facilities, as
21 provided in subsection 1, shall be implemented in a manner
22 that is cost-effective and compatible with the environmental
23 policies of the state, as expressed in Title XI.

24 3. The board shall report to the general assembly by
25 January 21, 2002, and biennially thereafter, regarding the
26 actions it recommends be taken to implement the general
27 assembly's intent as stated in subsection 1, in developing the
28 state's electric energy policy. The report shall include an
29 assessment of the adequacy of the board's authority to provide
30 sufficient incentives and assurances of cost recovery to
31 implement the general assembly's intent.

32 Sec. 3. Section 476A.6, Code 2001, is amended to read as
33 follows:

34 476A.6 DECISION -- CRITERIA.

35 The board shall render a decision on the application in an

1 expeditious manner. A certificate shall be issued to the
2 applicant if the board finds all of the following:

3 1. The services and operations resulting from the
4 construction of the facility are ~~required-by-the-present-or~~
5 ~~future-public-convenience, use-and-necessity~~ compatible with
6 the energy policy of the state as developed under section
7 476.53 and the economic development policy of the state as
8 expressed in Title I, subtitle 5, and will not be detrimental
9 to the provision of adequate and reliable electric service.

10 2. The applicant is willing to ~~perform-such-services-and~~
11 construct, maintain, and operate the facility pursuant to the
12 provisions of the certificate and this chapter.

13 3. The construction, maintenance, and operation of the
14 facility will ~~cause-minimum-adverse~~ be consistent with
15 reasonable land use, and environmental, ~~and-aesthetic-impact~~
16 policies and are consonant with reasonable utilization of air,
17 land, and water resources, ~~for-beneficial-purposes~~ considering
18 reasonably available technology ~~and-the-economics-of-available~~
19 alternatives.

20 4. ~~The applicant, if a public utility as defined in~~
21 ~~section 476.1, has in effect a comprehensive energy management~~
22 ~~program designed to reduce peak loads and to increase~~
23 ~~efficiency of use of energy by all classes of customers of the~~
24 ~~utility, and the facility in the application is necessary~~
25 ~~notwithstanding the existence of the comprehensive energy~~
26 ~~management program. As used in this subsection, a~~
27 ~~"comprehensive energy management program" includes at a~~
28 ~~minimum the following:~~

29 a. ~~Establishment of load management and interruptible~~
30 ~~service programs, where cost effective.~~

31 b. ~~Development of wheeling agreements and other energy~~
32 ~~sharing agreements, where cost effective with utilities that~~
33 ~~have available capacity.~~

34 c. ~~Establishment of cost effective energy efficiency and~~
35 ~~renewable energy services and programs.~~

1 d.--Compliance-with-board-rules-on-energy-management
2 procedures.

3 5.--The-applicant, if a public utility as defined in
4 section 476.17, shall demonstrate to the board that the utility
5 has considered sources for long-term electric supply from
6 either purchase of electricity or investment in facilities
7 owned by other persons.

8 6.--The-applicant, if a public utility as defined in
9 section 476.17, has considered all feasible alternatives to the
10 proposed facility including nongeneration alternatives, has
11 ranked those alternatives by cost, has implemented the least-
12 cost alternatives first, and the facility in the application
13 is necessary notwithstanding the implementation of these
14 alternatives.

15 Sec. 4. Section 476A.15, Code 2001, is amended to read as
16 follows:

17 476A.15 WAIVER.

18 The board, if it determines that the public interest would
19 not be adversely affected, may waive any of the requirements
20 of this chapter for facilities with a capacity of one hundred
21 or fewer megawatts.

22 Sec. 5. Section 478.3, subsection 1, paragraph h, Code
23 2001, is amended to read as follows:

24 h. An allegation that the proposed construction is
25 necessary to serve a public use. This allegation shall be
26 satisfied if an order of the federal energy regulatory
27 commission or its successor, directing that the project be
28 constructed, is filed with the board.

29 Sec. 6. Section 478.3, Code 2001, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 3. For the purpose of this section, the
32 term "public" shall not be interpreted to be limited to
33 consumers located in this state.

34 Sec. 7. EMERGENCY RULES.

35 1. The utilities division of the department of commerce

1 may adopt emergency rules to implement this Act.

2 2. If the utilities division of the department of commerce
3 adopts emergency rules under section 17A.4, subsection 2, and
4 section 17A.5, subsection 2, paragraph "b", to implement this
5 Act, the rules shall become effective immediately upon filing,
6 unless a later effective date is specified in the rules. Any
7 rules adopted in accordance with the provisions of this
8 section shall also be published as notice of intended action
9 as provided in section 17A.4.

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EXPLANATION

11 This bill makes changes to provisions in Code chapter 476A,
12 relating to siting for electric plant generators, as well as
13 making related changes in other parts of the Code.

14 The bill amends Code section 476A.6 to provide that the
15 board shall issue a certificate if it finds three criteria
16 have been met: (1) the services and operations resulting from
17 the construction of the facility are compatible with the
18 electric energy policy and the economic development policy of
19 the state as expressed in the Code, and will not be
20 detrimental to the provision of adequate and reliable electric
21 service; (2) the applicant is willing to construct, maintain,
22 and operate the facility pursuant to the provisions of the
23 certificate and Code chapter 476A; and (3) the construction,
24 maintenance, and operation of the facility will be consistent
25 with reasonable land use and environmental policy, and
26 consonant with reasonable utilization of air, land, and water
27 resources, considering reasonably available technology.

28 These criteria replace prior statements regarding present
29 or future public convenience, use, and necessity; minimum
30 adverse land use; aesthetic impact; beneficial purposes
31 considering the economics of available alternatives; details
32 of a comprehensive energy management program by the public
33 utility, including load management, interruptible service,
34 wheeling agreements and other energy sharing agreements, and
35 energy efficiency and renewable energy services and programs;

1 long-term electric supply; and nongeneration alternatives.

2 The bill amends Code section 476A.15, to allow waiver by
3 the utilities board of any of the requirements of Code chapter
4 476A if it determines that the public interest would not be
5 adversely affected. The Code currently allows waivers only
6 for facilities with a capacity of 100 or fewer megawatts.

7 The bill adds a new subsection to Code section 476.6
8 regarding board approval of contracts by rate-regulated public
9 utilities to purchase power. If the contract meets all of the
10 following criteria, the utility shall file the contract with
11 the board, and may recover the costs of the contract in
12 regulated retail electric rates, including through an
13 automatic adjustment of rates: (1) the contract is for five
14 years or longer; (2) the amount of power purchased equals or
15 exceeds 5 percent of the utility's Iowa retail load; (3) the
16 power is being purchased from a new electric power generation
17 facility being planned or under construction as of the date of
18 the contract. The utility may choose to seek approval of
19 other contracts for the purchase of electric power. The board
20 shall issue its decision within 90 days of the utility's
21 filing. The board shall approve the contract if, after a
22 contested case proceeding, it finds that the terms of the
23 contract are reasonable and prudent. Approval by the board
24 shall constitute an irrevocable determination of the prudence
25 and reasonableness of the contract and its terms.

26 A new subsection is also added to Code section 476.6
27 regarding emissions from electric power generating facilities.
28 Coal-fired facilities located in the state on June 1, 2001,
29 are required to develop multiyear plans and budgets for
30 managing regulated emissions from the facility in a cost-
31 effective manner. The initial plan and budget must be filed
32 by October 1, 2001, and updates shall be filed at least every
33 24 months. Copies of the initial plan, budget, and updates
34 shall be served on the environmental protection division of
35 the department of natural resources and the consumer advocate.

1 The plan, budget, and updates shall be considered in a
2 contested case proceeding, and the department of natural
3 resources and consumer advocate shall participate as parties.
4 The department of natural resources shall state whether the
5 plan or update meets applicable state environmental
6 requirements for regulated emissions, and if not, shall
7 recommend amendments to bring the plan into compliance with
8 requirements. The board shall not approve a plan that does
9 not meet applicable state requirements for regulated
10 emissions. The board shall approve a plan or update and the
11 associated budget if it is consistent with the electric energy
12 policy developed under Code section 476.53, and reasonably
13 balances costs, environmental requirements, economic
14 development potential, and the reliability of the electric
15 utility and generation system. The board shall issue an order
16 approving or rejecting a plan or update and the associated
17 budget within 180 days after the filing. The reasonable costs
18 incurred in preparing and filing the plan or update and
19 associated budget shall be included in regulated retail rates.

20 The bill also amends Code section 476.53 by inserting
21 completely new language. The new language states that the
22 intent of the general assembly is to attract the development
23 of electric power generating facilities within the state in
24 sufficient quantity to ensure reliable electric service to
25 Iowa consumers and provide economic benefits to the state,
26 implemented in a manner that is cost-effective and compatible
27 with the environmental policies of the state, as expressed in
28 the Code. To that end, the board is directed to report to the
29 general assembly on January 21, 2002, and every two years
30 thereafter, regarding the actions it recommends be taken to
31 implement the general assembly's intent, in developing the
32 state's energy policy. The report shall specifically include
33 an assessment of the adequacy of the board's authority to
34 provide sufficient incentives and assurances of cost recovery
35 to implement the general assembly's intent.

1 The bill also amends Code section 478.3, regarding
2 petitions for electric transmission lines, to address the
3 federal regulatory process that governs many of the same
4 activities regulated under state law, and to specify that the
5 definition of "public" should not be limited to consumers of
6 the state of Iowa.

7 The bill also allows the utilities division of the
8 department of commerce to adopt emergency rules, so that rules
9 are in place by the Act's effective date.

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REPRINTED

MAR 9 2001

Place On Calendar

HOUSE FILE 577

BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 153)

Passed House, Date ^(R1050) 4/2/01
Vote: Ayes 54 Nays 44

Passed Senate, Date ^{Special Session} 6/19/01
Vote: Ayes 50 Nays 0

Approved July 3, 2001
^{Special Session} 6/19/01
Vote 95-1

A BILL FOR

1 An Act relating to electric power generation and transmission, by
 2 addressing the criteria for construction of an electric
 3 generating facility; waivers; approval of power purchase
 4 contracts; management of regulated emissions from facilities
 5 fueled by coal; providing for the development of a state
 6 electric energy policy; providing for joint agreements for
 7 acquisition of ownership of a joint facility for electric
 8 power generation and transmission, and for the planning,
 9 financing, operation, and maintenance of the joint facility;
 10 providing for the bonding authority of electric power
 11 agencies; and making certain other changes and requirements
 12 related to electric generation and transmission.

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

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HF 577

1 Section 1. Section 476.1B, subsection 1, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. m. An electric power agency as defined in
4 chapters 28F and 476A that includes as a member a city or
5 municipality owned utility that builds transmission facilities
6 after July 1, 2001, is subject to applicable transmission
7 reliability rules or standards adopted by the board for those
8 facilities.

9 Sec. 2. Section 476.6, Code 2001, is amended by adding the
10 following new subsections:

11 NEW SUBSECTION. 16A. POWER PURCHASE CONTRACTS.

12 a. A rate-regulated public utility shall file with the
13 board any contract for the purchase of electric power to serve
14 Iowa retail electric consumers if the contract meets all of
15 the following conditions:

16 (1) The contract term is for a period of five years or
17 longer.

18 (2) The amount of power purchased equals or exceeds five
19 percent of the public utility's Iowa retail load.

20 (3) The power is being purchased from a new electric power
21 generating facility that is being planned or is under
22 construction in Iowa as of the date of the contract.

23 b. A public utility, at its option, may file with the
24 board other contracts for the purchase of electric power from
25 an electric power generating facility in Iowa if the amount of
26 power purchased equals or exceeds twenty-five megawatts.

27 c. The board shall issue its decision within ninety days
28 after the public utility's filing is deemed complete; however,
29 upon good cause shown, the board may extend the time for
30 issuing the order as follows:

31 (1) The board may grant an extension of twenty days.

32 (2) The board may grant more than one extension, but each
33 extension must rely upon a separate showing of good cause.

34 (3) A subsequent extension must not be granted any earlier
35 than five days prior to the expiration of the original ninety-

1 day period, or the current extension.

2 d. The board shall approve the contract if it finds, after
3 a contested case proceeding, that the terms of the contract
4 are reasonable and prudent. In determining whether the terms
5 of the contract are reasonable and prudent, the board may
6 consider the reliability and economic benefits of new, Iowa-
7 based generation.

8 e. Board approval of a contract shall constitute an
9 irrevocable determination of the prudence and reasonableness
10 of the contract and its terms. The board, subsequent to
11 approval of a contract, may at anytime by order compel the
12 public utility to enforce the terms of the contract.

13 f. The costs of the contract shall be included in the
14 public utility's regulated retail electric rates. The public
15 utility may propose to recover the costs through an automatic
16 adjustment of rates as provided in subsection 11.

17 g. The board shall adopt rules pursuant to chapter 17A
18 regarding the filing and approval of contracts under this
19 subsection, including rules to ensure that there is a fair and
20 open bidding process for power purchase contracts.

21 h. The board may employ additional temporary staff, or may
22 contract for professional services with persons who are not
23 state employees, as the board deems necessary to review
24 contracts pursuant to this subsection. Beginning July 1,
25 2001, there is appropriated out of any funds in the state
26 treasury not otherwise appropriated, such sums as may be
27 necessary to enable the board to hire additional staff and
28 contract for services under this subsection. The costs of the
29 additional staff and services shall be assessed to the
30 utilities pursuant to the procedure in section 476.10.

31 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING FACILITY
32 EMISSIONS.

33 a. It is the intent of the general assembly that the state
34 provide for compatible statewide environmental and electric
35 energy policies with respect to regulated emissions from rate-

1 regulated electric power generating facilities in the state
2 that are fueled by coal. Each rate-regulated public utility
3 that is an owner of one or more electric power generating
4 facilities fueled by coal and located in this state on June 1,
5 2001, shall develop a multiyear plan and budget for managing
6 regulated emissions from its facilities in a cost-effective
7 manner.

8 (1) The initial multiyear plan and budget shall be filed
9 with the board by April 1, 2002. Updates to the plan and
10 budget shall be filed at least every twenty-four months.

11 (2) Copies of the initial plan and budget, as well as any
12 subsequent updates, shall be served on the environmental
13 protection division of the department of natural resources.

14 (3) The initial multiyear plan and budget and any
15 subsequent updates shall be considered in a contested case
16 proceeding pursuant to chapter 17A. The environmental
17 protection division of the department of natural resources and
18 the consumer advocate shall participate as parties to the
19 proceeding.

20 (4) The department of natural resources shall state
21 whether the plan or update meets applicable state
22 environmental requirements for regulated emissions. If the
23 plan does not meet these requirements, the department shall
24 recommend amendments that outline actions necessary to bring
25 the plan or update into compliance with the environmental
26 requirements.

27 b. The board shall not approve a plan or update that does
28 not meet applicable state environmental requirements for
29 regulated emissions from electric power generating facilities
30 located in the state.

31 c. The board shall review the plan or update and the
32 associated budget, and shall approve the plan or update and
33 the associated budget if the plan or update and the associated
34 budget are consistent with the electric energy policy of this
35 state as developed pursuant to section 476.53, and if the plan

1 or update and the associated budget reasonably balance costs,
2 environmental requirements, economic development potential,
3 and the reliability of the electric utility and generation
4 system.

5 d. The board shall issue an order approving or rejecting a
6 plan, update, or budget within one hundred eighty days after
7 the public utility's filing is deemed complete; however, upon
8 good cause shown, the board may extend the time for issuing
9 the order as follows:

10 (1) The board may grant an extension of thirty days.

11 (2) The board may grant more than one extension, but each
12 extension must rely upon a separate showing of good cause.

13 (3) A subsequent extension must not be granted any earlier
14 than five days prior to the expiration of the original one-
15 hundred-eighty-day period, or the current extension.

16 e. The reasonable costs incurred by a rate-regulated
17 public utility in preparing and filing the plan, update, or
18 budget and in participating in the proceedings before the
19 board and the costs of the approved budget and any approved
20 amendments shall be included in its regulated retail rates.

21 g. It is the intent of the general assembly that in the
22 event the electric power generating facilities being updated
23 are no longer in the Iowa rate base, the board may determine
24 that an equitable portion of the depreciation costs and return
25 on the investment that have been included in the utility's
26 regulated retail rates under the budgets approved by the board
27 should accrue to the benefit of Iowa customers if the board,
28 in a contested case proceeding, makes both of the following
29 findings:

30 (1) The electric power generating facilities were updated
31 prior to the time that such updates are mandated by state or
32 federal law.

33 (2) The utility's shareholders have or will benefit from
34 the updates being performed prior to the time the updates are
35 mandated.

1 Sec. 3. Section 476.53, Code 2001, is amended by striking
2 the section and inserting in lieu thereof the following:

3 476.53 ELECTRIC GENERATING AND TRANSMISSION FACILITIES.

4 1. It is the intent of the general assembly to attract the
5 development of electric power generating and transmission
6 facilities within the state in sufficient quantity to ensure
7 reliable electric service to Iowa consumers and provide
8 economic benefits to the state.

9 2. The general assembly's intent with regard to the
10 development of electric power generating and transmission
11 facilities, as provided in subsection 1, shall be implemented
12 in a manner that is cost-effective and compatible with the
13 environmental policies of the state, as expressed in Title XI.

14 3. The board shall report to the general assembly by
15 January 21, 2002, and biennially thereafter, regarding the
16 actions it recommends be taken to implement the general
17 assembly's intent as stated in subsection 1, in developing the
18 state's electric energy policy. The report shall include an
19 assessment of at least the following, to implement the general
20 assembly's intent:

21 a. The need for incentives.

22 b. The need for assurances of cost recovery.

23 c. The need for new generation and transmission
24 facilities, and for power purchase contracts.

25 d. The need for competitive bidding for new generation and
26 transmission facilities.

27 e. Power purchase contracts.

28 f. Generation capacity in Iowa and the possibility of
29 exportation of energy, including the issue of long-term and
30 peak power purchases.

31 g. Evaluation of Iowa's transmission system and its
32 connection to the regional power grid.

33 h. Municipal generation, transmission, financing, and
34 other related issues.

35 i. Generation capacity and transmission facilities of

1 rural electric cooperatives.

2 j. Renewable energy sources, including but not limited to
3 wind and corn-related power sources.

4 The report shall also assess the appropriateness and
5 desirability of requiring the municipal utilities and the
6 rural electric cooperatives to file in the future multiyear
7 plans and budgets for managing regulated emissions from their
8 electric power generating facilities fueled by coal and
9 located in this state, similar to the process required for
10 rate-regulated public utilities under section 476.6,
11 subsection 16B.

12 The board may employ additional temporary staff, or may
13 contract for professional services with persons who are not
14 state employees, as the board deems necessary to complete the
15 report. Beginning July 1, 2001, and ending January 31, 2002,
16 there is appropriated out of any funds in the state treasury
17 not otherwise appropriated, such sums as may be necessary to
18 enable the board to hire additional staff and contract for
19 services under this subsection. The costs of the additional
20 staff and service shall be assessed to the utilities pursuant
21 to the procedure in section 476.10.

22 Sec. 4. Section 476A.6, Code 2001, is amended to read as
23 follows:

24 476A.6 DECISION -- CRITERIA.

25 The board shall render a decision on the application in an
26 expeditious manner. A certificate shall be issued to the
27 applicant if the board finds all of the following:

28 1. The services and operations resulting from the
29 construction of the facility are ~~required-by-the-present-or~~
30 ~~future-public-convenience,-use-and-necessity~~ compatible with
31 the energy policy of the state as developed under section
32 476.53 and the economic development policy of the state as
33 expressed in Title I, subtitle 5, and will not be detrimental
34 to the provision of adequate and reliable electric service.

35 2. The applicant is willing to ~~perform-such-services-and~~

1 construct, maintain, and operate the facility pursuant to the
2 provisions of the certificate and this chapter.

3 3. The construction, maintenance, and operation of the
4 facility will cause-minimum-adverse be consistent with
5 reasonable land use, and environmental, and-aesthetic-impact
6 policies and are consonant with reasonable utilization of air,
7 land, and water resources, for-beneficial-purposes considering
8 reasonably available technology and the-economics-of-available
9 alternatives.

10 4.--The applicant, if a public utility as defined in
11 section 476.1, has in effect a comprehensive energy management
12 program designed to reduce peak loads and to increase
13 efficiency of use of energy by all classes of customers of the
14 utility, and the facility in the application is necessary
15 notwithstanding the existence of the comprehensive energy
16 management program.--As used in this subsection, a
17 "comprehensive energy management program" includes at a
18 minimum the following:

19 a.--Establishment of load management and interruptible
20 service programs, where cost effective.

21 b.--Development of wheeling agreements and other energy
22 sharing agreements, where cost effective with utilities that
23 have available capacity.

24 c.--Establishment of cost effective energy efficiency and
25 renewable energy services and programs.

26 d.--Compliance with board rules on energy management
27 procedures.

28 5.--The applicant, if a public utility as defined in
29 section 476.1, shall demonstrate to the board that the utility
30 has considered sources for long term electric supply from
31 either purchase of electricity or investment in facilities
32 owned by other persons.

33 6.--The applicant, if a public utility as defined in
34 section 476.1, has considered all feasible alternatives to the
35 proposed facility including nongeneration alternatives, has

~~1 ranked those alternatives by cost; has implemented the least-~~
~~2 cost alternatives first; and the facility in the application~~
~~3 is necessary notwithstanding the implementation of these~~
~~4 alternatives.~~

5 Sec. 5. Section 476A.15, Code 2001, is amended to read as
6 follows:

7 476A.15 WAIVER.

8 The board, if it determines that the public interest would
9 not be adversely affected, may waive any of the requirements
10 of this chapter ~~for facilities with a capacity of one hundred~~
11 ~~or fewer megawatts.~~

12 Sec. 6. NEW SECTION. 476A.20 DEFINITIONS.

13 For purposes of this subchapter, unless the context
14 otherwise requires:

15 1. "Electric power agency" means an entity as defined in
16 section 28F.2.

17 2. "Facility" means an electric power generating plant, or
18 transmission line or system, as defined in section 476A.1.

19 3. "Public bond or obligation" means an obligation as
20 defined in section 76.14.

21 Sec. 7. NEW SECTION. 476A.21 ELECTRIC POWER AGENCY --
22 GENERAL AUTHORITY.

23 In addition to other powers conferred upon an electric
24 power agency by chapter 28F or other applicable law, an
25 electric power agency may enter into and carry out joint
26 agreements with other participants for the acquisition of
27 ownership of a joint facility and for the planning, financing,
28 operation, and maintenance of the joint facility, as provided
29 in this subchapter.

30 Sec. 8. NEW SECTION. 476A.22 ELECTRIC POWER AGENCY --
31 AUTHORITY -- CONFLICTING PROVISIONS.

32 1. In addition to any powers conferred upon an electric
33 power agency under chapter 28F or other applicable law, an
34 electric power agency may exercise all other powers reasonably
35 necessary or appropriate for or incidental to the effectuation

1 of the electric power agency's authorized purposes, including
2 without limitation, the powers enumerated in chapters 6A and
3 6B for purposes of constructing or acquiring an electric power
4 facility.

5 2. An electric power agency, in connection with its
6 property and affairs, and in connection with property within
7 its control, may exercise any and all powers that might be
8 exercised by a natural person or a private corporation in
9 connection with similar property and affairs.

10 3. The enumeration of specified powers and functions of an
11 electric power agency in this subchapter is not a limitation
12 of the powers of an electric power agency, but the procedures
13 prescribed for exercising the powers and functions enumerated
14 in subchapter control and govern in the event of any conflict
15 with any other provision of law.

16 4. The authority conferred pursuant to this subchapter
17 applies to electric power agencies, notwithstanding any
18 contrary provisions of section 28F.1.

19 Sec. 9. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC BONDS OR
20 OBLIGATIONS -- PURPOSES -- LIMITATIONS.

21 1. An electric power agency may from time to time issue
22 its public bonds or obligations in such principal amounts as
23 the electric power agency deems necessary to provide
24 sufficient funds to carry out any of its purposes and powers,
25 including but not limited to any of the following:

26 a. The acquisition or construction of any project to be
27 owned or leased by the electric power agency, or the
28 acquisition of any interest in such project or any right to
29 the capacity of such project.

30 b. The funding or refunding of the principal of, or
31 interest or redemption premiums on, any public bonds or
32 obligations issued by the electric power agency whether or not
33 the public bonds or obligations or interest to be funded or
34 refunded have become due.

35 c. The establishment or increase of reserves to secure or

1 to pay the public bonds or obligations or interest on the
2 public bonds or obligations.

3 d. The payment of all other costs or expenses of the
4 electric power agency incident to and necessary to carry out
5 its purposes and powers.

6 2. Notwithstanding anything in this subchapter or chapter
7 28F to the contrary, a transmission facility shall not be
8 financed with the proceeds of public bonds or obligations, the
9 interest on which is exempt from federal income tax, unless
10 the public issuer of such public bonds or obligations
11 covenants that the issuer shall comply with the requirements
12 or limitations imposed by the Internal Revenue Code or other
13 applicable federal law to preserve the tax exemption of
14 interest payable on the bonds or obligations.

15 3. Notwithstanding anything in this subchapter or chapter
16 28F to the contrary, an electric power generating facility
17 shall not be financed under this subchapter unless all of the
18 following conditions are satisfied:

19 a. The electric power generating facility is designed to
20 serve only the electric power requirements of retail customers
21 of members that were municipal electric utilities established
22 in the state prior to January 1, 2001.

23 b. The public bonds or obligations issued are of a type
24 for which the interest is not exempt from federal income tax.

25 c. The electric power agency provides generation services
26 only to its members.

27 d. The electric power agency annually files with the
28 board, in a manner to be determined by the board, information
29 regarding sales from the electric power generating facility in
30 sufficient detail to determine compliance with these
31 provisions.

32 The board shall report to the general assembly if any of
33 the provisions are being violated.

34 Sec. 10. NEW SECTION. 476A.24 PUBLIC BONDS OR
35 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD -- TERMS.

1 1. The board of directors of an electric power agency, by
2 resolution, may authorize the issuance of public bonds or
3 obligations of the electric power agency.

4 2. The public bonds or obligations may be issued in one or
5 more series under the resolution or under a trust indenture or
6 other security agreement.

7 3. The resolution, trust indenture, or other security
8 agreement, with respect to such public bonds or obligations,
9 shall provide for all of the following:

10 a. The date on the public bonds or obligations.
11 b. The time of maturity.
12 c. The rate of interest.
13 d. The denomination.
14 e. The form, either coupon or registered.
15 f. The conversion, registration, and exchange privileges.
16 g. The rank or priority.
17 h. The manner of execution.
18 i. The medium of payment, including the place of payment,
19 either within or outside of the state.
20 j. The terms of redemption, either with or without
21 premium.
22 k. Such other terms and conditions as set forth by the
23 board in the resolution, trust indenture, or other security
24 agreement.

25 4. Public bonds or obligations authorized by the board of
26 directors shall not be subject to any restriction under other
27 law with respect to the amount, maturity, interest rate, or
28 other terms of obligation of a public agency or private
29 person.

30 5. Chapter 75 shall not apply to public bonds or
31 obligations authorized by the board of directors as provided
32 in this section.

33 Sec. 11. NEW SECTION. 476A.25 PUBLIC BONDS OR
34 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR FUNDS.

35 1. The principal of and interest on any public bonds or

1 obligations issued by an electric power agency shall be
2 payable solely from the revenues or funds pledged or available
3 for their payment as authorized in this subchapter.

4 2. Each public bond or obligation shall contain all of the
5 following terms:

6 a. That the principal of or interest on such public bonds
7 or obligation is payable solely from revenues or funds of the
8 electric power agency.

9 b. That neither the state or a political subdivision of
10 the state other than the electric power agency, nor a public
11 agency that is a member of the electric power agency is
12 obligated to pay the principal or interest on such public
13 bonds or obligations.

14 c. That neither the full faith and credit nor the taxing
15 power of the state, of any political subdivision of the state,
16 or of any such public agency is pledged to the payment of the
17 principal of or the interest on the public bonds or
18 obligations.

19 Sec. 12. NEW SECTION. 476A.26 PUBLIC BONDS OR
20 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT -- SECURITY.

21 1. Except as otherwise expressly provided by this
22 subchapter or by the electric power agency, every issue of
23 public bonds or obligations of the electric power agency shall
24 be payable out of any revenues or funds of the electric power
25 agency, subject only to any agreements with the holders of
26 particular public bonds or obligations pledging any particular
27 revenues or funds.

28 2. An electric power agency may issue types of public
29 bonds or obligations as it may determine, including public
30 bonds or obligations as to which the principal and interest
31 are payable exclusively from the revenues from one or more
32 projects, or from an interest in such project or projects, or
33 a right to capacity of such project or projects, or from any
34 revenue-producing contract made by the electric power agency
35 with any person, or from its revenues generally.

1 3. Any public bonds or obligations may be additionally
2 secured by a pledge of any grant, subsidy, or contribution
3 from any public agency or other person, or a pledge of any
4 income or revenues, funds, or moneys of the electric power
5 agency from any other source.

6 Sec. 13. NEW SECTION. 476A.27 PUBLIC BONDS OR
7 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO STATE
8 APPROVAL.

9 Public bonds or obligations of an electric power agency may
10 be issued under this subchapter, and rents, rates, and charges
11 may be established in the same manner as provided in section
12 28F.5 and pledged for the security of public bonds or
13 obligations and interest and redemption premiums on such
14 public bonds or obligations, without obtaining the consent of
15 any department, division, commission, board, bureau, or agency
16 of the state and without any other proceeding or the happening
17 of any other condition or occurrence, except as specifically
18 required by this subchapter.

19 Sec. 14. NEW SECTION. 476A.28 PUBLIC BONDS OR
20 OBLIGATIONS TO BE NEGOTIABLE.

21 All public bonds or obligations of an electric power agency
22 shall be negotiable within the meaning and for all of the
23 purposes of the uniform commercial code, chapter 554, subject
24 only to the registration requirement of section 76.10.

25 Sec. 15. NEW SECTION. 476A.29 VALIDITY OF PUBLIC BONDS
26 OR OBLIGATIONS AT DELIVERY -- TEMPORARY BONDS.

27 1. Any public bonds or obligations may be issued and
28 delivered, notwithstanding that one or more of the officers
29 executing them shall have ceased to hold office at the time
30 when the public bonds or obligations are actually delivered.

31 2. Pending preparation of definitive bonds obligations, an
32 electric power agency may issue temporary bonds or obligations
33 that shall be exchanged for the definitive bonds or
34 obligations upon their issuance.

35 Sec. 16. NEW SECTION. 476A.30 PUBLIC OR PRIVATE SALE OF

1 BONDS AND NOTES.

2 Public bonds or obligations of an electric power agency may
3 be sold at public or private sale for a price and in a manner
4 determined by the electric power agency.

5 Sec. 17. NEW SECTION. 476A.31 PUBLIC BONDS OR
6 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL UNITS,
7 FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

8 The following persons may legally invest any debt service
9 funds, money, or other funds belonging to such person or
10 within such person's control in any public bonds or
11 obligations issued pursuant to this subchapter:

12 1. A bank, trust company, savings association, building
13 and loan association, savings and loan association, or
14 investment company.

15 2. An insurance company, insurance association, or any
16 other person carrying on an insurance business.

17 3. An executor, administrator, conservator, trustee, or
18 other fiduciary.

19 4. Any other person authorized to invest in bonds or
20 obligations of the state.

21 Sec. 18. NEW SECTION. 476A.32 RESOLUTION, TRUST
22 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT --
23 PROVISIONS.

24 The resolution, trust indenture, or other security
25 agreement under which any public bonds or obligations are
26 issued shall constitute a contract with the holders of the
27 public bonds or obligations, and may contain provisions, among
28 others, prescribing any of the following terms:

29 1. The terms and provisions of the public bonds or
30 obligations.

31 2. The mortgage or pledge of and the grant of a security
32 interest in any real or personal property and all or any part
33 of the revenue from any project or any revenue producing
34 contract made by the electric power agency with any person to
35 secure the payment of public bonds or obligations, subject to

1 any agreements with the holders of public bonds or obligations
2 which might then exist.

3 3. The custody, collection, securing, investment, and
4 payment of any revenues, assets, money, funds, or property
5 with respect to which the electric power agency may have any
6 rights or interest.

7 4. The rates or charges for electric energy sold by, or
8 services rendered by, the electric power agency, the amount to
9 be raised by the rates or charges, and the use and disposition
10 of any or all revenue.

11 5. The creation of reserves or debt service funds and the
12 regulation and disposition of such reserves or funds.

13 6. The purposes to which the proceeds from the sale of any
14 public bonds or obligations to be issued may be applied, and
15 the pledge of the proceeds to secure the payment of the public
16 bonds or obligations.

17 7. Limitations on the issuance of any additional public
18 bonds or obligations, the terms upon which additional public
19 bonds or obligations may be issued and secured, and the
20 refunding of outstanding public bonds or obligations.

21 8. The rank or priority of any public bonds or obligations
22 with respect to any lien or security.

23 9. The creation of special funds or moneys to be held for
24 operating expenses, payment, or redemption of public bonds or
25 obligations, reserves or other purposes, and the use and
26 disposition of moneys held in these funds.

27 10. The procedure by which the terms of any contract with
28 or for the benefit of the holders of public bonds or
29 obligations may be amended or abrogated, the amount of public
30 bonds or obligations the holders of which must consent to such
31 amendment or abrogation, and the manner in which consent may
32 be given.

33 11. The definition of the acts or omissions to act that
34 constitute a default in the duties of the electric power
35 agency to holders of its public bonds or obligations, and the

1 rights and remedies of the holders in the event of default
2 including, if the electric power agency so determines, the
3 right to accelerate the date of the maturation of the public
4 bonds or obligations or the right to appoint a receiver or
5 receivers of the property or revenues subject to the lien of
6 the resolution, trust indenture, or other security agreement.

7 12. Any other or additional agreements with or for the
8 benefit of the holders of public bonds or obligations or any
9 covenants or restrictions necessary or desirable to safeguard
10 the interests of the holders.

11 13. The custody of any of the electric power agency's
12 property or investments, the safekeeping of such property or
13 investments, the insurance to be carried on such property or
14 investments, and the use and disposition of insurance
15 proceeds.

16 14. The vesting in a trustee or trustees, within or
17 outside the state, of such property, rights, powers, and
18 duties as the electric power agency may determine; or the
19 limiting or abrogating of the rights of the holders of any
20 public bonds or obligations to appoint a trustee, or the
21 limiting of the rights, powers, and duties of such trustee.

22 15. The appointment of and the establishment of the duties
23 and obligations of any paying agent or other fiduciary within
24 or outside the state.

25 Sec. 19. NEW SECTION. 476A.33 MORTGAGE OR TRUST DEED TO
26 SECURE BONDS.

27 For the security of public bonds or obligations issued or
28 to be issued by an electric power agency, the electric power
29 agency may mortgage or execute deeds of trust of the whole or
30 any part of its property.

31 Sec. 20. NEW SECTION. 476A.34 NO PERSONAL LIABILITY ON
32 PUBLIC BONDS OR OBLIGATIONS.

33 An official, director, member of an electric power agency,
34 or any person executing public bonds or obligations shall not
35 be liable personally on the public bonds or obligations or be

1 subject to any personal liability or accountability by reason
2 of the issuance of such public bonds or obligations.

3 Sec. 21. NEW SECTION. 476A.35 REPURCHASE OF SECURITIES.

4 An electric power agency may purchase public bonds or
5 obligations out of any funds available for such purchase, and
6 hold, pledge, cancel, or resell the public bonds or
7 obligations, subject to and in accordance with any agreements
8 with the holders.

9 Sec. 22. NEW SECTION. 476A.36 PLEDGE OF REVENUE AS
10 SECURITY.

11 An electric power agency may pledge its rates, rents, and
12 other revenues, or any part of such rates, rents, and
13 revenues, as security for the repayment, with interest and
14 redemption premiums, if any, of the moneys borrowed by the
15 electric power agency or advanced to the electric power agency
16 for any of its authorized purposes and as security for the
17 payment of moneys due and owed by the electric power agency
18 under any contract.

19 Sec. 23. Section 478.3, Code 2001, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 3. For the purpose of this section, the
22 term "public" shall not be interpreted to be limited to
23 consumers located in this state.

24 Sec. 24. CODE EDITOR DIRECTIVE. The Code editor shall
25 change references to "this chapter" in sections 476A.1 through
26 476A.15 as necessary and appropriate to reflect the addition
27 of the new subchapter to chapter 476A as a result of this Act.

28 EXPLANATION

29 This bill makes changes to provisions in Code chapter 476A,
30 relating to siting for electric plant generators, as well as
31 making related changes in other parts of the Code.

32 The bill amends Code section 476A.6 to provide that the
33 board shall issue a certificate if it finds three criteria
34 have been met: (1) the services and operations resulting from
35 the construction of the facility are compatible with the

1 electric energy policy and the economic development policy of
2 the state as expressed in the Code, and will not be
3 detrimental to the provision of adequate and reliable electric
4 service; (2) the applicant is willing to construct, maintain,
5 and operate the facility pursuant to the provisions of the
6 certificate and Code chapter 476A; and (3) the construction,
7 maintenance, and operation of the facility will be consistent
8 with reasonable land use and environmental policy, and
9 consonant with reasonable utilization of air, land, and water
10 resources, considering reasonably available technology.

11 These criteria replace prior statements regarding present
12 or future public convenience, use, and necessity; minimum
13 adverse land use; aesthetic impact; beneficial purposes
14 considering the economics of available alternatives; details
15 of a comprehensive energy management program by the public
16 utility, including load management, interruptible service,
17 wheeling agreements and other energy sharing agreements, and
18 energy efficiency and renewable energy services and programs;
19 long-term electric supply; and nongeneration alternatives.

20 The bill amends Code section 476A.15, to allow waiver by
21 the utilities board of any of the requirements of Code chapter
22 476A if it determines that the public interest would not be
23 adversely affected. The Code currently allows waivers only
24 for facilities with a capacity of 100 or fewer megawatts.

25 The bill adds a new subsection to Code section 476.6
26 regarding board approval of contracts by rate-regulated public
27 utilities to purchase power. If the contract meets all of the
28 following criteria, the utility shall file the contract with
29 the board, and may recover the costs of the contract in
30 regulated retail electric rates, including through an
31 automatic adjustment of rates: (1) the contract is for five
32 years or longer; (2) the amount of power purchased equals or
33 exceeds 5 percent of the utility's Iowa retail load; (3) the
34 power is being purchased from a new electric power generation
35 facility being planned or under construction as of the date of

1 the contract. The utility may choose to seek approval of
2 other contracts for the purchase of electric power. The board
3 shall issue its decision within 90 days of the utility's
4 filing. The board shall approve the contract if, after a
5 contested case proceeding, it finds that the terms of the
6 contract are reasonable and prudent. Approval by the board
7 shall constitute an irrevocable determination of the prudence
8 and reasonableness of the contract and its terms.

9 A new subsection is also added to Code section 476.6
10 regarding emissions from electric power generating facilities.
11 Coal-fired facilities located in the state on June 1, 2001,
12 are required to develop multiyear plans and budgets for
13 managing regulated emissions from the facility in a cost-
14 effective manner. The initial plan and budget must be filed
15 by October 1, 2001, and updates shall be filed at least every
16 24 months. Copies of the initial plan, budget, and updates
17 shall be served on the environmental protection division of
18 the department of natural resources and the consumer advocate.
19 The plan, budget, and updates shall be considered in a
20 contested case proceeding, and the department of natural
21 resources and consumer advocate shall participate as parties.
22 The department of natural resources shall state whether the
23 plan or update meets applicable state environmental
24 requirements for regulated emissions, and if not, shall
25 recommend amendments to bring the plan into compliance with
26 requirements. The board shall not approve a plan that does
27 not meet applicable state requirements for regulated
28 emissions. The board shall approve a plan or update and the
29 associated budget if it is consistent with the electric energy
30 policy developed under Code section 476.53, and reasonably
31 balances costs, environmental requirements, economic
32 development potential, and the reliability of the electric
33 utility and generation system. The board shall issue an order
34 approving or rejecting a plan or update and the associated
35 budget within 180 days after the filing. The reasonable costs

1 incurred in preparing and filing the plan or update and
2 associated budget shall be included in regulated retail rates.

3 The bill also amends Code section 476.53 by inserting
4 completely new language. The new language states that the
5 intent of the general assembly is to attract the development
6 of electric power generating facilities within the state in
7 sufficient quantity to ensure reliable electric service to
8 Iowa consumers and provide economic benefits to the state,
9 implemented in a manner that is cost-effective and compatible
10 with the environmental policies of the state, as expressed in
11 the Code. To that end, the board is directed to report to the
12 general assembly on January 21, 2002, and every two years
13 thereafter, regarding the actions it recommends be taken to
14 implement the general assembly's intent, in developing the
15 state's energy policy focusing on specific issues. The board
16 may employ additional staff to complete the report the cost of
17 which may be assessed to the utilities under Code section
18 476.10.

19 This bill creates a new subchapter of Code chapter 476A,
20 regarding electric power generators, that addresses joint
21 agreements for the acquisition of ownership, and for the
22 planning, financing, operation, and maintenance of joint
23 facilities devoted to electric power generation and
24 transmission, and providing for the bonding authority of
25 electric power agencies.

26 The bill creates new Code section 476A.20, which provides
27 definitions for "electric power agency", "facility", and
28 "public bond or obligation". "Electric power agency" means an
29 entity as defined in Code section 28F.2, which is an entity
30 financing or acquiring electric power facilities pursuant to
31 Code chapter 28F or Code chapter 28E. "Public bond or
32 obligation" means an obligation as defined in Code section
33 76.14, which is any obligation issued by or on behalf of the
34 state, an agency of the state, or a political subdivision of
35 the state. A "facility" is an electric power generating

1 plant, or transmission line or system, as defined in Code
2 section 476A.1.

3 The bill creates new Code section 476A.21, providing for
4 the general authority of an electric power agency to enter
5 into and carry out joint agreements with other participants
6 for the acquisition of ownership of a joint facility, and for
7 the planning, financing, operation, and maintenance of the
8 joint facility.

9 The bill creates new Code section 476A.22, providing for
10 the electric power agency to exercise all powers necessary and
11 appropriate, that might be exercised by a natural person or
12 private corporation, for constructing or acquiring an electric
13 power facility. The new Code sections added to Code chapter
14 476A shall govern in the event of conflict.

15 The bill adds new Code section 476A.23, providing for the
16 issuance of public bonds to carry out any purposes and powers,
17 including the following: (1) the acquisition or construction
18 of any project to be owned or leased by the electric power
19 agency, or any interest in, or any right to the capacity of
20 such project; (2) the funding or refunding of the principal,
21 interest, or redemption premiums relating to any public bonds
22 or obligations issued by the electric power agency, whether or
23 not the public bonds or obligations or interest have become
24 due; (3) the establishment or increase of reserves to secure
25 or to pay the public bond or obligations or interest; (4) the
26 payment of all other costs or expenses of the electric power
27 agency necessary to carry out its purposes and powers. A
28 transmission facility shall not be financed with the proceeds
29 from public bonds or obligations, the interest on which is
30 exempt from federal income tax, unless the public issuer of
31 such public bonds or obligations promises that the issuer
32 shall comply with the requirements of the Internal Revenue
33 Code to preserve the tax exemption of interest payable on the
34 bonds or obligations.

35 An electric power generating facility shall not be financed

1 under the subchapter unless the following conditions are met:
2 (1) the electric power generating facility is designed to
3 serve only the requirements of retail customers of members
4 that were municipal electric utilities established in Iowa
5 prior to January 1, 2001; (2) the bonds or obligations are not
6 exempt from federal income tax; (3) the electric power agency
7 only provides services to its members; (4) the electric power
8 agency files annually with the board information regarding
9 sales. The board shall report to the general assembly if any
10 provision is violated.

11 The bill enacts new Code section 476A.24, regarding public
12 bonds or obligations authorized by resolution of the board of
13 directors of the electric power agency, or under a trust
14 indenture or other security agreement, that must specifically
15 address a list of facts about the bonds. The bonds may be
16 issued in one or more series, and must not be subject to any
17 restriction under other law regarding the amount, maturity,
18 interest rate, or other terms of obligation of a public agency
19 or private person. Code chapter 75, regarding the
20 authorization and sale of public bonds, does not apply to
21 public bonds or obligations authorized under Code section
22 476A.24.

23 This bill creates new Code section 476A.25, regarding
24 public bonds or obligations payable solely from agency
25 revenues or funds. The principal of and interest upon any
26 public bonds and obligations issued by an electric power
27 agency shall be payable solely from the revenues or funds
28 pledged or available for their payment. Each public bond or
29 obligation shall contain all of the following terms: (1) that
30 the principal of or interest on such public bonds or
31 obligation is payable solely from revenues or funds of the
32 electric power agency; (2) that neither the state, or a
33 political subdivision of the state other than the electric
34 power agency, nor a public agency that is a member of the
35 electric power agency is obligated to pay the principal or

1 interest on such public bonds or obligations; (3) that the
2 full faith and credit or the taxing power of the state or any
3 political subdivision of the state or of any such public
4 agency is not pledged to the payment of the principal of or
5 the interest on the public bonds or obligations.

6 The bill creates new Code section 476A.26, regarding
7 sources for payment and security for public bonds and
8 obligations. Public bonds or obligations are payable from the
9 revenues or funds of the electric power agency, subject to any
10 agreements with holders of particular public bonds or
11 obligations pledging any particular revenues or funds. An
12 electric power agency may issue types of public bonds or
13 obligations as it may determine, including that where the
14 principal and interest are payable exclusively from the
15 revenues from one or more projects or from interest in such
16 project or projects, or a right to capacity of such project or
17 projects, or from any revenue-producing contract made by the
18 electric power agency with any person. Any public bonds or
19 obligations may be secured by a pledge of any grant, subsidy,
20 or contribution from any public agency or other person, or a
21 pledge of any income or revenues, funds, or moneys of the
22 electric power agency from any other source.

23 The bill creates new Code section 476A.27, which provides
24 that public bonds or obligations of an electric power agency
25 may be issued pursuant to the new Code sections established
26 under Code chapter 476A, and rates may be established in the
27 same manner as provided in Code section 28F.5 without the
28 consent of any department of the state. New Code section
29 476A.28 provides that all public bonds or obligations of an
30 electric power agency shall be negotiable within the meaning
31 of the uniform commercial code.

32 New Code section 476A.29 provides that the electric power
33 agency may issue temporary bonds or obligations that shall be
34 exchanged for the definitive bonds or obligations upon their
35 issuance, and that public bonds or obligations may be issued

1 and delivered notwithstanding that one or more of the officers
2 executing them shall have ceased to hold office at the time
3 when the public bonds or obligations are actually delivered.

4 New Code section 476A.30 provides that public bonds or
5 obligation of an electric power agency may be sold at public
6 or private sale for a price and in a manner determined by the
7 electric power agency. New Code section 476A.31 provides that
8 the following persons may legally invest any debt service
9 funds, money, or other funds belonging to such person or
10 within such person's control in any public bonds or
11 obligations issued pursuant to the new Code sections added to
12 Code chapter 476A: (1) a bank, trust company, savings
13 association, building and loan association, savings and loan
14 association, or investment company; (2) an insurance company,
15 insurance association, or any other person carrying on an
16 insurance business; (3) an executor, administrator,
17 conservator, trustee, or other fiduciary; (4) any other person
18 authorized to invest in bonds or obligations of the state.

19 The bill creates new Code section 476A.32, providing that
20 the resolution, trust indenture, or other security agreement
21 under which any public bonds or obligations are issued shall
22 constitute a contract with the holders of the public bonds or
23 obligations. Code section 476A.32 also provides that the
24 document may contain provisions, among others, that address
25 the following terms: (1) the terms and provisions of the
26 public bonds or obligations; (2) the mortgage or pledge of and
27 the grant of a security interest in any real or personal
28 property and all or any part of the revenue from any project
29 or any revenue-producing contract made by the electric power
30 agency with any person to secure the payment of the public
31 bonds or obligations, subject to any agreements with the
32 holders of public bonds or obligations which might then exist;
33 (3) the custody, collection, securing, investment, and payment
34 of any revenues, assets, money, funds, or property with
35 respect to which the electric power agency may have any rights

1 or interest; (4) the rates or charges for electric energy sold
2 by, or services rendered by, the electric power agency, the
3 amount to be raised by the rates or charges, and the use and
4 disposition of any or all revenue; (5) the creation of
5 reserves or debt service funds and the regulation and
6 disposition of such reserves or funds; (6) the purposes to
7 which the proceeds from the sale of any public bonds or
8 obligations to be issued may be applied, and the pledge of the
9 proceeds to secure the payment of the public bonds or
10 obligations; (7) limitations on the issuance of any additional
11 public bonds or obligations, the terms upon which additional
12 public bonds or obligations may be issued and secured, and the
13 refunding of outstanding public bonds or obligations; (8) the
14 rank or priority of any public bonds or obligations with
15 respect to any lien or security; (9) the creation of special
16 funds or moneys to be held for operating expenses, payment or
17 redemption of public bonds or obligations, reserves, or other
18 purposes, and the use and disposition of moneys held in these
19 funds; (10) the procedure by which the terms of any contract
20 with or for the benefit of the holders of the public bonds or
21 obligations may be amended or abrogated, the amount of public
22 bonds or obligations the holders of which must consent to such
23 amendment or abrogation, and the manner in which consent may
24 be given; (11) the definition of the acts or omissions to act
25 that shall constitute a default in the duties of the electric
26 power agency to holders of its public bonds or obligations,
27 and the rights and remedies of the holders in the event of
28 default, including, if the electric power agency so
29 determines, the right to accelerate the due date of the
30 maturation of the public bonds or obligations or the right to
31 appoint a receiver of the property or revenues; (12) any other
32 agreements for the benefit of the holders of the public bonds
33 or obligations; (13) the custody, safekeeping, and insurance
34 for any of the electric power agency's property or
35 investments, including the use and disposition of insurance

1 proceeds; (14) the vesting of rights, powers, and duties in a
2 trustee; the limiting or abrogating of the rights of the
3 holders of any public bonds or obligations to appoint a
4 trustee; or the limiting or the rights, powers, and duties of
5 such trustee; (15) the appointment and establishment of duties
6 and obligations of any paying agent or other fiduciary.

7 The bill creates new Code section 476A.33, providing that
8 the electric power agency may mortgage or execute deeds of
9 trust of the whole or any part of its property for the
10 security of public bonds or obligations issued or to be
11 issued.

12 New Code section 476A.34 provides that an official,
13 director, member of an electric power agency, or any person
14 executing public bonds or obligations shall not be personally
15 liable on the public bonds or obligations, or be subject to
16 personal liability or accountability by issuance of the public
17 bonds or obligations.

18 New Code section 476A.35 provides that an electric power
19 agency may purchase public bonds or obligations out of any
20 funds available for such purchase, and may hold, pledge,
21 cancel, or resell the public bonds or obligations in
22 accordance with any agreements with the holders.

23 New Code section 476A.36 provides that an electric power
24 agency may pledge its rates, rents, and other revenues as
25 security for the repayment and payment of moneys due and owed
26 by it under any contract.

27 The bill provides that the Code editor may change the use
28 of the term "this chapter" in the remainder of Code chapter
29 476A to accommodate the addition of the new subchapter.

30 The bill also amends Code section 478.3, regarding
31 petitions for electric transmission lines, to address the
32 federal regulatory process that governs many of the same
33 activities regulated under state law, and to specify that the
34 definition of "public" should not be limited to consumers of
35 the state of Iowa.

HOUSE FILE 577

H-1231

1 Amend House File 577 as follows:
2 1. Page 3, line 26, by inserting after the word
3 "requirements." the following: "Failure of the
4 department to recommend timely amendments does not
5 constitute good cause for the purpose of paragraph
6 "d"."

By OSTERHAUS of Jackson

H-1231 FILED MARCH 14, 2001

o/o
4/2/01 (p. 1026)

HOUSE FILE 577

H-1232

1 Amend House File 577 as follows:
2 1. Page 2, by inserting after line 30 the
3 following:
4 "i. This subsection does not exempt a power
5 purchase contract that is not required to be filed
6 with the board pursuant to the requirements of this
7 subsection from review and approval by the board
8 pursuant to any other applicable provision of this
9 chapter."

By OSTERHAUS of Jackson

H-1232 FILED MARCH 14, 2001

Lost
4/2/01 (p. 1038)

HOUSE FILE 577

H-1239

1 Amend House File 577 as follows:
2 1. Page 10, line 7, by striking the words "a
3 transmission" and inserting the following: "an
4 electric power".
5 2. Page 10, by striking lines 15 through 33.

By WISE of Lee

SHOULTZ of Black Hawk

WITT of Black Hawk

FALCK of Fayette

H-1239 FILED MARCH 15, 2001

W/D
4/2/01
(p. 1049)

HOUSE FILE 577

H-1233

- 1 Amend House File 577 as follows:
- 2 1. Page 5, line 32, by inserting after the word
- 3 "grid" the following: ", including the need for
- 4 transmission facilities to ensure Iowans' access to
- 5 power generated in other states".

By OSTERHAUS of Jackson

H-1233 FILED MARCH 14, 2001

Adopted
4/2/01 (P. 1047)

HOUSE FILE 577

H-1234

- 1 Amend House File 577 as follows:
- 2 1. Page 6, line 12, by inserting after the word
- 3 "board" the following: "and the office of the
- 4 consumer advocate".
- 5 2. Page 6, line 18, by inserting after the word
- 6 "board" the following: "and the consumer advocate".

By OSTERHAUS of Jackson

H-1234 FILED MARCH 14, 2001

0/0
4/2/01
(P. 1037)

HOUSE FILE 577

H-1235

- 1 Amend House File 577 as follows:
- 2 1. Page 10, by striking lines 6 through 33 and
- 3 inserting the following:
- 4 "2. Notwithstanding anything in this subchapter or
- 5 chapter 28F to the contrary, an electric power
- 6 facility shall not be financed with the proceeds of
- 7 public bonds or obligations, the interest on which is
- 8 exempt from federal income tax, unless the public
- 9 issuer shall comply with the requirements or
- 10 limitations imposed by the Internal Revenue Code or
- 11 other applicable federal law to preserve the tax
- 12 exemption of interest payable on the bonds or
- 13 obligations."

By OSTERHAUS of Jackson

H-1235 FILED MARCH 14, 2001

Lost *4/2/01*
(P. 1050)

HOUSE FILE 577

H-1236

- 1 Amend House File 577 as follows:
- 2 1. Page 2, line 21, by inserting after the word
- 3 "board" the following: "and the office of the
- 4 consumer advocate".
- 5 2. Page 2, line 23, by inserting after the word
- 6 "board" the following: "or the consumer advocate".
- 7 3. Page 2, line 27, by inserting after the word
- 8 "board" the following: "or the consumer advocate".

By OSTERHAUS of Jackson

H-1236 FILED MARCH 14, 2001

4/2/01 adopted *Filed March 14, 2001*

HOUSE FILE 577

H-1237

1 Amend House File 577 as follows:

2 1. Page 2, line 21, by inserting after the word
3 "board" the following: "and the office of the
4 consumer advocate".

5 2. Page 2, line 23, by inserting after the word
6 "board" the following: "or the consumer advocate".

7 3. Page 2, line 27, by inserting after the word
8 "board" the following: "or the consumer advocate".

9 4. Page 2, by inserting after line 30 the
10 following:

11 "i. This subsection does not exempt a power
12 purchase contract that is not required to be filed
13 with the board pursuant to the requirements of this
14 subsection from review and approval by the board
15 pursuant to any other applicable provision of this
16 chapter."

17 5. Page 3, line 26, by inserting after the word
18 "requirements." the following: "Failure of the
19 department to recommend timely amendments does not
20 constitute good cause for the purpose of paragraph
21 "d"."

22 6. Page 5, line 32, by inserting after the word
23 "grid" the following: ", including the need for
24 transmission facilities to ensure Iowans' access to
25 power generated in other states".

26 7. Page 6, line 12, by inserting after the word
27 "board" the following: "and the office of the
28 consumer advocate".

29 8. Page 6, line 18, by inserting after the word
30 "board" the following: "and the consumer advocate".

31 9. Page 10, by striking lines 6 through 33 and
32 inserting the following:

33 "2. Notwithstanding anything in this subchapter or
34 chapter 28F to the contrary, an electric power
35 facility shall not be financed with the proceeds of
36 public bonds or obligations, the interest on which is
37 exempt from federal income tax, unless the public
38 issuer shall comply with the requirement or
39 limitations imposed by the Internal Revenue Code or
40 other applicable federal law to preserve the tax
41 exemption of interest payable on the bonds or
42 obligations."

43 10. By renumbering as necessary.

By OSTERHAUS of Jackson

H-1237 FILED MARCH 14, 2001

W/D
4/2/01 (p. 1037)

HOUSE FILE 577

H-1240

1 Amend House File 577 as follows:
 2 1. Page 2, by striking lines 13 through 16 and
 3 inserting the following:
 4 "f. The contract costs or the portion of the
 5 contract costs that are required to provide service to
 6 the public utility's Iowa retail customers shall be
 7 included in the public utility's regulated retail
 8 electric rates if the board finds all of the following
 9 after a contested case proceeding:
 10 (1) The power purchase contract is the least-cost
 11 alternative.
 12 (2) The contract costs or the portion of the
 13 contract costs that are required to provide service to
 14 the public utility's Iowa retail customers are not
 15 offset by other cost decreases or revenue increases.
 16 (3) The resulting return on common equity will not
 17 exceed the public utility's actual cost of common
 18 equity as determined by the board.
 19 The public utility may propose to recover the costs
 20 through an automatic adjustment of rates as provided
 21 in subsection 11."

By CHIODO of Polk

H-1240 FILED MARCH 15, 2001

w/p
4/2/01 (p. 1036)

HOUSE FILE 577

H-1241

1 Amend House File 577 as follows:
 2 1. Page 1, line 27, by striking the word "ninety"
 3 and inserting the following: "one hundred eighty".
 4 2. Page 1, line 35, through page 2, line 1, by
 5 striking the word "ninety-day" and inserting the
 6 following: "one-hundred-eighty-day".

By CHIODO of Polk

H-1241 FILED MARCH 15, 2001

lost
4/2/01
(p. 1034)

HOUSE FILE 577

H-1243

1 Amend House File 577 as follows:
 2 1. Page 6, by striking lines 29 and 30 and
 3 inserting the following: "construction of the
 4 facility are required by the present or future public
 5 convenience, use and necessity and are compatible
 6 with".

By SCHRADER of Marion

H-1243 FILED MARCH 15, 2001

lost
4/2/01 (p. 1049)

HOUSE FILE 577

H-1270

1 Amend House File 577 as follows:

2 1. Page 2, by striking lines 8 through 12 and
3 inserting the following:

4 "e. The board shall review the reasonableness and
5 prudence of the costs of a power purchase contract
6 approved under this subsection at least every twenty-
7 four months.

8 (1) If, after a contested case proceeding, the
9 board finds by a preponderance of the evidence that
10 fuel procurement costs or other contract costs are
11 imprudent, unreasonable, or excessive, the board shall
12 order a refund to affected retail customers.

13 (2) In the period between contested case
14 proceedings, the board may require a rate-regulated
15 public utility to file certain information as it deems
16 necessary to monitor power purchase contract costs.
17 The board shall adopt rules pursuant to chapter 17A to
18 administer this subparagraph."

By HATCH of Polk

H-1270 FILED MARCH 20, 2001

lost 4/2/01 (p. 1035) HOUSE FILE 577

H-1271

1 Amend House File 577 as follows:

2 1. Page 4, by inserting after line 35 the
3 following:

4 "Sec. ____ . Section 476.20, Code 2001, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 6. a. The board shall establish
7 rules relating to payment plans for consumers, which
8 rules shall be uniform with respect to all public
9 utilities furnishing gas or electricity, including but
10 not limited to regulated utilities, municipally owned
11 utilities and unincorporated villages that own their
12 own distribution systems, and rural electric
13 cooperatives.

14 b. When a residential customer is subject to
15 disconnection of service, or has had service
16 disconnected, due to inability to pay for utility
17 service, the utility shall offer the residential
18 customer the opportunity to enter into a reasonable
19 agreement to pay the outstanding debt to the utility,
20 unless the customer is in default on a payment
21 agreement."

22 2. Title page, line 2, by inserting after the
23 word "electric" the following: "policy, including".

24 3. Title page, line 11, by inserting after the
25 word "agencies;" the following: "providing for
26 consumer payment plans for utility bills;".

27 4. By renumbering as necessary.

By HATCH of Polk

H-1271 FILED MARCH 20, 2001

W/O 4/2/01 (p. 1040)

HOUSE FILE 577**H-1272**

1 Amend House File 577 as follows:

2 1. Page 11, by inserting after line 32 the
3 following:

4 "Sec. ____ . NEW SECTION. 476A.24A PUBLIC BONDS OR
5 OBLIGATIONS AUTHORIZED BY VOTE.

6 Notwithstanding the provisions of section 476A.24,
7 if the board of directors authorize the issuance of
8 public bonds or obligations totaling fifty million
9 dollars or more in the aggregate, the public bonds or
10 obligations shall not be issued until the proposal for
11 the issuance of the public bonds or obligations by the
12 electric power agency has been submitted to and
13 approved by a majority vote of the voters of each city
14 whose municipal utility is a member of the electric
15 power agency."

16 2. By renumbering as necessary.

By HANSEN OF Pottawattamie
JENKINS of Black Hawk

H-1272 FILED MARCH 20, 2001

W/D

4/2/01 (p. 1050) **HOUSE FILE 577**

H-1254

1 Amend House File 577 as follows:

2 1. Page 1, line 16, by striking the word "five"
3 and inserting the following: "ten".

By CHIODO of Polk

H-1254 FILED MARCH 20, 2001

W/D

4/2/01 (p. 1026)

HOUSE FILE 577

H-1256

- 1 Amend House File 577 as follows:
- 2 1. Page 9, line 29, by inserting after the word
- 3 "project" the following: ", including the
- 4 acquisition, construction, or acquisition of any
- 5 interest in an electric power generating plant to be
- 6 constructed in this state, or the acquisition,
- 7 construction, or acquisition of any interest in a
- 8 transmission line or system".
- 9 2. Page 10, line 7, by striking the word
- 10 "transmission".
- 11 3. Page 10, by striking lines 23 through 26.
- 12 4. By renumbering as necessary.

By KETTERING of Sac	HUSEMAN of Cherokee
WISE of Lee	KLEMME of Plymouth
JOHNSON of Osceola	HAHN of Muscatine
HOFFMAN of Crawford	DRAKE of Pottawattamie
MERTZ of Kossuth	STEVENS of Dickinson
FALCK of Fayette	FREVERT of Palo Alto
BRUNKHORST of Bremer	RICHARDSON of Warren
QUIRK of Chickasaw	GREIMANN of Story
EDDIE of Buena Vista	OSTERHAUS of Jackson
ALONS of Sioux	BAUDLER of Adair
WITT of Black Hawk	

H-1256 FILED MARCH 20, 2001

Adopted
4/2/01
(P. 1049)

HOUSE FILE 577

H-1257

- 1 Amend House File 577 as follows:
- 2 1. Page 15, line 10, by inserting after the word
- 3 "revenue" the following: ", provided, however, that
- 4 the rate covenants contained within any trust
- 5 indentures or bond resolutions used for the financing
- 6 of electric generating facilities under this
- 7 subchapter shall require a majority vote of the
- 8 customers of each participating municipal utility of
- 9 the electric power agency to approve any rate
- 10 increases".

By HANSEN of Pottawattamie
JENKINS of Black Hawk

H-1257 FILED MARCH 20, 2001

W/D
4/2/01
(P. 1050)

HOUSE FILE 577

H-1274

1 Amend House File 577 as follows:

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

4 "Section 1. Section 455A.1, Code 2001, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 2A. "Energy commission" means the
7 energy commission created in section 455A.5A.

8 Sec. ____ . NEW SECTION. 455A.5A IOWA ENERGY
9 COMMISSION -- APPOINTMENT AND DUTIES.

10 1. An energy commission is created within the
11 department of natural resources.

12 2. The energy commission shall consist of seven
13 members, appointed by the governor.

14 a. The members shall serve staggered terms of four
15 years, beginning and ending as provided in section
16 69.19, except for the initial appointments. The
17 governor shall indicate, when making the initial
18 appointments, the two persons that shall serve four-
19 year terms, the two persons that shall serve three-
20 year terms, the two persons that shall serve two-year
21 terms, and the one person that shall serve a one-year
22 term, in order to initiate the system of four-year
23 staggered terms. Commission appointees are subject to
24 senate confirmation.

25 b. The members shall be electors of the state, and
26 shall have substantial knowledge of the subjects
27 embraced in chapter 473. The appointments shall be
28 based upon the training, experience, and capacity of
29 the appointees, and not based upon political
30 considerations, other than as provided in section
31 69.16.

32 c. A member of the energy commission shall not
33 hold any other state or federal office.

34 d. The energy commission shall be subject to the
35 provisions of section 69.16 regarding political
36 affiliation and section 69.16A regarding gender
37 balance.

38 e. A member of the energy commission may be
39 reappointed, subject to the provisions of chapter 69.

40 f. A vacancy on the energy commission shall be
41 filled for the unexpired term according to the
42 provisions of chapter 69.

43 3. The energy commission shall hold an
44 organizational meeting within thirty days of the
45 beginning of a new regular term for one or more of its
46 members. The energy commission shall organize by
47 electing a chairperson, vice chairperson, secretary,
48 and any other officers deemed necessary or desirable.
49 The energy commission shall meet at least quarterly
50 throughout the year, or upon the call of the

H-1274

-1-

H-1274

Page 2

- 1 chairperson.
- 2 4. A majority of the members of the energy
3 commission is a quorum, and a majority of a quorum may
4 act in any matter within the jurisdiction of the
5 commission, unless a more restrictive rule is adopted
6 by the commission.
- 7 5. The energy commission shall investigate and
8 annually report to the general assembly on at least
9 the following topics:
- 10 a. The latest technologies of energy efficiency
11 and renewable resources.
- 12 b. Formulation of a statewide education policy to
13 inform media and citizens of energy issues.
- 14 c. The short-term and long-term feasibility of
15 implementing various alternative energy sources.
- 16 d. The regulation of utilities in Iowa.
- 17 e. Recommendations regarding responsible standards
18 for improving the efficiency of projects that utilize
19 state funds.
- 20 6. The energy commission is charged with the
21 following responsibilities and duties, except as
22 otherwise established by law:
- 23 a. Establish policy for the department and adopt
24 rules, pursuant to chapter 17A, necessary to provide
25 for the effective administration of chapter 473.
- 26 b. Hear appeals in contested cases pursuant to
27 chapter 17A on matters relating to actions taken by
28 the director under chapter 473 and approve the budget
29 request prepared by the director for the programs
30 authorized by chapter 473.
- 31 c. Increase, decrease, or strike any item within
32 the department budget request for the programs
33 authorized by chapter 473 before granting approval.
- 34 7. The energy commission shall also advise the
35 governor in developing energy policy in Iowa.
- 36 8. Members of the energy commission are eligible
37 for reimbursement of actual and necessary expenses
38 incurred in the performance of their official duties.
39 Each member of the energy commission may also be
40 eligible to receive compensation as provided in
41 section 7E.6.
- 42 Sec. _____. Section 455A.6, subsection 6, paragraph
43 b, Code 2001, is amended to read as follows:
- 44 b. Hear appeals in contested cases pursuant to
45 chapter 17A on matters relating to actions taken by
46 the director under chapter 455C, 458A, or 464B, ~~or~~
47 473.
- 48 Sec. _____. Section 473.1, subsection 1, Code 2001,
49 is amended to read as follows:
- 50 1. "Commission" means the ~~environmental protection~~

H-1274

H-1274

Page 3

1 energy commission of the department.

2 Sec. ____ . Section 473.3, Code 2001, is amended to
3 read as follows:

4 473.3 LEGISLATIVE INTENT -- ENERGY EFFICIENCY

5 GOAL.

6 1. Iowa imports over ninety-eight percent of its
7 energy, and energy resources in relation to consumer
8 demand are soon projected to reach a critical point in
9 Iowa. Increasing energy efficiency is one method for
10 conserving energy resources.

11 2. The goal policy of this state is to more
12 efficiently utilize energy resources more efficiently,
13 especially those that are nonrenewable or that have
14 negative environmental impacts, in order to enhance
15 the economy of the state and to decrease the state's
16 dependence on energy resources from outside the state
17 by reducing the amount of energy used.

18 3. The long-term goal of this state is to increase
19 energy efficiency by twenty percent, over a time
20 period and by specific measures to be determined by
21 the commission.

22 4. ~~This goal is to~~ The energy efficiency policy
23 shall be implemented through all of the following
24 policies and programs:

25 a. Through the development of programs that
26 promote energy efficiency and energy conservation by
27 all Iowans, ~~through~~ including through increased
28 weatherization of homes.

29 b. Through the development and enhancement of an
30 energy efficiency industry, ~~through.~~

31 c. Through the development of indigenous energy
32 resources that are economically and environmentally
33 viable, ~~and through.~~

34 d. Through the development and implementation of
35 effective public information and education programs.

36 5. State government shall be a model and testing
37 ground for the use of energy efficiency systems.

38 Sec. ____ . Section 473.7, Code 2001, is amended to
39 read as follows:

40 473.7 DUTIES OF THE ~~DEPARTMENT~~ ENERGY COMMISSION.

41 The ~~department~~ commission shall:

42 1. Deliver to the general assembly by ~~January 15,~~
43 ~~1999~~ February 1, 2003, a plan for the development,
44 management, and efficient utilization of all energy
45 resources in the state. The plan shall evaluate
46 existing energy utilization with regard to energy
47 efficiency and shall evaluate the future energy needs
48 of the state. The plan shall include but is not
49 limited to the following elements:

50 a. The historical use and distribution of energy

H-1274

-3-

H-1274

Page 4

1 in Iowa.

2 b. The growth rate of energy consumption in Iowa.

3 c. A projection of Iowa's energy needs at a
4 ~~minimum~~ of ten, twenty, and thirty years into the
5 future.6 d. The impact of meeting Iowa's energy needs on
7 the economy of the state.8 e. The impact of meeting Iowa's energy needs on
9 the environment of the state.10 f. An evaluation of alternative sources and uses
11 of energy.12 g. Legislative recommendations ~~that may be~~
13 ~~necessary as a basis~~ for the development of a state
14 ~~policy for the development and efficient utilization~~
15 ~~of~~ on energy resources.16 h. An evaluation of the ability of existing laws
17 and regulations ~~surrounding the utilization of to~~
18 address future needs regarding energy resources.19 The ~~department~~ commission shall develop the plan
20 with the assistance of, and in consultation with, the
21 utilities board within the department of commerce,
22 representatives of the energy industry, economic
23 interests, the public, and other interested parties.
24 The ~~department~~ commission shall submit a report to the
25 general assembly concerning the status and
26 implementation of the plan on a biennial basis. The
27 biennial update shall contain an evaluation of all
28 state energy programs including expected versus actual
29 benefits and forecasts of future energy demand in
30 Iowa.31 2. Identify a state facility in the state to be
32 used as a marketing tool to promote energy
33 conservation by providing a showcase for the
34 ~~department~~ commission to demonstrate energy
35 efficiency.36 3. The ~~department~~ commission shall exchange
37 information with other states on energy and especially
38 on the allocation of fuel and shall request all
39 information necessary to determine the reasonableness
40 of any reduction of Iowa's fuel allocation, or the
41 reasonableness of any increase in prices of any type
42 of fuel, including the possibility of price-fixing or
43 other manipulation of the market.44 4. Establish a central depository within the state
45 for energy data.46 a. The central depository shall be located at or
47 accessible through a library ~~which~~ that is a member of
48 an interlibrary loan program to facilitate access to
49 the data and information contained in the central
50 depository.**H-1274**

H-1274

Page 5

1 b. The department commission shall collect data
2 necessary to forecast future energy demands in the
3 state.

4 c. The department commission may require a
5 supplier to provide information pertaining to the
6 supply, storage, distribution and sale of energy
7 sources in this state.

8 d. The information shall be furnished on a
9 periodic basis, shall be of a nature ~~which~~ that
10 directly relates to the supply, storage, distribution
11 and sale of energy sources, and shall not include any
12 records, documents, books, or other data ~~which~~ that
13 relate to the financial position of the supplier.
14 Provided, provided that the department commission,
15 prior to requiring any supplier to furnish ~~it~~ the
16 commission with such information, shall make every
17 reasonable effort to determine if ~~the same~~ such
18 information is available from any other governmental
19 source. If ~~it~~ the commission finds such information
20 is available, the department commission shall not
21 require submission of ~~the same~~ such information from a
22 supplier.

23 e. Notwithstanding the provisions of chapter 22,
24 information and reports obtained under this ~~section~~
25 subsection shall be confidential except when used for
26 statistical purposes without identifying a specific
27 supplier and when release of the information will not
28 give an advantage to competitors and serves a public
29 purpose. The department commission shall use this
30 data to conduct energy forecasts ~~which~~ that shall be
31 included in the biennial update required by this
32 section.

33 f. The department commission may subpoena
34 witnesses, administer oaths, and require the
35 production of records, books, and documents for
36 examination in order to obtain information required to
37 be submitted under this section. In case of failure
38 or refusal on the part of any person to comply with a
39 subpoena issued by the department commission, or in
40 case of the refusal of any witness to testify as to
41 any matter regarding which the witness may be
42 interrogated under this chapter, the district court,
43 upon the application of the department commission, may
44 order the person to show cause why the person should
45 not be held in contempt for failure to testify or
46 comply with a subpoena, and may order the person to
47 produce the records, books, and documents for
48 examination, and to give testimony. The courts may
49 punish for contempt as in the case of disobedience to
50 a like subpoena issued by the court, or for refusal to

H-1274

-5-

H-1274

Page 6

- 1 testify.
- 2 5. Develop, recommend, and implement with
3 appropriate agencies public and professional education
4 and communication programs in energy efficiency,
5 energy conservation, and conversion to alternative
6 sources of energy.
- 7 6. When necessary to carry out its duties under
8 this chapter, enter into contracts with state agencies
9 and other qualified contractors.
- 10 7. Receive and accept grants made available for
11 programs relating to duties of the ~~department~~
12 commission under this chapter.
- 13 8. ~~Promulgate~~ Adopt rules pursuant to chapter 17A
14 necessary to carry out the provisions of this chapter,
15 ~~subject to review in accordance with chapter 17A.~~
16 Rules promulgated by the governor pursuant to a
17 proclamation issued under the provisions of section
18 473.8 shall not be subject to review or a public
19 hearing as required in chapter 17A; however, agency
20 rules for implementation of the governor's
21 proclamation are subject to the requirements of
22 chapter 17A.
- 23 9. Examine and determine whether additional state
24 regulatory authority is necessary to protect the
25 public interest and to promote the effective
26 development, utilization and conservation of energy
27 resources. If the ~~department~~ commission finds that
28 additional regulatory authority is necessary, the
29 ~~department~~ commission shall submit recommendations to
30 the general assembly concerning the nature and extent
31 of such regulatory authority and which state agency
32 should be assigned such regulatory responsibilities.
- 33 10. Develop and assist in the implementation of
34 public education and communications programs in energy
35 development, use and conservation, in ~~co-operation~~
36 cooperation with the department of education, the
37 state university extension services and other public
38 or private agencies and organizations as deemed
39 appropriate by the ~~department~~ commission.
- 40 11. Develop a program to ~~annually~~ give annual
41 public recognition to innovative methods of energy
42 conservation.
- 43 12. Administer and coordinate federal funds for
44 energy conservation programs including, but not
45 limited to, the institutional conservation program,
46 state energy conservation program, and energy
47 extension service program, and related programs ~~which~~
48 that provide energy management and conservation
49 assistance to schools, hospitals, health-care health
50 care facilities, communities, and the general public.

H-1274

-6-

H-1274

Page 7

1 13. Administer and coordinate the state building
2 energy management program including projects funded
3 through private financing.

4 14. Perform monthly fuel surveys ~~which that~~
5 establish a statistical average of motor fuel prices
6 for various motor fuels provided throughout the state.
7 Additionally, the ~~department~~ commission shall perform
8 monthly fuel surveys in cities with populations of
9 over fifty thousand ~~which that~~ establish a statistical
10 average of motor fuel prices for various motor fuels
11 provided in those individual cities. The survey
12 results shall be publicized in a monthly press release
13 issued by the ~~department~~ commission.

14 15. ~~Conduct a study on~~ Study activities related to
15 energy production and use ~~which that~~ contribute to
16 global climate change and the depletion of the
17 stratospheric ozone layer. The study shall identify
18 the types and relative contributions of these
19 activities in Iowa. The ~~department~~ commission shall
20 develop a strategy to reduce emissions from activities
21 identified as having an adverse impact on the global
22 climate and the stratospheric ozone layer. The
23 ~~department shall submit a report containing its~~
24 ~~findings and recommendations to the governor and~~
25 ~~general assembly by January 1, 1992.~~

26 Sec. _____. Section 473.17, Code 2001, is amended to
27 read as follows:

28 473.17 REVIEW.

29 The first session of the ~~Seventy-second~~ Eighty-
30 first General Assembly meeting in the year ~~1987~~ 2005
31 shall review the activities and performance of the
32 ~~department~~ commission and shall ~~not later than July 1,~~
33 ~~1987~~ make a determination concerning the status and
34 duties of the ~~department~~ commission, which review
35 shall be performed every ten years thereafter."

36 2. Page 1, by inserting after line 8 the
37 following:

38 "Sec. _____. Section 476.2, Code 2001, is amended by
39 adding the following new subsection:

40 NEW SUBSECTION. 5A. The board shall emphasize the
41 maintenance of a safe, reliable, and adequate power
42 system, through application of standards for customer
43 response times, outage frequency and duration,
44 strategic staffing, prevention of injury and loss of
45 life, and facilitation of construction of adequate
46 generation and transmission facilities, including
47 maintenance of the existing power grid.

48 Sec. _____. Section 476.2, subsection 6, Code 2001,
49 is amended to read as follows:

50 6. The board shall provide the ~~general assembly~~

H-1274

H-1274

Page 8

- 1 energy commission with a report on the energy
2 efficiency planning efforts undertaken by utilities
3 required to offer energy efficiency plans pursuant to
4 section 476.6, subsection 17. The report shall be
5 completed by January 1, 1998. following subjects:
6 a. An analysis of the level of investment and
7 incentives required to increase the energy generated
8 from alternative or renewable sources by ten, twenty,
9 and thirty percent.
10 b. Recommendations for promoting investment in
11 integrated small-scale renewable energy systems.
12 c. An analysis of the costs and benefits of
13 generating and transmitting electricity from renewable
14 sources, and a proposal for a formula for establishing
15 a fair cost for transmitting electricity from
16 renewable sources.
17 d. Recommendations regarding establishment of a
18 standard system for net metering and connecting
19 renewable electricity generators to the electric
20 transmission grid."
21 3. By renumbering as necessary.

By HATCH of Polk**H-1274** FILED MARCH 20, 2001

Lret
4/2/01
(P. 1018)

HOUSE FILE 577

H-1275

1 Amend House File 577 as follows:

2 1. Page 4, by inserting after line 35 the
3 following:

4 "Sec. _____. Section 476.20, Code 2001, is amended
5 to read as follows:

6 476.20 DISCONNECTION LIMITED -- NOTICE --
7 MORATORIUM -- DEPOSITS.

8 1. A utility shall not, except in cases of
9 emergency, discontinue, reduce, or impair service to a
10 community, or a part of a community, except for
11 nonpayment of account or violation of rules and
12 regulations, unless and until permission to do so is
13 obtained from the board.

14 2. a. The board shall establish rules requiring a
15 regulated public utility furnishing gas or electricity
16 to include in the utility's notice of pending
17 disconnection of service a written statement advising
18 the customer that the customer may be eligible to
19 participate in the low income home energy assistance
20 program or weatherization assistance program
21 administered by the division of community action
22 agencies of the department of human rights.

23 b. The written statement shall ~~list~~ include the
24 following information:

25 (1) The address and telephone number of the local
26 agency which that is administering the customer's low
27 income home energy assistance program and the
28 weatherization assistance program. ~~The written~~
29 statement shall also state

30 (2) A statement that the customer is advised to
31 contact the public utility to settle any of the
32 customer's complaints with the public utility, but if
33 a complaint is not settled to the customer's
34 satisfaction, the customer may ~~file the~~ do either of
35 the following:

36 (a) Pursue arbitration with the public utility
37 regarding a deposit or a disconnection from service,
38 as described in subsection 6.

39 (b) File a complaint with the board. ~~The written~~
40 statement shall include the

41 (3) The address and phone number of the board.

42 (4) If the notice of pending disconnection of
44 shall advise that the disconnection does not apply
45 from November 1 through ~~April~~ June 1 for a resident
46 who is a "head of household", as defined by law, and
47 who has been certified to the public utility by the
48 local agency which is administering the low income
49 home energy assistance program and weatherization
50 assistance program as being eligible for either the

H-1275

Page 2

~~1 low income home energy assistance program or
2 weatherization assistance program, and that if such a
3 resident resides within the serviced residence, the
4 customer should promptly have the qualifying resident
5 notify the local agency which is administering the low
6 income home energy assistance program and
7 weatherization assistance program if the customer
8 meets the conditions described in subsection 3,
9 paragraph "a", subparagraph (1) or (2).~~

10 c. The board shall establish rules requiring that
11 the written notice contain additional information as
12 it deems necessary and appropriate.

13 3. The board shall establish rules ~~which shall be~~
14 ~~uniform~~ with respect to all public utilities
15 furnishing gas or electricity relating to
16 disconnection of service.

17 PARAGRAPH DIVIDED. This ~~subsection~~ section applies
18 both to regulated utilities and to municipally owned
19 utilities and unincorporated villages ~~which~~ that own
20 their own distribution systems, and violations of this
21 subsection subject the utilities to civil penalties
22 under section 476.51.

23 ~~A qualified applicant for the low income home
24 energy assistance program or the weatherization
25 assistance program who is also a "head of household",
26 as defined in section 422.4, subsection 7, shall be
27 promptly certified by the local agency administering
28 the applicant's program to the applicant's public
29 utility that the resident is a "head of household" as
30 defined in section 422.4, subsection 7, and is
31 qualified for the low income home energy assistance
32 program or weatherization assistance program.
33 Notwithstanding subsection 1, a~~

34 a. A public utility furnishing gas or electricity
35 shall not disconnect service from November 1 through
36 ~~April~~ June 1 to a residence ~~which has a resident that~~
37 ~~has been certified under this paragraph., provided~~
38 that one of the following conditions is satisfied:

39 (1) The customer currently is, or has been, a
40 participant in any state or federal assistance program
41 at any time during the previous twelve months, or
42 whose projected adjusted gross income due to a
43 demonstrated change in economic circumstances would
44 make the customer eligible for state or federal
45 assistance.

46 (2) The customer pays the lesser of a minimum of
47 fifty percent of the current monthly payment, or three
48 hundred dollars, for service during the months of
49 November through May, provided that the board finds
50 that public utility bills have or are likely to

H-1275

-2-

H-1275

Page 3

1 substantially increase due to causes other than
2 increased consumption due to weather conditions.

3 b. A public utility furnishing gas or electricity
4 from November 1 through June 1 to a residential
5 customer meeting the conditions under either
6 subparagraph (1) or (2) of paragraph "a" shall also
7 waive any late charge or penalty on gas or electric
8 utility bills covering service provided during the
9 period from November 1 through June 1.

10 c. A customer with a disability or medical need
11 requiring environmental control or assistive medical
12 devices shall be eligible for exemption from
13 disconnection, provided that all of the following
14 conditions are satisfied:

15 (1) (a) The customer applies to the board on an
16 application form furnished by the board providing the
17 applicant's name, address, date of birth, and social
18 security number and shall also provide a statement
19 from a physician licensed under chapter 148, 149, 150,
20 or 150A, a physician assistant licensed under chapter
21 148C, an advanced registered nurse practitioner
22 licensed under chapter 152, or a chiropractor licensed
23 under chapter 151, or a physician, physician
24 assistant, nurse practitioner, or chiropractor
25 licensed to practice in a contiguous state, written on
26 the physician's, physician assistant's, nurse
27 practitioner's, or chiropractor's stationery, stating
28 the nature of the applicant's disability or medical
29 need and such additional information as required by
30 rules adopted by the utilities board. The
31 physician's, physician assistant's, nurse
32 practitioner's, or chiropractor's statement shall
33 state the period of time during which the person is
34 expected to be disabled or the medical need is
35 expected to exist.

36 (b) Any person providing false information with
37 the intent to defraud on the application for an
38 exemption under this paragraph "c" is subject to a
39 civil penalty of one thousand dollars that may be
40 imposed by the utilities board, for deposit in the
41 energy assistance fund created in section 476.20A and
42 used for arbitration services pursuant to subsection
43 6.

44 (c) A physician, physician assistant, nurse
45 practitioner, or chiropractor who provides false
46 information with the intent to defraud on the
47 physician's, physician assistant's, nurse
48 practitioner's, or chiropractor's statement used in
49 establishing proof is subject to a civil penalty of
50 one thousand dollars that may be imposed by the

H-1275

-3-

H-1275

Page 4

1 utilities board, for deposit in the energy assistance
2 fund created in section 476.20A and used for
3 arbitration services pursuant to subsection 6. In
4 addition to the civil penalty, the department shall
5 revoke the exemption issued pursuant to this
6 subsection, and allow the public utility to impose all
7 applicable late fees and charges.

8 (2) During the time that the disability or medical
9 need requiring the environmental control or assistive
10 medical device is in existence, the customer makes a
11 good faith effort to pay the customer's utility bill
12 and any outstanding balance, according to the
13 standards for payments reflecting income guidelines
14 established by rule by the utilities board. If the
15 customer does not meet the payment guidelines for two
16 consecutive months, either the public utility or the
17 customer may request that a new individual payment be
18 established, subject to arbitration if necessary.

19 3A. a. It is the intent of the general assembly
20 that the board review the metering and billing
21 practices of the utilities, and the related rules, on
22 a regular basis. Meter reading should be performed
23 frequently for more accurate customer billing.

24 b. If a utility estimates a meter reading, the
25 next monthly bill must accurately reflect the actual
26 dates and changes in fuel prices and temperatures
27 during the estimated month. The utility shall not
28 apply its highest cost, or an average cost, of fuel
29 for the estimated month.

30 4. A public utility ~~which~~ that violates a
31 provision of this section relating to the
32 disconnection of service or ~~which~~ that violates a rule
33 of the board relating to disconnection of service is
34 subject to civil penalties imposed by the board under
35 section 476.51.

36 5. The board shall establish rules ~~which shall be~~
37 ~~uniform~~ with respect to all public utilities
38 furnishing gas or electricity relating to deposits
39 ~~which~~ that may be required by the public utility for
40 the initiation or reinstatement of service.

41 a. The deposit for a residential ~~or commercial~~
42 customer ~~for a place which has previously received~~
43 ~~service~~ shall not be greater than ~~the highest billing~~
44 ~~of service for one month for the place in the previous~~
45 ~~twelve-month period~~ two hundred dollars.

46 b. The deposit for ~~a residential or~~ a commercial
47 customer ~~for a place which has not previously received~~
48 ~~service~~ or for an industrial customer shall be one-
49 half of the customer's projected one month's usage for
50 the place to be serviced as determined by the public

H-1275

-4-

H-1275

Page 5

1 utility according to rules established by the board.

2 c. This subsection does not prohibit a public
3 utility from requiring payment of a customer's past
4 due account with the utility prior to reinstatement of
5 service; however, a customer can appeal this decision
6 and require arbitration pursuant to subsection 6.

7 d. The rules shall allow a person other than the
8 customer to pay the customer's deposit. Upon
9 termination of service to such a customer, the deposit
10 plus accumulated interest less any unpaid utility bill
11 of the customer, shall be reimbursed to the person who
12 made the deposit.

13 6. Arbitration services shall be available for
14 customers who cannot meet the payment guidelines
15 established by rule under subsection 3, or who appeal
16 a determination of a public utility under subsection
17 5.

18 a. The arbitration services shall be provided to
19 the fullest extent possible by nonprofit organizations
20 providing such services, and shall be supplemented as
21 necessary by services provided with funds from the
22 energy assistance fund created in section 476.20A.

23 b. Public utilities shall notify customers that
24 they have the right to proceed to binding arbitration
25 with the public utility, if direct negotiation in
26 resolving payment or deposit disputes with the public
27 utility is unsuccessful.

28 c. The parties shall accept an arbitrator's
29 decision as binding. The customer shall make the
30 payment according to the terms of the decision, and
31 the public utility shall accept the payment as payment
32 in full from the customer.

33 d. The board shall adopt rules pursuant to chapter
34 17A to implement the arbitration process.

35 Sec. ____. NEW SECTION. 476.20A ENERGY ASSISTANCE
36 FUND.

37 1. An energy assistance fund is created in the
38 state treasury. Moneys deposited in the fund shall be
39 used as follows:

40 a. For arbitration services under section 476.20.

41 b. To increase energy efficiency and
42 weatherization.

43 c. To support research for and the use of emerging
44 energy technology.

45 2. The energy assistance fund may receive moneys
46 including, but not limited to, the following:

47 a. Moneys appropriated by the general assembly for
48 the fund.

49 b. Moneys credited to the fund under section
50 476.20.

H-1275

-5-

H-1275

Page 6

1 c. Contributions from customer utility bills under
2 subsection 3.

3 d. Any other moneys available to, obtained, or
4 accepted by the board for placement in the fund.

5 3. Each utility shall periodically notify its
6 customers of the availability and purpose of the fund
7 and provide them with forms on which they can
8 authorize the utility to bill a contribution to the
9 fund on a monthly basis. The board shall adopt rules
10 pursuant to chapter 17A regarding such contributions.

11 4. Notwithstanding section 12C.7, subsection 2,
12 interest or earnings on moneys deposited in the energy
13 assistance fund shall be credited to the fund.

14 Notwithstanding section 8.33, moneys remaining in the
15 energy assistance fund at the end of a fiscal year
16 shall not revert to the general fund of the state."

17 2. By renumbering as necessary.

By HATCH of Polk

H-1275 FILED MARCH 20, 2001

Not Herman

4/2/01

(P. 1045)

*motion to suspend Rules lost
4/2/01 (P. 1046)*

H-1277

1 Amend House File 577 as follows:

2 1. Page 1, by inserting after line 22 the
3 following:

4 "(4) The contract provides the least-cost, long-
5 term benefit available to the consumer."

6 2. Page 2, by striking lines 13 through 16 and
7 inserting the following:

8 "f. The contract costs or the portion of the
9 contract costs that are required to provide service to
10 the public utility's Iowa retail customers shall be
11 included in the public utility's regulated retail
12 electric rates if the board finds all of the following
13 after a contested case proceeding:

14 (1) The power purchase contract is the least-cost
15 alternative.

16 (2) The contract costs or the portion of the
17 contract costs that are required to provide service to
18 the public utility's Iowa retail customers are not
19 offset by other cost decreases or revenue increases.

20 (3) The resulting return on common equity will not
21 exceed the public utility's actual cost of common
22 equity as determined by the board.

23 The public utility may propose to recover the costs
24 through an automatic adjustment of rates as provided
25 in subsection 11."

By SCHRADER of Marion

H-1277 FILED MARCH 21, 2001

*Lost
4/2/01
(P. 1027)*

H-1278

1 Amend House File 577 as follows:

2 1. Page 1, line 10, by striking the word
3 "subsections," and inserting the following:
4 "subsection".

5 2. By striking page 1, line 11, through page 2,
6 line 30.

7 3. Page 2, line 31, by striking the figure "16B",
8 and inserting the following: "16A".

9 4. By renumbering as necessary.

By SCHRADER of Marion

H-1278 FILED MARCH 21, 2001

*Lost
4/2/01
(P. 1025)*

HOUSE FILE 577

H-1284

1 Amend House File 577 as follows:

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

4 "Section 1. NEW SECTION. 473.14 IMPLEMENTATION
5 OF ENERGY CONSERVATION MEASURES -- SCHOOL
6 CORPORATIONS.

7 1. Any energy efficiency projects approved by the
8 commission that are completed by a school corporation
9 subject to section 298.18 shall be exempt from the
10 bonded debt levy limits in section 298.18.

11 2. The commission shall adopt rules pursuant to
12 chapter 17A to administer this section, including
13 requirements for an energy management plan, an energy
14 audit, and an engineering analysis of the energy
15 conservation measures.

16 3. A participating school corporation shall
17 annually report to the commission on August 1 the
18 status of all energy conservation measures identified
19 in their engineering analysis, whether or not the
20 measures have been acquired or implemented, and the
21 results of energy usage analyses of the board's
22 facilities. The report shall also be made available
23 to the residents of the election district for the
24 school corporation."

25 2. Page 1, by inserting after line 8 the
26 following:

27 Sec. ____ . Section 476.2, subsection 6, Code 2001,
28 is amended to read as follows:

29 6. The board shall provide the general assembly
30 with a report on the ~~energy efficiency planning~~
31 ~~efforts undertaken by utilities required to offer~~
32 ~~energy efficiency plans pursuant to section 476.6,~~
33 ~~subsection 17. The report shall be completed by~~
34 ~~January 1, 1998. following subjects:~~

35 a. An analysis of the level of investment and
36 incentives required to increase the energy generated
37 from alternative or renewable sources by ten, twenty,
38 and thirty percent.

39 b. Recommendations for promoting investment in
40 integrated small-scale renewable energy systems.

41 c. An analysis of the costs and benefits of
42 generating and transmitting electricity from renewable
43 sources, and a proposal for a formula for establishing
44 a fair cost for transmitting electricity from
45 renewable sources.

46 d. Recommendations regarding establishment of a
47 standard system for net metering and connecting
48 renewable electricity generators to the electric
49 transmission grid."

50 3. Page 5, by inserting before line 1 the

H-1284

H-1284

Page 2

1 following:

2 "Sec. ____ Section 476.6, subsection 19, Code
3 2001, is amended to read as follows:

4 19. ENERGY EFFICIENCY IMPLEMENTATION, COST REVIEW,
5 AND COST RECOVERY.

6 It is the intent of the general assembly that the
7 board reinitiate the filing and evaluation of energy
8 efficiency plans by gas and electric utilities,
9 effective upon the effective date of this Act:

10 a. Gas and electric utilities required to be rate-
11 regulated under this chapter shall file energy
12 efficiency plans with the board. An energy efficiency
13 plan and budget shall include a range of programs,
14 tailored to the needs of all customer classes,
15 including residential, commercial, and industrial
16 customers, for energy efficiency opportunities. The
17 plans shall include rebates for the purchase and use
18 of energy efficient appliances. The plans shall
19 include programs for qualified low-income persons
20 including a cooperative program with any community
21 action agency within the utility's service area to
22 implement countywide or communitywide energy
23 efficiency programs for qualified low-income persons,
24 and shall also include a small business energy
25 assistance program to be developed by the energy
26 commission. Rate-regulated gas and electric utilities
27 shall utilize Iowa agencies and Iowa contractors to
28 the maximum extent cost-effective in their energy
29 efficiency plans filed with the board.

30 b. A gas and electric utility required to be rate-
31 regulated under this chapter shall assess potential
32 energy and capacity savings available from actual and
33 projected customer usage by applying commercially
34 available technology and improved operating practices
35 to energy-using equipment and buildings. The utility
36 shall submit the assessment to the board. Upon
37 receipt of the assessment, the board shall consult
38 with the energy bureau of the division of energy and
39 geological resources of the department of natural
40 resources to develop specific capacity and energy
41 savings performance standards for each utility. The
42 utility shall submit an energy efficiency plan ~~which~~
43 that shall include economically achievable programs
44 designed to attain these energy and capacity
45 performance standards.

46 The utilities shall make energy audits available to
47 all customers. Priority may be given to customers
48 with greater energy use, but the service shall not be
49 denied on the basis that the consumer purchases only a
50 selected product or products from the utility.

H-1284

-2-

H-1284

Page 3

1 c. The board shall conduct contested case
2 proceedings for review of energy efficiency plans and
3 budgets filed by gas and electric utilities required
4 to be rate-regulated under this chapter. The board
5 may approve, reject, or modify the plans and budgets.
6 Notwithstanding the provisions of section 17A.19,
7 subsection 5, in an application for judicial review of
8 the board's decision concerning a utility's energy
9 efficiency plan or budget, the reviewing court shall
10 not order a stay. Whenever a request to modify an
11 approved plan or budget is filed subsequently by the
12 office of consumer advocate or a gas or electric
13 utility required to be rate-regulated under this
14 chapter, the board shall promptly initiate a formal
15 proceeding if the board determines that any reasonable
16 ground exists for investigating the request. The
17 formal proceeding may be initiated at any time by the
18 board on its own motion. Implementation of board-
19 approved plans or budgets shall be considered
20 continuous in nature and shall be subject to
21 investigation at any time by the board or the office
22 of the consumer advocate.

23 d. Notice to customers of a contested case
24 proceeding for review of energy efficiency plans and
25 budgets shall be in a manner prescribed by the board.

26 e. A gas or electric utility required to be rate-
27 regulated under this chapter may recover, through an
28 automatic adjustment mechanism filed pursuant to
29 subsection 11, over a period not to exceed the term of
30 the plan, the costs of an energy efficiency plan
31 approved by the board, including amounts for a plan
32 approved prior to July 1, 1996, in a contested case
33 proceeding conducted pursuant to paragraph "c". The
34 board shall periodically conduct a contested case
35 proceeding to evaluate the reasonableness and prudence
36 of the utility's implementation of an approved energy
37 efficiency plan and budget. If a utility is not
38 taking all reasonable actions to cost-effectively
39 implement an approved energy efficiency plan, the
40 board shall not allow the utility to recover from
41 customers costs in excess of those costs that would be
42 incurred under reasonable and prudent implementation
43 and shall not allow the utility to recover future
44 costs at a level other than what the board determines
45 to be reasonable and prudent. If the result of a
46 contested case proceeding is a judgment against a
47 utility, that utility's future level of cost recovery
48 shall be reduced by the amount by which the programs
49 were found to be imprudently conducted. The utility
50 shall not represent energy efficiency in customer

H-1284

H-1284

Page 4

1 billings as a separate cost or expense unless the
2 board otherwise approves.

3 f. A rate-regulated utility required to submit an
4 energy efficiency plan under this subsection shall,
5 upon the request of the energy commission, or upon the
6 direct request of a state agency or political
7 subdivision to which ~~it~~ the utility provides service,
8 provide advice and assistance to a state agency or
9 political subdivision regarding measures ~~which~~ that
10 the state agency or political subdivision might take
11 in achieving improved energy efficiency results. The
12 cooperation shall include assistance in accessing
13 financial assistance for energy efficiency measures.

14 Sec. _____. Section 476.44, subsection 2, Code 2001,
15 is amended to read as follows:

16 2. a. An electric utility subject to this
17 division, except a utility ~~which~~ that elects rate
18 regulation pursuant to section 476.1A, shall not be
19 required to purchase, at any one time, more than its
20 scheduled percentage share of ~~one hundred five~~
21 megawatts of power its Iowa retail load from
22 alternative energy production facilities or small
23 hydro facilities at the rates established pursuant to
24 section 476.43. The board shall ~~allocate the one~~
25 hundred five megawatts make the allocations based upon
26 each utility's percentage of the total Iowa retail
27 peak demand, for ~~the~~ each year, beginning January 1,
28 1990, of all utilities subject to this section, based
29 on the following schedule:

- 30 (1) Until January 1, 2006, two percent.
31 (2) Beginning January 1, 2006, four percent.
32 (3) Beginning January 1, 2009, six percent.
33 (4) Beginning January 1, 2011, eight percent.
34 (5) Beginning January 1, 2013, ten percent.
35 (6) Beginning January 1, 2015, twelve percent.
36 (7) Beginning January 1, 2017, fourteen percent.
37 (8) Beginning January 1, 2019, sixteen percent.
38 (9) Beginning January 1, 2021, twenty percent.

39 b. If a utility undergoes reorganization as
40 defined in section 476.76, the board shall combine the
41 allocated purchases of power for each utility involved
42 in the reorganization.

43 c. Notwithstanding the ~~one hundred five megawatt~~
44 current applicable maximum, the board may increase the
45 amount of power that a utility is required to purchase
46 at the rates established pursuant to section 476.43 if
47 the board finds that a utility, including a
48 reorganized utility, exceeds its ~~1990~~ previous Iowa
49 retail peak demand level by twenty percent, and the
50 additional power the utility is required to purchase

H-1284

H-1284

Page 5

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

8 4. Title page, line 1 by striking the word
9 "power" and inserting the following: "power,
10 including".

11 5. Title page, line 11, by inserting after the
12 word "agencies;" the following: "addressing energy
13 conservation and energy efficiency programs;
14 addressing the alternative energy production
15 standard;"

16 6. By renumbering as necessary.

By WITT of Black Hawk

GREIMANN of Story

HATCH of Polk

JOCHUM of Dubuque

MASCHER of Johnson

SHOULTZ of Black Hawk

STEVENS of Dickinson

H-1284 FILED MARCH 21, 2001

Pat Sumner
4/2/01
(P1023)

HOUSE FILE 577

H-1285

1 Amend House File 577 as follows:

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

4 "Sec. ____ . Section 15.354, Code 2001, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 4. New housing constructed, or
7 existing housing rehabilitated, with moneys from the
8 fund shall meet the minimum energy efficiency
9 standards of the state building code as adopted
10 pursuant to section 103A.8A.

11 Sec. ____ . Section 16.100, Code 2001, is amended by
12 adding the following new subsection:

13 NEW SUBSECTION. 9. New housing constructed, or
14 existing housing rehabilitated, with moneys from the
15 fund shall meet the minimum energy efficiency
16 standards of the state building code as adopted
17 pursuant to section 103A.8A.

18 Sec. ____ . Section 103A.10, subsection 2, Code
19 2001, is amended by adding the following new
20 paragraph:

21 NEW PARAGRAPH. c. To all new housing constructed
22 or existing housing rehabilitated with moneys from the
23 funds established under sections 15.354 or 16.100."

24 2. Title page, line 1, by inserting after the
25 words "relating to" the following: "energy,
26 including".

27 3. Title page, line 11, by inserting after the
28 word "agencies;" the following: "addressing energy
29 efficiency standards in housing;".

30 4. By renumbering as necessary.

By WITT of Black Hawk MASCHER of Johnson
GREIMANN of Story SHOULTZ of Black Hawk
HATCH of Polk STEVENS of Dickinson
JOCHUM of Dubuque

H-1285 FILED MARCH 21, 2001

*Not germane 4/2/01 (p. 1024)
Motion to suspend rules - lost 4/2/01 (p. 1024)*

HOUSE FILE 577

H-1286

1 Amend House File 577 as follows:

2 1. Page 2, by striking lines 21 through 30.

3 2. Page 6, by striking lines 12 through 21.

By JENKINS of Black Hawk

H-1286 FILED MARCH 21, 2001

*adopted
4/2/01
(p. 1037)*

HOUSE FILE 577

H-1297

- 1 Amend House File 577 as follows:
- 2 1. Page 1, line 24, by inserting after the word
- 3 "from" the following: ", or for the lease of".
- 4 2. Page 1, line 25, by striking the word "Iowa"
- 5 and inserting the following: "Iowa,".
- 6 3. Page 1, line 26, by inserting after the word
- 7 "purchased" the following: ", or the nameplate
- 8 capacity of the facility leased".
- 9 4. Page 4, line 21, by striking the letter "g."
- 10 and inserting the following: "f."
- 11 5. Page 5, line 29, by striking the word "issue"
- 12 and inserting the following: "issues of fuel
- 13 diversity, and".
- 14 6. Page 6, by inserting after line 3 the
- 15 following:
- 16 "k. Demand-side management, including energy
- 17 efficiency and load."
- 18 7. Page 9, line 14, by striking the words "in
- 19 subchapter" and inserting the following: "in this
- 20 subchapter".

By JENKINS of Black Hawk

H-1297 FILED MARCH 21, 2001

W/D

4/2/01 (P. 1027)

HOUSE FILE 577

H-1330

- 1 Amend the amendment, H-1317, to House File 577 as
- 2 follows:
- 3 1. Page 1, by inserting after line 3 the
- 4 following:
- 5 "____. Page 5, line 27, by inserting after the
- 6 word "contracts" the following: "and leases"."
- 7 2. By renumbering and correcting internal
- 8 references as necessary.

By JENKINS of Black Hawk

H-1330 FILED MARCH 26, 2001

Adopted
4/2/01 (P. 1039)

MARCH 26
CORRECTION TO FRIDAY CLIP SHEET

HOUSE FILE 577

H-1322

1 Amend House File 577 as follows:

2 1. Page 4, by inserting after line 35 the
3 following:

4 "Sec. ____ . Section 476.8, Code 2001, is amended to
5 read as follows:

6 476.8 UTILITY CHARGES AND SERVICE.

7 1. Every public utility is required to furnish
8 reasonably adequate service and facilities.

9 a. "Reasonably adequate service and facilities"
10 for public utilities furnishing gas or electricity
11 includes programs for customers to encourage the use
12 of energy efficiency and renewable energy sources.

13 b. The charge made by any public utility for any
14 heat, light, gas, energy efficiency and renewable
15 energy programs, water or power produced, transmitted,
16 delivered or furnished, or communications services, or
17 for any service rendered or to be rendered in
18 connection ~~therewith~~ with such service shall be
19 reasonable and just, and every unjust or unreasonable
20 charge for such service is prohibited and declared
21 unlawful. In determining reasonable and just rates,
22 the board shall consider all factors relating to value
23 and shall not be bound by rate base decisions or
24 rulings made prior to the adoption of this chapter.

25 2. The board shall have the authority to order a
26 rate-regulated public utility to construct an electric
27 generating facility, transmission facility, or both,
28 as necessary to ensure continued electric reliability,
29 and to maintain reasonably adequate, reliable, safe,
30 and cost-efficient electric service to Iowa consumers.
31 The prudent and reasonable costs incurred to construct
32 and operate such generating facility or transmission
33 facility shall be included in the determination of the
34 rates of the rate-regulated public utility.

35 3. The board, in determining the value of
36 materials or services to be included in valuations or
37 costs of operations for rate-making purposes, may
38 disallow any unreasonable profit made in the sale of
39 materials to or services supplied for any public
40 utility by any firm or corporation owned or controlled
41 directly or indirectly by such utility or any
42 affiliate, subsidiary, parent company, associate or
43 any corporation whose controlling stockholders are
44 also controlling stockholders of such utility. The
45 burden of proof shall be on the public utility to
46 prove that no unreasonable profit is made."

47 2. Title page, line 3, by inserting after the
48 word "facility;" the following: "providing authority
49 for the utilities board to order the construction of a
50 generation or transmission facility;"

H-1322

H-1322

Page 2

1 3. By renumbering as necessary.

By WITT of Black Hawk

H-1322 FILED MARCH 23, 2001*Lost 4/2/01
(P. 1047)***HOUSE FILE 577****H-1306**

1 Amend House File 577 as follows:

2 1. By striking page 1, line 1, through page 4,
3 line 35.4 2. Page 10, by striking lines 6 through 33 and
5 inserting the following:6 "2. Notwithstanding anything in this subchapter or
7 chapter 28F to the contrary, an electric power
8 facility shall not be financed with the proceeds of
9 public bonds or obligations, the interest on which is
10 exempt from federal income tax, unless the public
11 issuer of such public bonds or obligations covenants
12 that the issuer shall comply with the requirements or
13 limitations imposed by the Internal Revenue Code or
14 other applicable federal law to preserve the tax
15 exemption of interest payable on the bonds or
16 obligations."17 3. Title page, by striking lines 3 through 5 and
18 inserting the following: "generating facility;
19 waivers; providing for the development of a state".

20 4. By renumbering as necessary.

By CHIODO of Polk

H-1306 FILED MARCH 22, 2001*w/d
4/2/01 (P. 1037)***HOUSE FILE 577****H-1312**

1 Amend House File 577 as follows:

2 1. Page 1, line 10, by striking the word
3 "subsections" and inserting the following:
4 "subsection".5 2. By striking page 2, line 31, through page 4,
6 line 35.7 3. Title page, lines 4 and 5, by striking the
8 words "management of regulated emissions from
9 facilities fueled by coal;".10 4. By renumbering, redesignating, and correcting
11 internal references as necessary.

By JENKINS of Black Hawk

H-1312 FILED MARCH 22, 2001*Adopted
4/2/01 (P. 1026)*

HOUSE FILE 577

H-1317

1 Amend House File 577 as follows:

A 2 1. Page 4, line 21, by striking the letter "g."

3 and inserting the following: "f."

4 2. Page 5, line 29, by striking the word "issue"

B 5 and inserting the following: "issues of fuel
6 diversity, and".

7 3. Page 6, by inserting after line 3 the
8 following:

A 9 "k. Demand-side management, including energy
10 efficiency and load."

11 4. Page 9, line 14, by striking the words "in

B 12 subchapter" and inserting the following: "in this
13 subchapter".

By JENKINS of Black Hawk

H-1317 FILED MARCH 22, 2001

A. o/o 4/2/01 (P. 1039)

B. adapted 4/2/01 (P. 1040)

HOUSE FILE 577

H-1318

1 Amend House File 577 as follows:

2 1. Page 3, line 33, by inserting after the word

3 "budget" the following: "and shall order the

4 implementation".

By WITT of Black Hawk

H-1318 FILED MARCH 22, 2001

*o/o
4/2/01*

(P. 1026)

HOUSE FILE 577

H-1319

1 Amend House File 577 as follows:

2 1. Page 17, by striking lines 19 through 23.

By WITT of Black Hawk

H-1319 FILED MARCH 22, 2001

*lost
4/2/01 (P. 1050)*

HOUSE FILE 577

H-1320

1 Amend House File 577 as follows:

2 1. Page 2, by striking lines 8 through 10 and
3 inserting the following:

4 "e. The board, subsequent to".

5 2. By renumbering or relettering as necessary.

By WITT of Black Hawk

H-1320 FILED MARCH 22, 2001

*lost
4/2/01
(P. 1036)*

HOUSE FILE 577

H-1321

1 Amend House File 577 as follows:

2 1. By striking page 7, line 3 through page 8,
3 line 4 and inserting the following:

4 "3. The construction, maintenance, and operation
5 of the facility will cause minimum adverse land use,
6 environmental, and aesthetic impact and are consonant
7 with reasonable utilization of air, land and water
8 resources for beneficial purposes considering the best
9 available technology and the economics of the best
10 available alternatives.

11 4. The applicant, if a public utility as defined
12 in section 476.1, has in effect a comprehensive energy
13 management program designed to reduce peak loads and
14 to increase efficiency of use of energy by all classes
15 of customers of the utility, and the facility in the
16 application is necessary notwithstanding the existence
17 of the comprehensive energy management program. As
18 used in this subsection, a "comprehensive energy
19 management program" includes at a minimum the
20 following:

21 a. Establishment of load management and
22 interruptible service programs, where cost effective.

23 b. Development of wheeling agreements and other
24 energy sharing agreements, where cost effective with
25 utilities that have available capacity.

26 c. Establishment of cost-effective energy
27 efficiency and renewable energy services and programs.

28 d. Compliance with board rules on energy
29 management procedures.

30 5. The applicant, if a public utility as defined
31 in section 476.1, shall demonstrate to the board that
32 the utility has considered sources for long-term
33 electric supply from either purchase of electricity or
34 investment in facilities owned by other persons.

35 6. The applicant, if a public utility as defined
36 in section 476.1, has considered all feasible
37 alternatives to the proposed facility including
38 nongeneration alternatives; has ranked those
39 alternatives by cost; has implemented the least-cost
40 alternatives first; and the facility in the
41 application is necessary notwithstanding the
42 implementation of these alternatives."

By WITT of Black Hawk

H-1321 FILED MARCH 22, 2001

W/D
4/2/01
(P.1049)

HOUSE FILE 577

H-1351

- 1 Amend the amendment, H-1317, to House File 577, as
- 2 follows:
- 3 1. Page 1, line 10, by inserting after the word
- 4 "load" the following: "management".

By JENKINS of Black Hawk

H-1351 FILED MARCH 27, 2001

Adopted
4/2/01
(P.1040)

HOUSE FILE 577

H-1358

1 Amend House File 577 as follows:
2 1. By striking everything after the enacting
3 clause, and inserting the following:
4 "Section 1. NEW SECTION. 476B.1 DEFINITIONS.
5 As used in this chapter, unless the context
6 otherwise requires:
7 1. "ADAD equipment" means automatic dialing-
8 announcing device equipment, which is a device or
9 system of devices used, either alone or in conjunction
10 with other equipment, for the purpose of automatically
11 selecting or dialing telephone numbers, for
12 disseminating prerecorded messages to the numbers
13 selected or dialed without the use of a live operator.
14 2. "Autodialer" means an automatic telephone
15 dialing system or equipment that has both the capacity
16 to store or produce telephone numbers to be called
17 using a random or sequential number generator, and to
18 dial such numbers.
19 3. "Board" means the utilities board created in
20 section 474.1.
21 4. "Caller identification" means the display, on
22 the call recipient's telephone or related equipment,
23 of the caller's telephone number or identity to the
24 recipient of the call.
25 5. "Consumer" means an actual or prospective
26 purchaser, lessee, or recipient of a consumer good or
27 service.
28 6. "Consumer good or service" means any real
29 property or any tangible or intangible personal
30 property that is normally used for personal, family,
31 or household purposes, including, without limitation,
32 any such property intended to be attached to or
33 installed in any real property without regard to
34 whether it is so attached or installed, as well as
35 cemetery lots and timeshare estates, and any service
36 related to such property.
37 7. "Conversation time" is the time when two-way
38 telecommunications is possible during a telephone
39 call.
40 8. "Doing business in this state" means a business
41 that conducts telephone solicitations from a location
42 in this state or from other states or nations to
43 consumers located in this state.
44 9. "Existing business relationship" means an
45 established pattern of activity between a consumer and
46 a merchant, involving an inquiry, application,
47 purchase, or transaction initiated by a consumer
48 regarding products or services offered by a merchant.
49 10. "Merchant" means a person who, directly or
50 indirectly, offers or makes available to a consumer

H-1358

Page 2

1 any consumer good or service.

2 11. "Predictive dialing technology" means an
3 automated dialing system or computer software that
4 utilizes a formula or similar mechanism to initiate a
5 certain greater number of telephone calls than the
6 number of telephone solicitors available to speak to
7 prospective customers, with a goal of keeping the
8 available telephone solicitors continually speaking to
9 one prospective customer after another.

10 12. "Prepaid calling card" means an object
11 containing an access number and authorization code
12 that enables an end user to use prepaid calling
13 services.

14 13. "Prepaid calling card company" means any
15 person providing prepaid calling services to the
16 public using its own or resold telecommunications
17 network.

18 14. "Prepaid calling services" means any prepaid
19 telecommunications service that allows end users to
20 originate calls through an access number and
21 authorization code, whether manually or electronically
22 dialed.

23 15. "Telephone solicitation" means any voice
24 communication, wherever originated, transmitted over a
25 telephone for the purpose of encouraging action on the
26 part of the consumer, including but not limited to any
27 of the following actions:

28 a. The purchase or rental of property, goods, or
29 services.

30 b. Investment in property, goods, or services.

31 c. Soliciting a sale of a consumer good or
32 service.

33 d. Offering an extension of credit for a consumer
34 good or service.

35 e. Obtaining information that will or may be used
36 for the direct solicitation of a sale of a consumer
37 good or service or an offer of extension of credit for
38 such purpose.

39 f. Soliciting a donation for any group,
40 organization, or purpose.

41 16. "Telephone solicitor" means a person doing
42 business in this state, who makes or causes to be made
43 a telephone solicitation, including, but not limited
44 to, calls made by use of automatic dialing-announcing
45 device equipment, predictive dialing technology, or an
46 autodialer.

47 17. "Unsolicited telephone solicitation" means a
48 telephone solicitation other than a call made as
49 follows:

50 a. In response to an express request of the person

H-1358

H-1358

Page 3

1 called.

2 b. Primarily in connection with an existing debt
3 or contract, payment, or performance of which has not
4 been completed at the time of such call.

5 c. To a person with whom the telephone solicitor
6 has an existing business relationship.

7 d. To a residential subscriber if the telephone
8 solicitation is made on behalf of a not-for-profit
9 organization exempt from paying taxes under section
10 501(c) of the Internal Revenue Code, and if a bona
11 fide member of the exempt organization directly makes
12 such communication, and does not contract with a
13 telemarketing firm or other third party to make the
14 calls.

15 e. By a person licensed pursuant to chapter 543B
16 who calls an actual or prospective seller or lessor of
17 real property if the call is made in response to a
18 yard sign or other form of real estate sales
19 advertisement placed by the seller or lessor.

20 Sec. 2. NEW SECTION. 476B.2 RESTRICTIONS ON THE
21 USE OF CERTAIN TELEMARKETING EQUIPMENT.

22 1. A person shall not do any of the following:

23 a. Utilize any ADAD equipment, predictive dialing
24 technology, or autodialer to call any person
25 registered on the do-not-call list maintained pursuant
26 to section 476B.3.

27 b. Call any person registered on the do-not call
28 list maintained pursuant to section 476B.3 while the
29 person is performing paid telephone solicitation
30 services pursuant to contract, including payment by
31 acceptance of a percentage of any charitable donations
32 collected by the person while performing telephone
33 solicitation services.

34 c. Operate any ADAD equipment, predictive dialing
35 technology, or autodialers in a manner that
36 intentionally impedes or prevents the function of a
37 recipient's caller identification if the caller's
38 existing equipment is capable of allowing the display
39 of the caller's telephone number or identity.

40 2. a. Except as provided in paragraph "b", a
41 person shall not use, employ, or direct another person
42 to use, or contract for the use of, ADAD equipment.

43 b. Except for ADAD equipment that randomly or
44 sequentially selects the telephone numbers for
45 calling, the prohibition in paragraph "a" does not
46 apply to any of the following, provided that the
47 telephone numbers selected for automatic dialing have
48 been screened to exclude any consumer who is included
49 on the do-not-call list pursuant to section 476B.3 or
50 who has an unlisted telephone number, unless the calls

H-1358

H-1358

Page 4

1 made concern a good or service that has been
2 previously ordered or purchased:

3 (1) Calls made with ADAD equipment by a nonprofit
4 organization or by an individual using the calls other
5 than for commercial profit-making purposes or fund-
6 raising, if the calls do not involve the advertisement
7 or offering for sale, lease, or rental of goods,
8 services, or property.

9 (2) Calls made with ADAD equipment relating to
10 payment for, service of, or warranty coverage of
11 previously ordered or purchased goods or services or
12 to persons or organizations with an existing business
13 relationship with the persons or organizations using
14 the calls.

15 (3) Calls made with ADAD equipment relating to the
16 collection of lawful debts.

17 (4) Calls made with ADAD equipment to members or
18 employees of the organization making the calls.

19 (5) Calls made with ADAD equipment that use an
20 initial prerecorded message of a duration no greater
21 than seven seconds prior to a live operator intercept,
22 or calls that involve an initial message from a live
23 operator.

24 3. Calls made with ADAD equipment must terminate
25 the connection with any call within ten seconds after
26 the person receiving the call acts to disconnect the
27 call.

28 4. Calls made with predictive dialing technology
29 must meet a standard that allows a live telephone
30 solicitor to engage in conversation with a call
31 recipient within two seconds after the call is
32 answered by the call recipient.

33 Sec. 3. NEW SECTION. 476B.3 DO-NOT-CALL LISTING.

34 1. The secretary of state shall contract with a
35 service that maintains a national do-not-call list, so
36 that Iowa telephone subscribers who do not wish to
37 receive unsolicited telephone solicitation utilizing
38 any ADAD equipment, predictive dialing technology, or
39 autodialers may register to be included on the list.
40 The contract shall be made in consultation with the
41 consumer protection division of the department of
42 justice, so that all evidentiary issues and other
43 issues related to enforcement are considered.

44 2. A residential, mobile, or telephonic paging
45 device telephone subscriber who does not wish to
46 receive unsolicited telephone solicitations may
47 register to be included on the do-not-call list
48 contracted for by the secretary of state pursuant to
49 subsection 1.

50 3. A telephone solicitor doing business in Iowa

H-1358

H-1358

Page 5

1 shall pay a fee to be determined pursuant to
2 subsection 5, and shall obtain a subscription to
3 receive the quarterly updated subscription listings of
4 consumers in Iowa who have registered to be included
5 on the do-not-call list referred to in this section.

6 4. A telephone solicitor shall not make a call
7 with any ADAD equipment, predictive dialing
8 technology, or autodialer to any consumer in Iowa
9 whose name is on the do-not-call list referred to in
10 this section.

11 5. The secretary of state and consumer protection
12 division of the department of justice shall adopt
13 rules pursuant to chapter 17A to administer this
14 section, including appropriate notices to consumers of
15 the types of calls toward which such registration is
16 directed, and the charging of a fee for subscriptions
17 to the list so that the list income supports the cost
18 of maintaining the list.

19 Sec. 4. NEW SECTION. 476B.4 TELEPHONE
20 SOLICITATION RESTRICTIONS.

21 A telephone solicitor who makes a telephone
22 solicitation to a residential, mobile, or telephonic
23 paging device telephone number shall disclose the
24 identity of the telephone solicitor and the business
25 on whose behalf the telephone solicitor is making the
26 telephone solicitation, immediately upon making
27 contact by telephone with the person who is the object
28 of the telephone solicitation. The telephone
29 solicitor shall also comply with the provisions of 16
30 C.F.R. § 310.4 in regard to required disclosures and
31 other actions of the telephone solicitor. The
32 business employing the telephone solicitor shall also
33 comply with the provisions of 16 C.F.R. § 310.5,
34 particularly with regard to the use of fictitious
35 names by employees and recordkeeping by the business
36 regarding such names.

37 Sec. 5. NEW SECTION. 476B.5 REQUIREMENTS FOR
38 CONTRACTS MADE PURSUANT TO TELEPHONE SOLICITATION.

39 1. A contract made pursuant to a telephone
40 solicitation is not valid and enforceable against a
41 consumer unless made in compliance with this section.

42 2. A contract made pursuant to a telephone
43 solicitation must satisfy all of the following:

44 a. The contract must be reduced to writing and
45 signed by the consumer.

46 b. The contract must comply with all other
47 applicable laws and rules.

48 c. The contract must match the description of
49 goods or services as principally communicated in the
50 telephone solicitation.

H-1358

-5-

H-1358

Page 6

1 d. The contract must contain the name, address,
2 and telephone number of the seller, the total price of
3 the contract, and a detailed description of the goods
4 or services being sold.

5 e. The contract must contain, in bold, conspicuous
6 type, immediately preceding the signature, the
7 following statement:

8 "You are not obligated to pay any money unless you
9 sign this contract and return it to the seller."

10 f. The contract must not exclude from its terms
11 any oral or written representations made by the
12 telephone solicitor to the consumer in connection with
13 the transaction.

14 This section does not apply to contractual sales
15 specifically regulated by other law, or to the sale of
16 financial services, security sales, or sales
17 transacted by insurance companies or their wholly
18 owned subsidiaries or agents, or to the sale of cable
19 television services to a franchised cable television
20 operator's existing subscribers within that cable
21 television operator's franchise area, or to any sales
22 where no prior payment is made to the merchant and an
23 invoice accompanies the goods or services allowing the
24 consumer no less than seven days to cancel or return
25 the goods or services without obligation for any
26 payment.

27 Sec. 6. NEW SECTION. 476B.6 RESTRICTIONS ON
28 CHARGES TO CREDIT CARD ACCOUNTS AND ELECTRONIC
29 TRANSFERS OF FUNDS.

30 1. A merchant who engages a telephone solicitor to
31 make or cause to be made a telephone solicitation
32 shall not make or submit any charge to a consumer's
33 credit card account or make or cause to be made any
34 electronic transfer of funds until after the merchant
35 receives from the consumer a copy of the contract,
36 signed by the consumer, that complies with section
37 476B.5.

38 2. This section does not apply to any of the
39 following:

40 a. A transaction made pursuant to prior
41 negotiations in the course of a visit by the consumer
42 to a merchant operating a retail business
43 establishment which has a fixed permanent location and
44 where consumer goods are displayed or offered for sale
45 on a continuing basis.

46 b. A transaction in which the consumer may obtain
47 a full refund for the return of undamaged and unused
48 goods or a cancellation of services by notice to the
49 seller within seven days after receipt by the
50 consumer, and the seller will process the refund

H-1358

H-1358

Page 7

1 within thirty days after receipt of the returned
2 merchandise by the consumer.

3 c. A transaction in which the consumer purchases
4 goods or services pursuant to an examination of a
5 television, radio, or print advertisement or a sample,
6 brochure, or catalog of the merchant that contains all
7 of the following:

8 (1) The name, address, and telephone number of the
9 merchant.

10 (2) A description of the goods or services being
11 sold.

12 (3) Any limitations or restrictions that apply to
13 the offer.

14 d. A transaction in which the merchant is a bona
15 fide charitable organization or a newspaper.

16 Sec. 7. NEW SECTION. 476B.7 PREPAID CALLING
17 CARDS -- DISCLOSURES -- REQUIREMENTS.

18 1. A prepaid calling card company shall provide
19 all of the following information about the prepaid
20 calling services in a prominent area at the point of
21 sale of the prepaid calling services, legibly and
22 visibly printed on the card, packaging, or display in
23 such a manner that the consumer may make an informed
24 decision about the prepaid calling services prior to
25 purchase:

26 a. The maximum charge per minute for the prepaid
27 calling services.

28 b. All applicable surcharges.

29 c. The expiration policy for the prepaid calling
30 services, if applicable.

31 The company shall insure by contract with its
32 retailers or distributors that the information is
33 provided to the consumer.

34 2. A prepaid calling card company shall legibly
35 print all of the following information on the prepaid
36 calling card:

37 a. The name of the prepaid calling card company,
38 as registered with the secretary of state.

39 b. A toll-free customer service number.

40 c. A toll-free network access number.

41 d. The authorization code, if such a code is
42 required to access telecommunications service.

43 3. A prepaid calling card company shall provide
44 all of the following information and services through
45 its customer service number:

46 a. Rates and surcharges.

47 b. Balance of use in account.

48 c. Expiration date or period, if applicable.

49 d. A live operator to answer incoming calls
50 twenty-four hours a day, seven days a week, or

H-1358

Page 8

1 electronic voice recording of consumer messages. A
2 combination of live operators or recorders may be
3 used. If a recorder is used, the company shall
4 attempt to contact each consumer no later than the
5 next business day following the date of the recording.

6 4. A prepaid calling card company shall use the
7 following billing standards:

8 a. A prepaid calling card company shall only
9 charge a consumer for conversation time used plus
10 applicable surcharges.

11 b. The billing increment used by a prepaid calling
12 card company shall not exceed one minute.

13 c. Conversation time of less than a full minute
14 shall not be rounded up beyond the next full minute.

15 5. Cards that do not have a specific expiration
16 period printed on the card, and that have a balance of
17 service remaining, shall be considered active for a
18 minimum of one year from the date of first use, or if
19 recharged, from the date of the last recharge.

20 6. A prepaid calling card company shall have a
21 refund policy that meets all of the following minimum
22 requirements:

23 a. For prepaid calling services that are rendered
24 unusable for reasons beyond the consumer's control,
25 and have not exceeded the expiration period, a prepaid
26 calling card company shall provide a refund equal to
27 the value remaining in the account.

28 b. Each company may, but shall not be required to,
29 provide a refund when a card has been lost or stolen.

30 c. Refunds may be cash or replacement service, at
31 the prepaid calling card company's option, but must be
32 made to the consumer within sixty days of the request
33 for a refund by the consumer.

34 7. All cards sold by a prepaid calling card
35 company in Iowa after July 1, 2001, shall comply with
36 this section.

37 Sec. 8. NEW SECTION. 476B.8 INVESTIGATIONS --
38 CIVIL ACTIONS -- CIVIL PENALTY -- OTHER REMEDIES.

39 1. A violation of this chapter is a violation of
40 section 714.16, subsection 2, paragraph "a". All the
41 powers conferred upon the attorney general to
42 accomplish the objectives and carry out the duties
43 prescribed pursuant to section 714.16 are also
44 conferred upon the attorney general to enforce this
45 chapter, including, but not limited to, the power to
46 issue subpoenas, adopt rules pursuant to chapter 17A
47 which shall have the force of law, and seek injunctive
48 relief and civil penalties.

49 2. In seeking reimbursement pursuant to section
50 714.16, subsection 7, from a person who has committed

H-1358

-8-

H-1358

Page 9

1 a violation of this chapter, the attorney general may
2 seek an order from the court that the person pay to
3 the attorney general on behalf of consumers the
4 amounts for which the person would be liable under
5 section 476B.8, subsection 2, for each consumer who
6 has a cause of action pursuant to section 476B.8,
7 subsection 2. Section 714.16, as it relates to
8 consumer reimbursement, shall apply to consumer
9 reimbursement pursuant to this section.

10 Sec. 9. NEW SECTION. 476B.9 PRIVATE CAUSE OF
11 ACTION -- DAMAGES AND INJUNCTIVE RELIEF.

12 In addition to any other remedies, a consumer who
13 receives more than one telephone solicitation within
14 any twelve-month period by or on behalf of the same
15 person in violation of any provision of this chapter
16 may bring an action against the person to recover all
17 of the following:

18 1. Preliminary and permanent injunctive relief
19 necessary to protect the public against further
20 violations.

21 2. The greater of actual monetary damages or a sum
22 not less than one hundred dollars but not more than
23 two thousand dollars for each telephone call made in
24 violation of this chapter.

25 3. Costs and reasonable attorney fees.
26 Reimbursement awarded to the attorney general
27 pursuant to section 714.16, subsection 7, on behalf of
28 a plaintiff who has filed an action pursuant to this
29 section concerning the same set of facts shall be
30 deducted from any damages awarded to the plaintiff in
31 an action filed under this section.

32 Sec. 10. NEW SECTION. 476B.10 NOTIFICATION OF
33 RIGHTS.

34 The board shall by rule ensure that
35 telecommunications providers inform their customers of
36 the customers' rights under this chapter. The
37 notification shall be made by at least both of the
38 following:

39 1. Annual inserts in the billing statements mailed
40 to customers.

41 2. Conspicuous publication of the notice in the
42 consumer information pages of the local telephone
43 directories.

44 Sec. 11. Section 476.57, Code 2001, is repealed."

45 2. Title page, by striking lines 1 through 12 and
46 inserting the following: "An Act relating to
47 telemarketing."

48 3. By renumbering as necessary.

By SCHRADER of Marion

H-1358 FILED MARCH 27, 2001

*Not Done 4/2/01 (P. 1009)
Motion to Suspend Rules Post 4/2/01 (P. 1010)*

HOUSE FILE 577

H-1397

1 Amend House File 577 as follows:

2 1. Page 6, by inserting after line 21 the
3 following:

4 "4. a. If a rate-regulated public utility files
5 an application to construct an electric power
6 generating facility pursuant to section 476A.3, the
7 board shall specify in advance, by order issued after
8 a contested case proceeding, the ratemaking principles
9 that will apply when the costs of the facility are
10 included in regulated electric rates.

11 b. In determining the applicable ratemaking
12 principles, the board shall not be limited to
13 traditional ratemaking principles or traditional cost
14 recovery mechanisms.

15 c. The applicable ratemaking principles shall be
16 determined in a contested case proceeding, which
17 proceeding may be combined with the proceeding for
18 issuance of a certificate conducted pursuant to
19 chapter 476A.

20 d. The order setting forth the applicable
21 ratemaking principles shall be issued prior to the
22 commencement of construction of the facility.

23 e. Following issuance of the order, the rate-
24 regulated public utility shall have the option of
25 proceeding with construction of the facility, or
26 withdrawing its application for a certificate under
27 chapter 476A.

28 f. Notwithstanding any provision of this chapter
29 to the contrary, the ratemaking principles established
30 by the order issued pursuant to paragraph "d" shall be
31 binding with regard to the specific electric power
32 generating facility in any subsequent rate proceeding.

33 Sec. ____ . Section 476A.4, Code 2001, is amended by
34 adding the following new subsection:

35 NEW SUBSECTION. 5. A proceeding for the issuance
36 of a certificate under section 476A.5 may be
37 consolidated with a contested case proceeding for
38 determination of applicable ratemaking principles
39 under section 476.53."

40 2. Page 8, by inserting after line 4 the
41 following:

42 "Sec. ____ . Section 476A.7, Code 2001, is amended
43 by adding the following new subsection:

44 NEW SUBSECTION. 3. Pursuant to the provisions of
45 section 476.53, a rate-regulated public utility shall
46 have the option of withdrawing its application for
47 issuance of a certificate at any time prior to the
48 issuance of the certificate, or after the certificate
49 has been issued."

50 3. By renumbering as necessary.

By JENKINS of Black Hawk

H-1397 FILED MARCH 30, 2001

W/D 4/2/01 (P.1047)

HOUSE FILE 577

H-1398

1 Amend House File 577 as follows:

2 1. Page 1, line 24, by striking the word "from"
3 and inserting the following: "from, or for the lease
4 of,".

5 2. Page 1, line 26, by inserting after the word
6 "purchased" the following: "or nameplate capacity of
7 the facility leased".

8 3. Page 6, by inserting after line 21 the
9 following:

10 "4. a. If a rate-regulated public utility files
11 an application to construct an electric power
12 generating facility pursuant to section 476A.3, the
13 board shall specify in advance, by order issued after
14 a contested case proceeding, the ratemaking principles
15 that will apply when the costs of the facility are
16 included in regulated electric rates.

17 b. In determining the applicable ratemaking
18 principles, the board shall not be limited to
19 traditional ratemaking principles or traditional cost
20 recovery mechanisms.

21 c. The applicable ratemaking principles shall be
22 determined in a contested case proceeding, which
23 proceeding may be combined with the proceeding for
24 issuance of a certificate conducted pursuant to
25 chapter 476A.

26 d. The order setting forth the applicable
27 ratemaking principles shall be issued prior to the
28 commencement of construction of the facility.

29 e. Following issuance of the order, the rate-
30 regulated public utility shall have the option of
31 proceeding with construction of the facility, or
32 withdrawing its application for a certificate under
33 chapter 476A.

34 f. Notwithstanding any provision of this chapter
35 to the contrary, the ratemaking principles established
36 by the order issued pursuant to paragraph "d" shall be
37 binding with regard to the specific electric power
38 generating facility in any subsequent rate proceeding.

39 Sec. _____. Section 476A.4, Code 2001, is amended by
40 adding the following new subsection:

41 NEW SUBSECTION. 5. A proceeding for the issuance
42 of a certificate under section 476A.5 may be
43 consolidated with a contested case proceeding for
44 determination of applicable ratemaking principles
45 under section 476.53."

46 4. Page 8, by inserting after line 4 the
47 following:

48 "Sec. _____. Section 476A.7, Code 2001, is amended
49 by adding the following new subsection:

50 NEW SUBSECTION. 3. Pursuant to the provisions of

H-1398

Page 2

1 section 476.53, a rate-regulated public utility shall
2 have the option of withdrawing its application for
3 issuance of a certificate at any time prior to the
4 issuance of the certificate, or after the certificate
5 has been issued."

6 5. By renumbering as necessary.

By JENKINS of Black Hawk

H-1398 FILED MARCH 30, 2001

adoption
4/2/01 (P. 1033)

HOUSE FILE 577**H-1399**

1 Amend House File 577 as follows:

2 1. Page 1, line 24, by striking the word "from"
3 and inserting the following: "from, or for the lease
4 of,".

5 2. Page 1, line 26, by inserting after the word
6 "purchased" the following: "or nameplate capacity of
7 the facility leased".

By JENKINS of Black Hawk

H-1399 FILED MARCH 30, 2001

w/d
4/2/01
(P. 1033)

HOUSE FILE 577

H-1400

1 Amend the amendment, H-1398, to House File 577, as
2 follows:

3 1. Page 1, line 12, by inserting after the word
4 "facility" the following: "in Iowa".

5 2. Page 1, line 31, by inserting after the word
6 "facility" the following: "in Iowa".

By JENKINS of Black Hawk

H-1400 FILED APRIL 2, 2001

Adopted
4-2-01 (p. 1029)

HOUSE FILE 577

H-1401

1 Amend the amendment, H-1397, to House File 577, as
2 follows:

3 1. Page 1, line 6, by inserting after the word
4 "facility" the following: "in Iowa".

5 2. Page 1, line 25, by inserting after the word
6 "facility" the following: "in Iowa".

By JENKINS of Black Hawk

H-1401 FILED APRIL 2, 2001

w/d
4/2/01 (p. 1047)

HOUSE FILE 577

H-1403

1 Amend the amendment, H-1297 to House File 577 as
2 follows:

3 1. Page 1, by inserting after line 8 the
4 following:

5 "____. Page 2, line 13, by striking the word "The"
6 and inserting the following: "Prior to implementation
7 of the contract, and prior to inclusion of contract
8 costs in the regulated retail rates of the public
9 utility, the public utility shall submit the proposed
10 contract to a vote of its retail customers. If a
11 majority of the retail customers approve the contract,
12 then the"."

By CHIODO of Polk

H-1403 FILED APRIL 2, 2001

O/O
4/2/01
(p. 1027)

HOUSE FILE 577**H-1406**

1 Amend the amendment, H-1398, to House File 577 as
2 follows:

3 1. By striking page 1, line 2, through page 2,
4 line 6, and inserting the following:

5 "____. By striking page 1, line 11, through page
6 2, line 30, and inserting the following:

7 "NEW SUBSECTION. 16A. PUBLIC UTILITY LEASE OF
8 ASSETS.

9 a. A rate-regulated public utility shall file with
10 the board any lease of assets from an affiliate,
11 subsidiary, or any other entity owned or controlled
12 directly or indirectly by such utility or any
13 affiliate, subsidiary, parent company, associate, or
14 any corporation whose controlling stockholders are
15 also controlling stockholders of such utility, if the
16 lease of assets meets all of the following conditions:

17 (1) The lease term is for a period of twenty-five
18 years or longer.

19 (2) The lease relates to an electric power
20 generating facility that is being planned or is under
21 construction in Iowa as of the date of the lease.

22 (3) The lease involves the acquisition of the
23 capacity of the facility, or a right to any percentage
24 of the capacity of the facility that equals or exceeds
25 five percent of the public utility's Iowa retail load.

26 (4) The lease provides that the public utility
27 will control, operate, and maintain the electric power
28 generating facility during the term of the lease, and
29 will control the use and sale of all electricity
30 generated at the facility during the term of the
31 lease.

32 (5) A provision at the end of the original lease
33 term that allows an option for either the extension of
34 the lease, pursuant to review under the terms of this
35 subsection, as applicable, or for the purchase of the
36 electric power generating facility, subject to the
37 approval of the board.

38 b. The board shall approve the lease if it finds,
39 after a contested case proceeding, that the terms of
40 the lease are reasonable and prudent.

41 c. The costs of the lease approved by the board
42 shall be included in the public utility's regulated
43 retail electric rates.

44 d. The board shall amortize the costs of the lease
45 over the expected useful life of the electric power
46 generating facility. However, the board shall not
47 allow recovery by the public utility in excess of the
48 proportional share of total amortized costs for the
49 term of the lease, if the expected useful life of the
50 electric power generating facility is longer than the

H-1406

H-1406

Page 2

1 term of the lease.
2 e. The board may approve a surcharge to retail
3 customers for the cost of capital being invested in
4 the electric power generating facility during the
5 period of construction, if the board finds that it is
6 in the public interest to provide an incentive to
7 ensure the construction of a new electric power
8 generating facility in Iowa."
9 _____. Title page, lines 3 and 4, by striking the
10 words "power purchase contracts" and inserting the
11 following: "certain leases of assets by public
12 utilities".
13 _____. By renumbering or correcting internal
14 references as necessary."

By CHIODO of Polk**H-1406** FILED APRIL 2, 2001

w/d

4/2/01

(P. 1023)

HOUSE FILE 577

H-1407

1 Amend the amendment, H-1397, to House File 577, as
2 follows:

3 1. Page 1, by striking lines 2 through 50, and
4 inserting the following:

5 "_____. By striking page 1, line 11, through page
6 2, line 30, and inserting the following:

7 "NEW SUBSECTION. 16A. PUBLIC UTILITY LEASE OF
8 ASSETS.

9 a. A rate-regulated public utility shall file with
10 the board any lease of assets from an affiliate,
11 subsidiary, or any other entity owned or controlled
12 directly or indirectly by such utility or any
13 affiliate, subsidiary, parent company, associate, or
14 any corporation whose controlling stockholders are
15 also controlling stockholders of such utility, if the
16 lease of assets meets all of the following conditions:

17 (1) The lease term is for a period of twenty-five
18 years or longer.

19 (2) The lease relates to an electric power
20 generating facility that is being planned or is under
21 construction in Iowa as of the date of the lease.

22 (3) The lease involves the acquisition of the
23 capacity of the facility, or a right to any percentage
24 of the capacity of the facility that equals or exceeds
25 five percent of the public utility's Iowa retail load.

26 (4) The lease provides that the public utility
27 will control, operate, and maintain the electric power
28 generating facility during the term of the lease, and
29 will control the use and sale of all electricity
30 generated at the facility during the term of the
31 lease.

32 (5) A provision at the end of the original lease
33 term that allows an option for either the extension of
34 the lease, pursuant to review under the terms of this
35 subsection, as applicable, or for the purchase of the
36 electric power generating facility, subject to the
37 approval of the board.

38 b. The board shall approve the lease if it finds,
39 after a contested case proceeding, that the terms of
40 the lease are reasonable and prudent.

41 c. The costs of the lease approved by the board
42 shall be included in the public utility's regulated
43 retail electric rates.

44 d. The board shall amortize the costs of the lease
45 over the expected useful life of the electric power
46 generating facility. However, the board shall not
47 allow recovery by the public utility in excess of the
48 proportional share of total amortized costs for the
49 term of the lease, if the expected useful life of the
50 electric power generating facility is longer than the

H-1407

-1-

H-1407

Page 2

1 term of the lease.

2 e. The board may approve a surcharge to retail
3 customers for the cost of capital being invested in
4 the electric power generating facility during the
5 period of construction, if the board finds that it is
6 in the public interest to provide an incentive to
7 ensure the construction of a new electric power
8 generating facility in Iowa."

9 _____. Title page, lines 3 and 4, by striking the
10 words "power purchase contracts" and inserting the
11 following: "certain leases of assets by public
12 utilities".

13 _____. By renumbering, redesignating, and
14 correcting internal references as necessary."

By CHIODO of Polk

H-1407 FILED APRIL 2, 2001

w/d

4/2/01 (p. 1047)

HOUSE FILE 577

H-1410

1 Amend the amendment, H-1398, to House File 577 as
2 follows:

3 1. By striking page 1, line 2, through page 2,
4 line 6, and inserting the following:

5 "____. By striking page 1, line 11, through page
6 2, line 30, and inserting the following:

7 "NEW SUBSECTION. 16A. PUBLIC UTILITY LEASE OF
8 ASSETS.

9 a. A rate-regulated public utility shall file with
10 the board any lease of assets from an affiliate,
11 subsidiary, or any other entity owned or controlled
12 directly or indirectly by such utility or any
13 affiliate, subsidiary, parent company, associate, or
14 any corporation whose controlling stockholders are
15 also controlling stockholders of such utility, if the
16 lease of assets meets all of the following conditions:

17 (1) The lease term is for a period of twenty-five
18 years or longer.

19 (2) The lease relates to an electric power
20 generating facility that is being planned or is under
21 construction in Iowa as of the date of the lease.

22 (3) The lease involves the acquisition of the
23 capacity of the facility, or a right to any percentage
24 of the capacity of the facility that equals or exceeds
25 five percent of the public utility's Iowa retail load.

26 (4) The lease provides that the public utility
27 will control, operate, and maintain the electric power
28 generating facility during the term of the lease,
29 including employment of employees of the public
30 utility required to fully staff the facility, and will
31 control the use and sale of all electricity generated
32 at the facility during the term of the lease.

33 (5) A provision at the end of the original lease
34 term that allows an option for either the extension of
35 the lease, pursuant to review under the terms of this
36 subsection, as applicable, or for the purchase of the
37 electric power generating facility, subject to the
38 approval of the board.

39 b. The board shall approve the lease if it finds,
40 after a contested case proceeding, that the terms of
41 the lease are reasonable and prudent.

42 c. The costs of the lease approved by the board
43 shall be included in the public utility's regulated
44 retail electric rates.

45 d. The board shall amortize the costs of the lease
46 over the expected useful life of the electric power
47 generating facility. However, the board shall not
48 allow recovery by the public utility in excess of the
49 proportional share of total amortized costs for the
50 term of the lease, if the expected useful life of the

H-1410

-1-

H-1410

Page 2

1 electric power generating facility is longer than the
2 term of the lease.

3 e. The board may approve a surcharge to retail
4 customers for the cost of capital being invested in
5 the electric power generating facility during the
6 period of construction, if the board finds that it is
7 in the public interest to provide an incentive to
8 ensure the construction of a new electric power
9 generating facility in Iowa."

10 _____. Title page, lines 3 and 4, by striking the
11 words "power purchase contracts" and inserting the
12 following: "certain leases of assets by public
13 utilities".

14 _____. By renumbering or correcting internal
15 references as necessary."

By CHIODO of Polk

H-1410 FILED APRIL 2, 2001

W/D

4/2/01

HOUSE FILE 577

H-1411

1 Amend the amendment, H-1397, to House File 577, as
2 follows:

3 1. Page 1, by striking lines 2 through 50, and
4 inserting the following:

5 "____. By striking page 1, line 11, through page
6 2, line 30, and inserting the following:

7 "NEW SUBSECTION. 16A. PUBLIC UTILITY LEASE OF
8 ASSETS.

9 a. A rate-regulated public utility shall file with
10 the board any lease of assets from an affiliate,
11 subsidiary, or any other entity owned or controlled
12 directly or indirectly by such utility or any
13 affiliate, subsidiary, parent company, associate, or
14 any corporation whose controlling stockholders are
15 also controlling stockholders of such utility, if the
16 lease of assets meets all of the following conditions:

17 (1) The lease term is for a period of twenty-five
18 years or longer.

19 (2) The lease relates to an electric power
20 generating facility that is being planned or is under
21 construction in Iowa as of the date of the lease.

22 (3) The lease involves the acquisition of the
23 capacity of the facility, or a right to any percentage
24 of the capacity of the facility that equals or exceeds
25 five percent of the public utility's Iowa retail load.

26 (4) The lease provides that the public utility
27 will control, operate, and maintain the electric power
28 generating facility during the term of the lease,
29 including employment of employees of the public
30 utility required to fully staff the facility, and will
31 control the use and sale of all electricity generated
32 at the facility during the term of the lease.

33 (5) A provision at the end of the original lease
34 term that allows an option for either the extension of
35 the lease, pursuant to review under the terms of this
36 subsection, as applicable, or for the purchase of the
37 electric power generating facility, subject to the
38 approval of the board.

39 b. The board shall approve the lease if it finds,
40 after a contested case proceeding, that the terms of
41 the lease are reasonable and prudent.

42 c. The costs of the lease approved by the board
43 shall be included in the public utility's regulated
44 retail electric rates.

45 d. The board shall amortize the costs of the lease
46 over the expected useful life of the electric power
47 generating facility. However, the board shall not
48 allow recovery by the public utility in excess of the
49 proportional share of total amortized costs for the
50 term of the lease, if the expected useful life of the

H-1411

-1-

H-1411

Page 2

1 electric power generating facility is longer than the
2 term of the lease.

3 e. The board may approve a surcharge to retail
4 customers for the cost of capital being invested in
5 the electric power generating facility during the
6 period of construction, if the board finds that it is
7 in the public interest to provide an incentive to
8 ensure the construction of a new electric power
9 generating facility in Iowa."

10 _____. Title page, lines 3 and 4, by striking the
11 words "power purchase contracts" and inserting the
12 following: "certain leases of assets by public
13 utilities".

14 _____. By renumbering, redesignating, and
15 correcting internal references as necessary."

By CHIODO of Polk

H-1411 FILED APRIL 2, 2001 /

w/D

4/2/01

(p.1047)

HOUSE FILE 577

H-1415

1 Amend the amendment, H-1398, to House File 577, as
2 follows:

3 1. By striking page 1, line 1, through page 2,
4 line 6, and inserting the following:

5 "Amend House File 577 as follows:

6 _____. Page 1, line 10, by striking the word

7 "subsections" and inserting the following:

8 "subsection".

9 _____. By striking page 1, line 11, through page 2,
10 line 30.

11 _____. Page 4, by inserting after line 35, the
12 following:

13 "Sec. _____. Section 476.8, Code 2001, is amended to
14 read as follows:

15 476.8 UTILITY CHARGES AND SERVICE.

16 1. Every public utility is required to furnish
17 reasonably adequate service and facilities.

18 a. "Reasonably adequate service and facilities"
19 for public utilities furnishing gas or electricity
20 includes programs for customers to encourage the use
21 of energy efficiency and renewable energy sources.

22 b. The charge made by any public utility for any
23 heat, light, gas, energy efficiency and renewable
24 energy programs, water or power produced, transmitted,
25 delivered or furnished, or communications services, or
26 for any service rendered or to be rendered in
27 connection ~~therewith~~ with such service shall be
28 reasonable and just, and every unjust or unreasonable
29 charge for such service is prohibited and declared
30 unlawful. In determining reasonable and just rates,
31 the board shall consider all factors relating to value
32 and shall not be bound by rate base decisions or
33 rulings made prior to the adoption of this chapter.

34 2. The board shall have the authority to order a
35 rate-regulated public utility to construct an electric
36 generating facility, transmission facility, or both,
37 as necessary to ensure continued electric reliability,
38 and to maintain reasonably adequate, reliable, safe,
39 and cost-efficient electric service to Iowa consumers.
40 The prudent and reasonable costs incurred to construct
41 and operate such generating facility or transmission
42 facility shall be included in the determination of the
43 rates of the rate-regulated public utility.

44 3. The board, in determining the value of
45 materials or services to be included in valuations or
46 costs of operations for rate-making purposes, may
47 disallow any unreasonable profit made in the sale of
48 materials to or services supplied for any public
49 utility by any firm or corporation owned or controlled
50 directly or indirectly by such utility or any

H-1415

Page 2

1 affiliate, subsidiary, parent company, associate or
2 any corporation whose controlling stockholders are
3 also controlling stockholders of such utility. The
4 burden of proof shall be on the public utility to
5 prove that no unreasonable profit is made.

6 4. The continued availability of reliable and
7 affordable electricity is critical to sustaining
8 existing levels of economic activity, providing for
9 future economic growth, and ensuring the education,
10 health, safety, and quality of life of individual
11 Iowans. Therefore, the general assembly finds and
12 declares that the public interest requires that the
13 board take such action as is necessary to cause the
14 construction of additional baseload electricity
15 generating capacity and necessary transmission
16 facilities in Iowa.

17 a. Each rate-regulated public utility shall submit
18 a plan to the board by April 1, 2002, to construct one
19 or more large baseload electricity generating
20 facilities in Iowa, as quickly as is practicable.

21 b. The board shall, after a contested case
22 proceeding, either approve the plan as submitted, or
23 approve the plan with such modifications as the board
24 deems necessary to carry out the purposes of this
25 subsection."

26 _____. By striking page 5, line 4 through page 6,
27 line 21 and inserting the following:

28 "1. A rate-regulated electric public utility shall
29 have installed electric generating capacity, adjusted
30 for purchases and sales, not less than its maximum
31 integrated hour demand for the year plus a reserve of
32 not less than fifteen percent of such demand. The
33 installed electric generating capacity shall include
34 not more than ten percent firm power purchased from
35 fossil-fueled or nuclear generation sources pursuant
36 to contracts executed, amended, or extended after
37 January 1, 2001, unless otherwise approved by the
38 board as necessary to assure adequate electric
39 generating capacity. The prudent and reasonable costs
40 incurred to construct, operate, and maintain electric
41 generating and transmission facilities shall be
42 included in the determination of the rates of the
43 rate-regulated electric public utility.

44 2. The board may approve a surcharge to retail
45 customers for the cost of capital being invested in
46 the electric power generating facility during the
47 period of construction, if the board finds that it is
48 in the public interest to provide an incentive to
49 ensure the construction of a new electric power
50 generating facility in Iowa.

H-1415

-2-

H-1415

Page 3

1 3. If retail rates for electric generation service
2 provided by rate-regulated electric utilities are
3 deregulated pursuant to Iowa or federal law, the board
4 shall determine the difference, if any, between the
5 market value and the book value of all of the
6 generation assets owned by a rate-regulated electric
7 utility. The board shall approve a charge to be paid
8 by the utility's retail customers over a reasonable
9 period to permit the utility to collect from such
10 customers the excess, if any, of the book value over
11 the market value of those generation assets. The
12 board shall approve a credit to be paid by the utility
13 to its retail customers over a reasonable period to
14 permit such customers to recover the excess, if any,
15 of the market value over the book value of those
16 generations assets.

17 4. The board shall report to the general assembly
18 by January 21, 2002, and biennially thereafter, on the
19 adequacy, reliability, and development of electric
20 generating and transmission facilities in the state.
21 The report may include recommendations for actions by
22 the general assembly to assure the adequacy and
23 reliability of electric generating and transmission
24 facilities throughout the state."

25 _____. Title page, lines 3 and 4, by striking the
26 words "approval of power purchase contracts" and
27 inserting the following: "providing authority for the
28 utilities board to order the construction of a
29 generating or transmission facility".

30 _____. By renumbering, redesignating, and
31 correcting internal references as necessary."

By CHIODO of Polk

H-1415 FILED APRIL 2, 2001

Loat
4-2-01 (P. 1033)

**HOUSE FILE 577
FISCAL NOTE**

A fiscal note for **House File 577** 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.

House File 577 states that it is the intent of the General Assembly to attract the development of electric power generating facilities within the State in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the State, implemented in a manner that is cost-effective and compatible with the environmental policies of the State. The Bill requires a report to the General Assembly from the Utilities Board regarding recommended actions in developing the General Assembly's intent every two years beginning January 21, 2002. The Bill provides for criterion for construction of electric plants, waivers, and purchase contracts. The Bill also provides for coal-fired plants to develop plans subject to review by the Department of Natural Resources and the Consumer Advocate. Provisions are made for joint agreements for the acquisition of ownership; for the planning, financing, operation, and maintenance of joint facilities devoted to electric power generation and transmission; and providing for the bonding authority of electric power agencies.

ASSUMPTIONS

1. The Iowa Utilities Division will review approximately three purchase power contracts a year.
2. Services of third-party experts will be obtained to review the purchase power contracts at approximately \$50,000 per contract.
3. All costs of the Iowa Utilities Division will be assessed to the contracting utility.
4. Costs to review plans of coal-fired facilities can be absorbed within the current Department of Natural Resources operation.

FISCAL IMPACT

The fiscal effect of House File 577 to the General Fund is expected to be minimal. The cost to review power contracts is estimated to cost approximately \$150,000 annually. The \$150,000 cost will be assessed to the utility company and the receipts will be deposited in the General Fund.

SOURCES

Department of Natural Resources
Iowa Utilities Board, Department of Commerce

(LSB 2443hv, CRS)

**HOUSE FILE 577
FISCAL NOTE**

A fiscal note for **H-1274 to House File 577** 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.

Amendment H-1274 to House File 577 creates within the Department of Natural Resources, the Iowa Energy Commission. The seven-member, Governor-appointed Commission will investigate, report, and advise on energy issues; hear appeals in contested cases; and develop a plan for the development, management, and utilization of all energy resources in the State. The Commission is required to perform several similar duties of the Department of Natural Resources, as well as new duties. Amendment H-1274 to House File 577 also provides for a report to the Commission that will include: an analysis of the level of investment and incentives required to increase the energy generated from alternative or renewable sources by 10%, 20%, and 30%; recommendations for promoting investment in integrated, small scale renewable energy systems; an analysis of the costs and benefits of generating and transmitting electricity from a renewable source and a formula for establishing a fair cost; and recommendations for a standard system for net metering and connecting renewable electricity generators to the electric grid.

ASSUMPTIONS

1. Staffing needs for the Commission will be approximately 2.5 FTE positions to develop new reports, direct dissemination of educational information, complete price investigations, and to consult on contested cases before the Commission at an average annual salary and benefit cost of \$55,000 per FTE.
2. There would be no additional costs to the Department by issuing the current biannual report. However, if outside services were contracted with to issue a comprehensive report on existing energy efficiency in the State, the one-time cost could be up to approximately \$300,000.
3. Costs for public dissemination of energy efficiency education, including brochures, posters, and media will range from no additional costs if current practices are followed to \$100,000 if a new campaign is developed.
4. Costs for the collection and entry of additional information into the central repository will be approximately \$150,000 in FY 2002 and \$100,000 in FY 2003.
5. Cost for printing and binding of additional reports will be approximately \$2,000.
6. The Commission will meet four times, annually.
7. The Commission members will be paid \$50 per diem, plus mileage.

8. The Commission will be appointed by December 2001.

FISCAL IMPACT

The fiscal impact of Amendment H-1274 to House File 577 will be a minimum of approximately \$300,000 in FY 2002 and \$250,000 in FY 2003.

SOURCE

Department of Natural Resources

(LSB 2443HV.3, CRS)

FILED APRIL 2, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 577
FISCAL NOTE**

A fiscal note for **Amendment H-1274 to House File 577** 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.

Amendment H-1274 to House File 577 creates within the Department of Natural Resources, the Iowa Energy Commission. The seven-member, Governor-appointed Commission will investigate, report, and advise on energy issues; hear appeals in contested cases; and develop a plan for the development, management, and utilization of all energy resources in the State. The Commission is required to perform several similar duties of the Department of Natural Resources, as well as new duties. Amendment H-1274 to House File 577 also provides for a report to the Commission that will include: an analysis of the level of investment and incentives required to increase the energy generated from alternative or renewable sources by 10%, 20%, and 30%; recommendations for promoting investment in integrated, small scale renewable energy systems; an analysis of the costs and benefits of generating and transmitting electricity from a renewable source and a formula for establishing a fair cost; and recommendations for a standard system for net metering and connecting renewable electricity generators to the electric grid.

ASSUMPTIONS

1. Staffing needs for the Commission will be approximately 6.0 FTE positions at an average annual salary and benefit cost of \$55,000 per FTE.
2. Outside services will be contracted at approximately \$300,000 in FY 2002 to issue a report on existing energy efficiency in the State.
3. Costs for public dissemination of energy efficiency education, including brochures, posters, and media will be approximately \$100,000 annually.
4. Costs for the collection and entry of additional information into the central repository will be approximately \$150,000 in FY 2002 and \$100,000 in FY 2003.
5. Cost for printing and binding of additional reports will be approximately \$2,000.
6. The Commission will meet four times, annually.
7. The Commission members will be paid \$50 per diem, plus mileage.
8. The Commission will be appointed by December 2001.

FISCAL IMPACT

PAGE 2 , FISCAL NOTE, HOUSE FILE 577

-2-

The fiscal impact of Amendment H-1274 to House File 577 will be approximately \$883,000 in FY 2002 and \$536,000 in FY 2003.

SOURCE

Department of Natural Resources

(LSB 2443HV.2, CRS)

FILED APRIL 2, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

5-4
S 4/5/01 Without Recommendation
S 4/18/01 Rereferred to
Comm. from Calendar
S. Amend / Do Pass
W/ S. 3673

HOUSE FILE 577
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 153)

(As Amended and Passed by the House April 2, 2001)

Special Session
Passed House, Date 6/19/01 Passed Senate, Date 6/19/01
Vote: Ayes 95 Nays 1 Vote: Ayes 50 Nays 0
Approved July 3, 2001

A BILL FOR

1 An Act relating to electric power generation and transmission, by
2 addressing the criteria for construction of an electric
3 generating facility; waivers; approval of power purchase
* 4 contracts; providing for the development of a state electric
5 energy policy; providing for joint agreements for acquisition
6 of ownership of a joint facility for electric power generation
7 and transmission, and for the planning, financing, operation,
8 and maintenance of the joint facility; providing for the
9 bonding authority of electric power agencies; and making
10 certain other changes and requirements related to electric
11 generation and transmission.

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

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House Amendments _____
Deleted Language *

1 Section 1. Section 476.1B, subsection 1, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. m. An electric power agency as defined in
4 chapters 28F and 476A that includes as a member a city or
5 municipality owned utility that builds transmission facilities
6 after July 1, 2001, is subject to applicable transmission
7 reliability rules or standards adopted by the board for those
8 facilities.

9 Sec. 2. Section 476.6, Code 2001, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 16A. POWER PURCHASE CONTRACTS.

12 a. A rate-regulated public utility shall file with the
13 board any contract for the purchase of electric power to serve
14 Iowa retail electric consumers if the contract meets all of
15 the following conditions:

16 (1) The contract term is for a period of five years or
17 longer.

18 (2) The amount of power purchased equals or exceeds five
19 percent of the public utility's Iowa retail load.

20 (3) The power is being purchased from a new electric power
21 generating facility that is being planned or is under
22 construction in Iowa as of the date of the contract.

23 b. A public utility, at its option, may file with the
24 board other contracts for the purchase of electric power from,
25 or for the lease of, an electric power generating facility in
26 Iowa if the amount of power purchased or nameplate capacity of
27 the facility leased equals or exceeds twenty-five megawatts.

28 c. The board shall issue its decision within ninety days
29 after the public utility's filing is deemed complete; however,
30 upon good cause shown, the board may extend the time for
31 issuing the order as follows:

32 (1) The board may grant an extension of twenty days.

33 (2) The board may grant more than one extension, but each
34 extension must rely upon a separate showing of good cause.

35 (3) A subsequent extension must not be granted any earlier

1 than five days prior to the expiration of the original ninety-
2 day period, or the current extension.

3 d. The board shall approve the contract if it finds, after
4 a contested case proceeding, that the terms of the contract
5 are reasonable and prudent. In determining whether the terms
6 of the contract are reasonable and prudent, the board may
7 consider the reliability and economic benefits of new, Iowa-
8 based generation.

9 e. Board approval of a contract shall constitute an
10 irrevocable determination of the prudence and reasonableness
11 of the contract and its terms. The board, subsequent to
12 approval of a contract, may at anytime by order compel the
13 public utility to enforce the terms of the contract.

14 f. The costs of the contract shall be included in the
15 public utility's regulated retail electric rates. The public
16 utility may propose to recover the costs through an automatic
17 adjustment of rates as provided in subsection 11.

18 g. The board shall adopt rules pursuant to chapter 17A
19 regarding the filing and approval of contracts under this
20 subsection, including rules to ensure that there is a fair and
21 open bidding process for power purchase contracts.

* 22 Sec. 3. Section 476.53, Code 2001, is amended by striking
23 the section and inserting in lieu thereof the following:

24 476.53 ELECTRIC GENERATING AND TRANSMISSION FACILITIES.

25 1. It is the intent of the general assembly to attract the
26 development of electric power generating and transmission
27 facilities within the state in sufficient quantity to ensure
28 reliable electric service to Iowa consumers and provide
29 economic benefits to the state.

30 2. The general assembly's intent with regard to the
31 development of electric power generating and transmission
32 facilities, as provided in subsection 1, shall be implemented
33 in a manner that is cost-effective and compatible with the
34 environmental policies of the state, as expressed in Title XI.

35 3. The board shall report to the general assembly by

1 January 21, 2002, and biennially thereafter, regarding the
2 actions it recommends be taken to implement the general
3 assembly's intent as stated in subsection 1, in developing the
4 state's electric energy policy. The report shall include an
5 assessment of at least the following, to implement the general
6 assembly's intent:

7 a. The need for incentives.

8 b. The need for assurances of cost recovery.

9 c. The need for new generation and transmission
10 facilities, and for power purchase contracts.

11 d. The need for competitive bidding for new generation and
12 transmission facilities.

13 e. Power purchase contracts and leases.

14 f. Generation capacity in Iowa and the possibility of
15 exportation of energy, including the issues of fuel diversity,
16 and of long-term and peak power purchases.

17 g. Evaluation of Iowa's transmission system and its
18 connection to the regional power grid, including the need for
19 transmission facilities to ensure Iowans' access to power
20 generated in other states.

21 h. Municipal generation, transmission, financing, and
22 other related issues.

23 i. Generation capacity and transmission facilities of
24 rural electric cooperatives.

25 j. Renewable energy sources, including but not limited to
26 wind and corn-related power sources.

27 The report shall also assess the appropriateness and
28 desirability of requiring the municipal utilities and the
29 rural electric cooperatives to file in the future multiyear
30 plans and budgets for managing regulated emissions from their
31 electric power generating facilities fueled by coal and
32 located in this state, similar to the process required for
33 rate-regulated public utilities under section 476.6,
34 subsection 16B.

35 4. a. If a rate-regulated public utility files an

1 application to construct an electric power generating facility
2 in Iowa pursuant to section 476A.3, the board shall specify in
3 advance, by order issued after a contested case proceeding,
4 the ratemaking principles that will apply when the costs of
5 the facility are included in regulated electric rates.

6 b. In determining the applicable ratemaking principles,
7 the board shall not be limited to traditional ratemaking
8 principles or traditional cost recovery mechanisms.

9 c. The applicable ratemaking principles shall be
10 determined in a contested case proceeding, which proceeding
11 may be combined with the proceeding for issuance of a
12 certificate conducted pursuant to chapter 476A.

13 d. The order setting forth the applicable ratemaking
14 principles shall be issued prior to the commencement of
15 construction of the facility.

16 e. Following issuance of the order, the rate-regulated
17 public utility shall have the option of proceeding with
18 construction of the facility in Iowa, or withdrawing its
19 application for a certificate under chapter 476A.

20 f. Notwithstanding any provision of this chapter to the
21 contrary, the ratemaking principles established by the order
22 issued pursuant to paragraph "d" shall be binding with regard
23 to the specific electric power generating facility in any
24 subsequent rate proceeding.

25 Sec. 4. Section 476A.4, Code 2001, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 5. A proceeding for the issuance of a
28 certificate under section 476A.5 may be consolidated with a
29 contested case proceeding for determination of applicable
30 ratemaking principles under section 476.53.

31 Sec. 5. Section 476A.6, Code 2001, is amended to read as
32 follows:

33 476A.6 DECISION -- CRITERIA.

34 The board shall render a decision on the application in an
35 expeditious manner. A certificate shall be issued to the

1 applicant if the board finds all of the following:

2 1. The services and operations resulting from the
3 construction of the facility are ~~required-by-the-present-or~~
4 ~~future-public-convenience, use-and-necessity~~ compatible with
5 the energy policy of the state as developed under section
6 476.53 and the economic development policy of the state as
7 expressed in Title I, subtitle 5, and will not be detrimental
8 to the provision of adequate and reliable electric service.

9 2. The applicant is willing to ~~perform-such-services-and~~
10 construct, maintain, and operate the facility pursuant to the
11 provisions of the certificate and this chapter.

12 3. The construction, maintenance, and operation of the
13 facility will ~~cause-minimum-adverse~~ be consistent with
14 reasonable land use, and environmental, ~~and-aesthetic-impact~~
15 policies and are consonant with reasonable utilization of air,
16 land, and water resources, ~~for-beneficial-purposes~~ considering
17 reasonably available technology ~~and-the-economics-of-available~~
18 alternatives.

19 4. ~~The-applicant, if-a-public-utility-as-defined-in~~
20 ~~section-476.17, has-in-effect-a-comprehensive-energy-management~~
21 ~~program-designed-to-reduce-peak-loads-and-to-increase~~
22 ~~efficiency-of-use-of-energy-by-all-classes-of-customers-of-the~~
23 ~~utility, and-the-facility-in-the-application-is-necessary~~
24 ~~notwithstanding-the-existence-of-the-comprehensive-energy~~
25 ~~management-program.--As-used-in-this-subsection, a~~
26 ~~"comprehensive-energy-management-program" includes-at-a~~
27 ~~minimum-the-following:~~

28 a. ~~Establishment-of-load-management-and-interruptible~~
29 ~~service-programs, where-cost-effective.~~

30 b. ~~Development-of-wheeling-agreements-and-other-energy~~
31 ~~sharing-agreements, where-cost-effective-with-utilities-that~~
32 ~~have-available-capacity.~~

33 c. ~~Establishment-of-cost-effective-energy-efficiency-and~~
34 ~~renewable-energy-services-and-programs.~~

35 d. ~~Compliance-with-board-rules-on-energy-management~~

1 procedures.

2 5.---The applicant, if a public utility as defined in
3 section 476.17, shall demonstrate to the board that the utility
4 has considered sources for long-term electric supply from
5 either purchase of electricity or investment in facilities
6 owned by other persons.

7 6.---The applicant, if a public utility as defined in
8 section 476.17, has considered all feasible alternatives to the
9 proposed facility including nongeneration alternatives; has
10 ranked those alternatives by cost; has implemented the least-
11 cost alternatives first; and the facility in the application
12 is necessary notwithstanding the implementation of these
13 alternatives.

14 Sec. 6. Section 476A.7, Code 2001, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 3. Pursuant to the provisions of section
17 476.53, a rate-regulated public utility shall have the option
18 of withdrawing its application for issuance of a certificate
19 at any time prior to the issuance of the certificate, or after
20 the certificate has been issued.

21 Sec. 7. Section 476A.15, Code 2001, is amended to read as
22 follows:

23 476A.15 WAIVER.

24 The board, if it determines that the public interest would
25 not be adversely affected, may waive any of the requirements
26 of this chapter for facilities with a capacity of one hundred
27 or fewer megawatts.

28 Sec. 8. NEW SECTION. 476A.20 DEFINITIONS.

29 For purposes of this subchapter, unless the context
30 otherwise requires:

31 1. "Electric power agency" means an entity as defined in
32 section 28F.2.

33 2. "Facility" means an electric power generating plant, or
transmission line or system, as defined in section 476A.1.

34 3. "Public bond or obligation" means an obligation as

1 defined in section 76.14.

2 Sec. 9. NEW SECTION. 476A.21 ELECTRIC POWER AGENCY --
3 GENERAL AUTHORITY.

4 In addition to other powers conferred upon an electric
5 power agency by chapter 28F or other applicable law, an
6 electric power agency may enter into and carry out joint
7 agreements with other participants for the acquisition of
8 ownership of a joint facility and for the planning, financing,
9 operation, and maintenance of the joint facility, as provided
10 in this subchapter.

11 Sec. 10. NEW SECTION. 476A.22 ELECTRIC POWER AGENCY --
12 AUTHORITY -- CONFLICTING PROVISIONS.

13 1. In addition to any powers conferred upon an electric
14 power agency under chapter 28F or other applicable law, an
15 electric power agency may exercise all other powers reasonably
16 necessary or appropriate for or incidental to the effectuation
17 of the electric power agency's authorized purposes, including
18 without limitation, the powers enumerated in chapters 6A and
19 6B for purposes of constructing or acquiring an electric power
20 facility.

21 2. An electric power agency, in connection with its
22 property and affairs, and in connection with property within
23 its control, may exercise any and all powers that might be
24 exercised by a natural person or a private corporation in
25 connection with similar property and affairs.

26 3. The enumeration of specified powers and functions of an
27 electric power agency in this subchapter is not a limitation
28 of the powers of an electric power agency, but the procedures
29 prescribed for exercising the powers and functions enumerated
30 in this subchapter control and govern in the event of any
31 conflict with any other provision of law.

32 4. The authority conferred pursuant to this subchapter
33 applies to electric power agencies, notwithstanding any
34 contrary provisions of section 28F.1.

35 Sec. 11. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC BONDS

1 OR OBLIGATIONS -- PURPOSES -- LIMITATIONS.

2 1. An electric power agency may from time to time issue
3 its public bonds or obligations in such principal amounts as
4 the electric power agency deems necessary to provide
5 sufficient funds to carry out any of its purposes and powers,
6 including but not limited to any of the following:

7 a. The acquisition or construction of any project to be
8 owned or leased by the electric power agency, or the
9 acquisition of any interest in such project or any right to
10 the capacity of such project, including the acquisition,
11 construction, or acquisition of any interest in an electric
12 power generating plant to be constructed in this state, or the
13 acquisition, construction, or acquisition of any interest in a
14 transmission line or system.

15 b. The funding or refunding of the principal of, or
16 interest or redemption premiums on, any public bonds or
17 obligations issued by the electric power agency whether or not
18 the public bonds or obligations or interest to be funded or
19 refunded have become due.

20 c. The establishment or increase of reserves to secure or
21 to pay the public bonds or obligations or interest on the
22 public bonds or obligations.

23 d. The payment of all other costs or expenses of the
24 electric power agency incident to and necessary to carry out
25 its purposes and powers.

26 2. Notwithstanding anything in this subchapter or chapter
*27 28F to the contrary, a facility shall not be financed with the
28 proceeds of public bonds or obligations, the interest on which
29 is exempt from federal income tax, unless the public issuer of
30 such public bonds or obligations covenants that the issuer
31 shall comply with the requirements or limitations imposed by
32 the Internal Revenue Code or other applicable federal law to
33 preserve the tax exemption of interest payable on the bonds or
34 obligations.

35 3. Notwithstanding anything in this subchapter or chapter

1 28F to the contrary, an electric power generating facility
2 shall not be financed under this subchapter unless all of the
3 following conditions are satisfied:

4 a. The electric power generating facility is designed to
5 serve only the electric power requirements of retail customers
6 of members that were municipal electric utilities established
7 in the state prior to January 1, 2001.

* 8 b. The electric power agency annually files with the
9 board, in a manner to be determined by the board, information
10 regarding sales from the electric power generating facility in
11 sufficient detail to determine compliance with these
12 provisions.

13 The board shall report to the general assembly if any of
14 the provisions are being violated.

15 Sec. 12. NEW SECTION. 476A.24 PUBLIC BONDS OR
16 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD -- TERMS.

17 1. The board of directors of an electric power agency, by
18 resolution, may authorize the issuance of public bonds or
19 obligations of the electric power agency.

20 2. The public bonds or obligations may be issued in one or
21 more series under the resolution or under a trust indenture or
22 other security agreement.

23 3. The resolution, trust indenture, or other security
24 agreement, with respect to such public bonds or obligations,
25 shall provide for all of the following:

- 26 a. The date on the public bonds or obligations.
- 27 b. The time of maturity.
- 28 c. The rate of interest.
- 29 d. The denomination.
- 30 e. The form, either coupon or registered.
- 31 f. The conversion, registration, and exchange privileges.
- 32 g. The rank or priority.
- 33 h. The manner of execution.
- 34 i. The medium of payment, including the place of payment,
35 either within or outside of the state.

1 j. The terms of redemption, either with or without
2 premium.

3 k. Such other terms and conditions as set forth by the
4 board in the resolution, trust indenture, or other security
5 agreement.

6 4. Public bonds or obligations authorized by the board of
7 directors shall not be subject to any restriction under other
8 law with respect to the amount, maturity, interest rate, or
9 other terms of obligation of a public agency or private
10 person.

11 5. Chapter 75 shall not apply to public bonds or
12 obligations authorized by the board of directors as provided
13 in this section.

14 Sec. 13. NEW SECTION. 476A.25 PUBLIC BONDS OR
15 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR FUNDS.

16 1. The principal of and interest on any public bonds or
17 obligations issued by an electric power agency shall be
18 payable solely from the revenues or funds pledged or available
19 for their payment as authorized in this subchapter.

20 2. Each public bond or obligation shall contain all of the
21 following terms:

22 a. That the principal of or interest on such public bonds
23 or obligation is payable solely from revenues or funds of the
24 electric power agency.

25 b. That neither the state or a political subdivision of
26 the state other than the electric power agency, nor a public
27 agency that is a member of the electric power agency is
28 obligated to pay the principal or interest on such public
29 bonds or obligations.

30 c. That neither the full faith and credit nor the taxing
31 power of the state, of any political subdivision of the state,
32 or of any such public agency is pledged to the payment of the
33 principal of or the interest on the public bonds or
34 obligations.

35 Sec. 14. NEW SECTION. 476A.26 PUBLIC BONDS OR

1 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT -- SECURITY.

2 1. Except as otherwise expressly provided by this
3 subchapter or by the electric power agency, every issue of
4 public bonds or obligations of the electric power agency shall
5 be payable out of any revenues or funds of the electric power
6 agency, subject only to any agreements with the holders of
7 particular public bonds or obligations pledging any particular
8 revenues or funds.

9 2. An electric power agency may issue types of public
10 bonds or obligations as it may determine, including public
11 bonds or obligations as to which the principal and interest
12 are payable exclusively from the revenues from one or more
13 projects, or from an interest in such project or projects, or
14 a right to capacity of such project or projects, or from any
15 revenue-producing contract made by the electric power agency
16 with any person, or from its revenues generally.

17 3. Any public bonds or obligations may be additionally
18 secured by a pledge of any grant, subsidy, or contribution
19 from any public agency or other person, or a pledge of any
20 income or revenues, funds, or moneys of the electric power
21 agency from any other source.

22 Sec. 15. NEW SECTION. 476A.27 PUBLIC BONDS OR
23 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO STATE
24 APPROVAL.

25 Public bonds or obligations of an electric power agency may
26 be issued under this subchapter, and rents, rates, and charges
27 may be established in the same manner as provided in section
28 28F.5 and pledged for the security of public bonds or
29 obligations and interest and redemption premiums on such
30 public bonds or obligations, without obtaining the consent of
31 any department, division, commission, board, bureau, or agency
32 of the state and without any other proceeding or the happening
33 of any other condition or occurrence, except as specifically
34 required by this subchapter.

35 Sec. 16. NEW SECTION. 476A.28 PUBLIC BONDS OR

1 OBLIGATIONS TO BE NEGOTIABLE.

2 All public bonds or obligations of an electric power agency
3 shall be negotiable within the meaning and for all of the
4 purposes of the uniform commercial code, chapter 554, subject
5 only to the registration requirement of section 76.10.

6 Sec. 17. NEW SECTION. 476A.29 VALIDITY OF PUBLIC BONDS
7 OR OBLIGATIONS AT DELIVERY -- TEMPORARY BONDS.

8 1. Any public bonds or obligations may be issued and
9 delivered, notwithstanding that one or more of the officers
10 executing them shall have ceased to hold office at the time
11 when the public bonds or obligations are actually delivered.

12 2. Pending preparation of definitive bonds obligations, an
13 electric power agency may issue temporary bonds or obligations
14 that shall be exchanged for the definitive bonds or
15 obligations upon their issuance.

16 Sec. 18. NEW SECTION. 476A.30 PUBLIC OR PRIVATE SALE OF
17 BONDS AND NOTES.

18 Public bonds or obligations of an electric power agency may
19 be sold at public or private sale for a price and in a manner
20 determined by the electric power agency.

21 Sec. 19. NEW SECTION. 476A.31 PUBLIC BONDS OR
22 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL UNITS,
23 FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

24 The following persons may legally invest any debt service
25 funds, money, or other funds belonging to such person or
26 within such person's control in any public bonds or
27 obligations issued pursuant to this subchapter:

28 1. A bank, trust company, savings association, building
29 and loan association, savings and loan association, or
30 investment company.

31 2. An insurance company, insurance association, or any
32 other person carrying on an insurance business.

33 3. An executor, administrator, conservator, trustee, or
34 other fiduciary.

35 4. Any other person authorized to invest in bonds or

1 obligations of the state.

2 Sec. 20. NEW SECTION. 476A.32 RESOLUTION, TRUST
3 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT --
4 PROVISIONS.

5 The resolution, trust indenture, or other security
6 agreement under which any public bonds or obligations are
7 issued shall constitute a contract with the holders of the
8 public bonds or obligations, and may contain provisions, among
9 others, prescribing any of the following terms:

10 1. The terms and provisions of the public bonds or
11 obligations.

12 2. The mortgage or pledge of and the grant of a security
13 interest in any real or personal property and all or any part
14 of the revenue from any project or any revenue producing
15 contract made by the electric power agency with any person to
16 secure the payment of public bonds or obligations, subject to
17 any agreements with the holders of public bonds or obligations
18 which might then exist.

19 3. The custody, collection, securing, investment, and
20 payment of any revenues, assets, money, funds, or property
21 with respect to which the electric power agency may have any
22 rights or interest.

23 4. The rates or charges for electric energy sold by, or
24 services rendered by, the electric power agency, the amount to
25 be raised by the rates or charges, and the use and disposition
26 of any or all revenue.

27 5. The creation of reserves or debt service funds and the
28 regulation and disposition of such reserves or funds.

29 6. The purposes to which the proceeds from the sale of any
30 public bonds or obligations to be issued may be applied, and
31 the pledge of the proceeds to secure the payment of the public
32 bonds or obligations.

33 7. Limitations on the issuance of any additional public
34 bonds or obligations, the terms upon which additional public
35 bonds or obligations may be issued and secured, and the

1 refunding of outstanding public bonds or obligations.

2 8. The rank or priority of any public bonds or obligations
3 with respect to any lien or security.

4 9. The creation of special funds or moneys to be held for
5 operating expenses, payment, or redemption of public bonds or
6 obligations, reserves or other purposes, and the use and
7 disposition of moneys held in these funds.

8 10. The procedure by which the terms of any contract with
9 or for the benefit of the holders of public bonds or
10 obligations may be amended or abrogated, the amount of public
11 bonds or obligations the holders of which must consent to such
12 amendment or abrogation, and the manner in which consent may
13 be given.

14 11. The definition of the acts or omissions to act that
15 constitute a default in the duties of the electric power
16 agency to holders of its public bonds or obligations, and the
17 rights and remedies of the holders in the event of default
18 including, if the electric power agency so determines, the
19 right to accelerate the date of the maturation of the public
20 bonds or obligations or the right to appoint a receiver or
21 receivers of the property or revenues subject to the lien of
22 the resolution, trust indenture, or other security agreement.

23 12. Any other or additional agreements with or for the
24 benefit of the holders of public bonds or obligations or any
25 covenants or restrictions necessary or desirable to safeguard
26 the interests of the holders.

27 13. The custody of any of the electric power agency's
28 property or investments, the safekeeping of such property or
29 investments, the insurance to be carried on such property or
30 investments, and the use and disposition of insurance
31 proceeds.

32 14. The vesting in a trustee or trustees, within or
33 outside the state, of such property, rights, powers, and
34 duties as the electric power agency may determine; or the
35 limiting or abrogating of the rights of the holders of any

1 public bonds or obligations to appoint a trustee, or the
2 limiting of the rights, powers, and duties of such trustee.

3 15. The appointment of and the establishment of the duties
4 and obligations of any paying agent or other fiduciary within
5 or outside the state.

6 Sec. 21. NEW SECTION. 476A.33 MORTGAGE OR TRUST DEED TO
7 SECURE BONDS.

8 For the security of public bonds or obligations issued or
9 to be issued by an electric power agency, the electric power
10 agency may mortgage or execute deeds of trust of the whole or
11 any part of its property.

12 Sec. 22. NEW SECTION. 476A.34 NO PERSONAL LIABILITY ON
13 PUBLIC BONDS OR OBLIGATIONS.

14 An official, director, member of an electric power agency,
15 or any person executing public bonds or obligations shall not
16 be liable personally on the public bonds or obligations or be
17 subject to any personal liability or accountability by reason
18 of the issuance of such public bonds or obligations.

19 Sec. 23. NEW SECTION. 476A.35 REPURCHASE OF SECURITIES.

20 An electric power agency may purchase public bonds or
21 obligations out of any funds available for such purchase, and
22 hold, pledge, cancel, or resell the public bonds or
23 obligations, subject to and in accordance with any agreements
24 with the holders.

25 Sec. 24. NEW SECTION. 476A.36 PLEDGE OF REVENUE AS
26 SECURITY.

27 An electric power agency may pledge its rates, rents, and
28 other revenues, or any part of such rates, rents, and
29 revenues, as security for the repayment, with interest and
30 redemption premiums, if any, of the moneys borrowed by the
31 electric power agency or advanced to the electric power agency
32 for any of its authorized purposes and as security for the
33 payment of moneys due and owed by the electric power agency
34 under any contract.

35 Sec. 25. Section 478.3, Code 2001, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 3. For the purpose of this section, the
3 term "public" shall not be interpreted to be limited to
4 consumers located in this state.

5 Sec. 26. CODE EDITOR DIRECTIVE. The Code editor shall
6 change references to "this chapter" in sections 476A.1 through
7 476A.15 as necessary and appropriate to reflect the addition
8 of the new subchapter to chapter 476A as a result of this Act.

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HOUSE FILE 577

S-3352

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. Section 15.108, subsection 2, Code
6 2001, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. e. Include a clear and conspicuous
9 statement of the average price per kilowatt hour of
10 electricity in Iowa, as estimated by the energy
11 information administration of the United States
12 department of energy in its most recent report, in all
13 written promotional material, including internet
14 sites, that is designed, produced, or distributed by
15 the department for purposes of promoting the state in
16 attracting new businesses to the state."

17 2. By renumbering and correcting internal
18 references as necessary.

By MIKE CONNOLLY

S-3352 FILED APRIL 12, 2001

0/0 6/19/01 *Special Session*

HOUSE FILE 577

S-3673

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, lines 24 and 25, by striking the words
4 "or for the lease of,".

5 2. Page 1, lines 26 and 27, by striking the words
6 "or nameplate capacity of the facility leased".

7 3. Page 2, line 8, by inserting after the word
8 "generation." the following: "The rate-regulated
9 public utility shall also demonstrate to the board
10 that it has considered other sources for long-term
11 electric supply, and that the power purchase contract
12 is reasonable when compared to other feasible
13 alternative sources of supply including the building
14 of utility-owned generation. The board may condition
15 its approval upon the utility and the successful
16 bidder agreeing to contract modifications identified
17 by the board."

18 4. Page 2, by inserting after line 21 the
19 following:

20 "Sec. _____. Section 476.6, Code 2001, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING
23 FACILITY EMISSIONS.

24 a. It is the intent of the general assembly that
25 the state, through a collaborative effort involving
26 state agencies and affected generation owners, provide
27 for compatible statewide environmental and electric
28 energy policies with respect to regulated emissions
29 from rate-regulated electric power generating
30 facilities in the state that are fueled by coal. Each
31 rate-regulated public utility that is an owner of one
32 or more electric power generating facilities fueled by
33 coal and located in this state on June 1, 2001, shall
34 develop a multiyear plan and budget for managing
35 regulated emissions from its facilities in a cost-
36 effective manner.

37 (1) The initial multiyear plan and budget shall be
38 filed with the board by April 1, 2002. Updates to the
39 plan and budget shall be filed at least every twenty-
40 four months.

41 (2) Copies of the initial plan and budget, as well
42 as any subsequent updates, shall be served on the
43 environmental protection division of the department of
44 natural resources.

45 (3) The initial multiyear plan and budget and any
46 subsequent updates shall be considered in a contested
47 case proceeding pursuant to chapter 17A. The
48 environmental protection division of the department of
49 natural resources and the consumer advocate shall
50 participate as parties to the proceeding.

S-3673

-1-

S-3673

Page 2

1 (4) The department of natural resources shall
2 state whether the plan or update meets applicable
3 state environmental requirements for regulated
4 emissions. If the plan does not meet these
5 requirements, the department shall recommend
6 amendments that outline actions necessary to bring the
7 plan or update into compliance with the environmental
8 requirements.

9 b. The board shall not approve a plan or update
10 that does not meet applicable state environmental
11 requirements and ambient air quality standards for
12 regulated emissions from electric power generating
13 facilities located in the state.

14 c. The board shall review the plan or update and
15 the associated budget, and shall approve the plan or
16 update and the associated budget if the plan or update
17 and the associated budget are reasonably expected to
18 achieve cost effective compliance with applicable
19 state environmental requirements and federal ambient
20 air quality standards. In reaching its decision, the
21 board shall consider whether the plan or update and
22 the associated budget reasonably balance costs,
23 environmental requirements, economic development
24 potential, and the reliability of the electric
25 generation and transmission system.

26 d. The board shall issue an order approving or
27 rejecting a plan, update, or budget within one hundred
28 eighty days after the public utility's filing is
29 deemed complete; however, upon good cause shown, the
30 board may extend the time for issuing the order as
31 follows:

32 (1) The board may grant an extension of thirty
33 days.

34 (2) The board may grant more than one extension,
35 but each extension must rely upon a separate showing
36 of good cause.

37 (3) A subsequent extension must not be granted any
38 earlier than five days prior to the expiration of the
39 original one-hundred-eighty-day period, or the current
40 extension.

41 e. The reasonable costs incurred by a rate-
42 regulated public utility in preparing and filing the
43 plan, update, or budget and in participating in the
44 proceedings before the board and the reasonable costs
45 associated with implementing the plan, update, or
46 budget shall be included in its regulated retail
47 rates.

48 f. It is the intent of the general assembly that
49 the board, in an environmental plan, update, or
50 associated budget filed under this section by a rate-

S-3673

S-3673

Page 3

1 regulated public utility, may limit investments or
2 expenditures that are proposed to be undertaken prior
3 to the time that the environmental benefit to be
4 produced by the investment or expenditure would be
5 required by state or federal law."

6 5. By striking page 2, line 35, through page 3,
7 line 34.

8 6. Page 4, by striking lines 1 and 2 and
9 inserting the following: "application pursuant to
10 section 476A.3 to construct in Iowa a baseload
11 electric power generating facility with a nameplate
12 generating capacity equal to or greater than three
13 hundred megawatts or a combined-cycle electric power
14 generating facility, or an alternate energy production
15 facility as defined in section 476.42, or if a rate-
16 regulated public utility leases or owns in Iowa, in
17 whole or in part, a new baseload electric power
18 generating facility with a nameplate generating
19 capacity equal to or greater than three hundred
20 megawatts or a combined-cycle electric power
21 generating facility, or a new alternate energy
22 production facility as defined in section 476.42 the
23 board shall specify in".

24 7. Page 4, by inserting after line 8 the
25 following:

26 "____. In determining the applicable ratemaking
27 principles, the board shall make the following
28 findings:

29 (1) The rate-regulated public utility has
30 demonstrated to the board that the proposed ratemaking
31 principles are necessary for the commitment of capital
32 to the new facility.

33 (2) The rate-regulated public utility has in
34 effect cost-effective load management and curtailment
35 programs designed to reduce peak loads.

36 (3) The rate-regulated public utility has in
37 effect a board-approved energy efficiency plan as
38 required under section 476.6, subsection 19.

39 (4) The rate-regulated public utility has
40 demonstrated to the board that the public utility has
41 considered other sources for long-term electric supply
42 and that the facility or lease is reasonable when
43 compared to other feasible alternative sources of
44 supply. The rate-regulated public utility may satisfy
45 the requirements of this subparagraph through a
46 competitive bidding process, under rules adopted by
47 the board, that demonstrate the facility or lease is a
48 reasonable alternative to meet its electric supply
49 needs."

50 8. Page 4, line 15, by inserting after the word

S-3673

S-3673

Page 4

- 1 "construction" the following: "or lease".
 2 9. Page 4, line 18, by inserting after the word
 3 "construction" the following: "or lease".
 4 10. By renumbering, relettering, redesignating,
 5 and correcting internal references as necessary.

By COMMITTEE ON COMMERCE
 JOANN JOHNSON, CHAIRPERSON

S-3673 FILED MAY 7, 2001

O/O 6/19/01

Spec. Session HOUSE FILE 577**S-3685**

- 1 Amend the amendment, S-3673, to House File 577, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 4 1. Page 1, line 4, by striking the word "or" and
 5 inserting the following: ", or".
 6 2. Page 3, by striking lines 29 through 35.
 7 3. Page 3, line 36, by striking the figure "(3)"
 8 and inserting the following: "(1)".
 9 4. Page 3, line 39, by striking the figure "(4)"
 10 and inserting the following: "(2)".
 11 5. Page 4, by inserting after line 3 the
 12 following:
 13 "____. Page 5, by striking lines 17 and 18, and
 14 inserting the following: "available technology and
 15 the economics of available alternatives."
 16 6. By renumbering as necessary.

By JOANN JOHNSON

S-3685 FILED MAY 7, 2001

O/O

6/19/01

Special Session

HOUSE FILE 577

S-3686

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. NEW SECTION. 476A.20 DEFINITIONS.

6 For purposes of this subchapter, unless the context
7 otherwise requires:

8 1. "Electric power agency" means an entity as
9 defined in section 28F.2.

10 2. "Facility" means an electric power generating
11 plant, or transmission line or system, as defined in
12 section 476A.1.

13 3. "Public bond or obligation" means an obligation
14 as defined in section 76.14.

15 Sec. 2. NEW SECTION. 476A.21 ELECTRIC POWER
16 AGENCY -- GENERAL AUTHORITY.

17 In addition to other powers conferred upon an
18 electric power agency by chapter 28F or other
19 applicable law, an electric power agency may enter
20 into and carry out joint agreements with other
21 participants for the acquisition of ownership of a
22 joint facility and for the planning, financing,
23 operation, and maintenance of the joint facility, as
24 provided in this subchapter.

25 Sec. 3. NEW SECTION. 476A.22 ELECTRIC POWER
26 AGENCY -- AUTHORITY -- CONFLICTING PROVISIONS.

27 1. In addition to any powers conferred upon an
28 electric power agency under chapter 28F or other
29 applicable law, an electric power agency may exercise
30 all other powers reasonably necessary or appropriate
31 for or incidental to the effectuation of the electric
32 power agency's authorized purposes, including without
33 limitation, the powers enumerated in chapters 6A and
34 6B for purposes of constructing or acquiring an
35 electric power facility.

36 2. An electric power agency, in connection with
37 its property and affairs, and in connection with
38 property within its control, may exercise any and all
39 powers that might be exercised by a natural person or
40 a private corporation in connection with similar
41 property and affairs.

42 3. The enumeration of specified powers and
43 functions of an electric power agency in this
44 subchapter is not a limitation of the powers of an
45 electric power agency, but the procedures prescribed
46 for exercising the powers and functions enumerated in
47 this subchapter control and govern in the event of any
48 conflict with any other provision of law.

49 4. The authority conferred pursuant to this
50 subchapter applies to electric power agencies,

S-3686

-1-

S-3686

Page 2

1 notwithstanding any contrary provisions of section
2 28F.1.

3 Sec. 4. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC
4 BONDS OR OBLIGATIONS -- PURPOSES -- LIMITATIONS.

5 1. An electric power agency may from time to time
6 issue its public bonds or obligations in such
7 principal amounts as the electric power agency deems
8 necessary to provide sufficient funds to carry out any
9 of its purposes and powers, including but not limited
10 to any of the following:

11 a. The acquisition or construction of any project
12 to be owned or leased by the electric power agency, or
13 the acquisition of any interest in such project or any
14 right to the capacity of such project, including the
15 acquisition, construction, or acquisition of any
16 interest in an electric power generating plant to be
17 constructed in this state, or the acquisition,
18 construction, or acquisition of any interest in a
19 transmission line or system.

20 b. The funding or refunding of the principal of,
21 or interest or redemption premiums on, any public
22 bonds or obligations issued by the electric power
23 agency whether or not the public bonds or obligations
24 or interest to be funded or refunded have become due.

25 c. The establishment or increase of reserves to
26 secure or to pay the public bonds or obligations or
27 interest on the public bonds or obligations.

28 d. The payment of all other costs or expenses of
29 the electric power agency incident to and necessary to
30 carry out its purposes and powers.

31 2. Notwithstanding anything in this subchapter or
32 chapter 28F to the contrary, a facility shall not be
33 financed with the proceeds of public bonds or
34 obligations, the interest on which is exempt from
35 federal income tax, unless the public issuer of such
36 public bonds or obligations covenants that the issuer
37 shall comply with the requirements or limitations
38 imposed by the Internal Revenue Code or other
39 applicable federal law to preserve the tax exemption
40 of interest payable on the bonds or obligations.

41 3. Notwithstanding anything in this subchapter or
42 chapter 28F to the contrary, an electric power
43 generating facility shall not be financed under this
44 subchapter unless all of the following conditions are
45 satisfied:

46 a. The electric power generating facility is
47 designed to serve only the electric power requirements
48 of retail customers of members that were municipal
49 electric utilities established in the state prior to
50 January 1, 2001.

S-3686

-2-

S-3686

Page 3

1 b. The electric power agency annually files with
2 the board, in a manner to be determined by the board,
3 information regarding sales from the electric power
4 generating facility in sufficient detail to determine
5 compliance with these provisions.

6 The board shall report to the general assembly if
7 any of the provisions are being violated.

8 Sec. 5. NEW SECTION. 476A.24 PUBLIC BONDS OR
9 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD --
10 TERMS.

11 1. The board of directors of an electric power
12 agency, by resolution, may authorize the issuance of
13 public bonds or obligations of the electric power
14 agency.

15 2. The public bonds or obligations may be issued
16 in one or more series under the resolution or under a
17 trust indenture or other security agreement.

18 3. The resolution, trust indenture, or other
19 security agreement, with respect to such public bonds
20 or obligations, shall provide for all of the
21 following:

22 a. The date on the public bonds or obligations.

23 b. The time of maturity.

24 c. The rate of interest.

25 d. The denomination.

26 e. The form, either coupon or registered.

27 f. The conversion, registration, and exchange
28 privileges.

29 g. The rank or priority.

30 h. The manner of execution.

31 i. The medium of payment, including the place of
32 payment, either within or outside of the state.

33 j. The terms of redemption, either with or without
34 premium.

35 k. Such other terms and conditions as set forth by
36 the board in the resolution, trust indenture, or other
37 security agreement.

38 4. Public bonds or obligations authorized by the
39 board of directors shall not be subject to any
40 restriction under other law with respect to the
41 amount, maturity, interest rate, or other terms of
42 obligation of a public agency or private person.

43 5. Chapter 75 shall not apply to public bonds or
44 obligations authorized by the board of directors as
45 provided in this section.

46 Sec. 6. NEW SECTION. 476A.25 PUBLIC BONDS OR
47 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
48 FUNDS.

49 1. The principal of and interest on any public
50 bonds or obligations issued by an electric power

S-3686

-3-

S-3686

Page 4

1 agency shall be payable solely from the revenues or
2 funds pledged or available for their payment as
3 authorized in this subchapter.

4 2. Each public bond or obligation shall contain
5 all of the following terms:

6 a. That the principal of or interest on such
7 public bonds or obligation is payable solely from
8 revenues or funds of the electric power agency.

9 b. That neither the state or a political
10 subdivision of the state other than the electric power
11 agency, nor a public agency that is a member of the
12 electric power agency is obligated to pay the
13 principal or interest on such public bonds or
14 obligations.

15 c. That neither the full faith and credit nor the
16 taxing power of the state, of any political
17 subdivision of the state, or of any such public agency
18 is pledged to the payment of the principal of or the
19 interest on the public bonds or obligations.

20 Sec. 7. NEW SECTION. 476A.26 PUBLIC BONDS OR
21 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT --
22 SECURITY.

23 1. Except as otherwise expressly provided by this
24 subchapter or by the electric power agency, every
25 issue of public bonds or obligations of the electric
26 power agency shall be payable out of any revenues or
27 funds of the electric power agency, subject only to
28 any agreements with the holders of particular public
29 bonds or obligations pledging any particular revenues
30 or funds.

31 2. An electric power agency may issue types of
32 public bonds or obligations as it may determine,
33 including public bonds or obligations as to which the
34 principal and interest are payable exclusively from
35 the revenues from one or more projects, or from an
36 interest in such project or projects, or a right to
37 capacity of such project or projects, or from any
38 revenue-producing contract made by the electric power
39 agency with any person, or from its revenues
40 generally.

41 3. Any public bonds or obligations may be
42 additionally secured by a pledge of any grant,
43 subsidy, or contribution from any public agency or
44 other person, or a pledge of any income or revenues,
45 funds, or moneys of the electric power agency from any
46 other source.

47 Sec. 8. NEW SECTION. 476A.27 PUBLIC BONDS OR
48 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO
49 STATE APPROVAL.

50 Public bonds or obligations of an electric power

S-3686

S-3686

Page 5

1 agency may be issued under this subchapter, and rents,
2 rates, and charges may be established in the same
3 manner as provided in section 28F.5 and pledged for
4 the security of public bonds or obligations and
5 interest and redemption premiums on such public bonds
6 or obligations, without obtaining the consent of any
7 department, division, commission, board, bureau, or
8 agency of the state and without any other proceeding
9 or the happening of any other condition or occurrence,
10 except as specifically required by this subchapter.

11 Sec. 9. NEW SECTION. 476A.28 PUBLIC BONDS OR
12 OBLIGATIONS TO BE NEGOTIABLE.

13 All public bonds or obligations of an electric
14 power agency shall be negotiable within the meaning
15 and for all of the purposes of the uniform commercial
16 code, chapter 554, subject only to the registration
17 requirement of section 76.10.

18 Sec. 10. NEW SECTION. 476A.29 VALIDITY OF PUBLIC
19 BONDS OR OBLIGATIONS AT DELIVERY -- TEMPORARY BONDS.

20 1. Any public bonds or obligations may be issued
21 and delivered, notwithstanding that one or more of the
22 officers executing them shall have ceased to hold
23 office at the time when the public bonds or
24 obligations are actually delivered.

25 2. Pending preparation of definitive bonds or
26 obligations, an electric power agency may issue
27 temporary bonds or obligations that shall be exchanged
28 for the definitive bonds or obligations upon their
29 issuance.

30 Sec. 11. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
31 SALE OF BONDS AND NOTES.

32 Public bonds or obligations of an electric power
33 agency may be sold at public or private sale for a
34 price and in a manner determined by the electric power
35 agency.

36 Sec. 12. NEW SECTION. 476A.31 PUBLIC BONDS OR
37 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
38 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

39 The following persons may legally invest any debt
40 service funds, money, or other funds belonging to such
41 person or within such person's control in any public
42 bonds or obligations issued pursuant to this
43 subchapter:

44 1. A bank, trust company, savings association,
45 building and loan association, savings and loan
46 association, or investment company.

47 2. An insurance company, insurance association, or
48 any other person carrying on an insurance business.

49 3. An executor, administrator, conservator,
50 trustee, or other fiduciary.

S-3686

-5-

S-3686

Page 6

1 4. Any other person authorized to invest in bonds
2 or obligations of the state.

3 Sec. 13. NEW SECTION. 476A.32 RESOLUTION, TRUST
4 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
5 -- PROVISIONS.

6 The resolution, trust indenture, or other security
7 agreement under which any public bonds or obligations
8 are issued shall constitute a contract with the
9 holders of the public bonds or obligations, and may
10 contain provisions, among others, prescribing any of
11 the following terms:

12 1. The terms and provisions of the public bonds or
13 obligations.

14 2. The mortgage or pledge of and the grant of a
15 security interest in any real or personal property and
16 all or any part of the revenue from any project or any
17 revenue producing contract made by the electric power
18 agency with any person to secure the payment of public
19 bonds or obligations, subject to any agreements with
20 the holders of public bonds or obligations which might
21 then exist.

22 3. The custody, collection, securing, investment,
23 and payment of any revenues, assets, money, funds, or
24 property with respect to which the electric power
25 agency may have any rights or interest.

26 4. The rates or charges for electric energy sold
27 by, or services rendered by, the electric power
28 agency, the amount to be raised by the rates or
29 charges, and the use and disposition of any or all
30 revenue.

31 5. The creation of reserves or debt service funds
32 and the regulation and disposition of such reserves or
33 funds.

34 6. The purposes to which the proceeds from the
35 sale of any public bonds or obligations to be issued
36 may be applied, and the pledge of the proceeds to
37 secure the payment of the public bonds or obligations.

38 7. Limitations on the issuance of any additional
39 public bonds or obligations, the terms upon which
40 additional public bonds or obligations may be issued
41 and secured, and the refunding of outstanding public
42 bonds or obligations.

43 8. The rank or priority of any public bonds or
44 obligations with respect to any lien or security.

45 9. The creation of special funds or moneys to be
46 held for operating expenses, payment, or redemption of
47 public bonds or obligations, reserves or other
48 purposes, and the use and disposition of moneys held
49 in these funds.

50 10. The procedure by which the terms of any

S-3686

S-3686

Page 7

1 contract with or for the benefit of the holders of
2 public bonds or obligations may be amended or
3 abrogated, the amount of public bonds or obligations
4 the holders of which must consent to such amendment or
5 abrogation, and the manner in which consent may be
6 given.

7 11. The definition of the acts or omissions to act
8 that constitute a default in the duties of the
9 electric power agency to holders of its public bonds
10 or obligations, and the rights and remedies of the
11 holders in the event of default including, if the
12 electric power agency so determines, the right to
13 accelerate the date of the maturation of the public
14 bonds or obligations or the right to appoint a
15 receiver or receivers of the property or revenues
16 subject to the lien of the resolution, trust
17 indenture, or other security agreement.

18 12. Any other or additional agreements with or for
19 the benefit of the holders of public bonds or
20 obligations or any covenants or restrictions necessary
21 or desirable to safeguard the interests of the
22 holders.

23 13. The custody of any of the electric power
24 agency's property or investments, the safekeeping of
25 such property or investments, the insurance to be
26 carried on such property or investments, and the use
27 and disposition of insurance proceeds.

28 14. The vesting in a trustee or trustees, within
29 or outside the state, of such property, rights,
30 powers, and duties as the electric power agency may
31 determine; or the limiting or abrogating of the rights
32 of the holders of any public bonds or obligations to
33 appoint a trustee, or the limiting of the rights,
34 powers, and duties of such trustee.

35 15. The appointment of and the establishment of
36 the duties and obligations of any paying agent or
37 other fiduciary within or outside the state.

38 Sec. 14. NEW SECTION. 476A.33 MORTGAGE OR TRUST
39 DEED TO SECURE BONDS.

40 For the security of public bonds or obligations
41 issued or to be issued by an electric power agency,
42 the electric power agency may mortgage or execute
43 deeds of trust of the whole or any part of its
44 property.

45 Sec. 15. NEW SECTION. 476A.34 NO PERSONAL
46 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

47 An official, director, member of an electric power
48 agency, or any person executing public bonds or
49 obligations shall not be liable personally on the
50 public bonds or obligations or be subject to any

S-3686

-7-

S-3686

Page 8

1 personal liability or accountability by reason of the
2 issuance of such public bonds or obligations.

3 Sec. 16. NEW SECTION. 476A.35 REPURCHASE OF
4 SECURITIES.

5 An electric power agency may purchase public bonds
6 or obligations out of any funds available for such
7 purchase, and hold, pledge, cancel, or resell the
8 public bonds or obligations, subject to and in
9 accordance with any agreements with the holders.

10 Sec. 17. NEW SECTION. 476A.36 PLEDGE OF REVENUE
11 AS SECURITY.

12 An electric power agency may pledge its rates,
13 rents, and other revenues, or any part of such rates,
14 rents, and revenues, as security for the repayment,
15 with interest and redemption premiums, if any, of the
16 moneys borrowed by the electric power agency or
17 advanced to the electric power agency for any of its
18 authorized purposes and as security for the payment of
19 moneys due and owed by the electric power agency under
20 any contract.

21 Sec. 18. CODE EDITOR DIRECTIVE. The Code editor
22 shall change references to "this chapter" in sections
23 476A.1 through 476A.15 as necessary and appropriate to
24 reflect the addition of the new subchapter to chapter
25 476A as a result of this Act."

26 2. Title page, by striking lines 1 through 11 and
27 inserting the following: "An Act providing for joint
28 agreements for the acquisition of ownership of a joint
29 facility for electric power generation and
30 transmission, and for the planning, financing,
31 operation, and maintenance of the joint facility, and
32 providing for the bonding authority of electric power
33 agencies."

By MICHAEL E. GRONSTAL
STEVEN D. HANSEN
BETTY A. SOUKUP
JOHN P. KIBBIE
JACK HOLVECK
JOHNIE HAMMOND
PATRICIA HARPER
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MATT McCOY
PATRICK J. DELUHERY
TOM FLYNN
EUGENE S. FRAISE
WALLY E. HORN

S-3686 FILED MAY 7, 2001

*O/O
5/19/01
Special Session*

HOUSE FILE 577

S-3687

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 21 the
4 following:

5 "Sec. ____ . Section 476.44, subsection 2, Code
6 2001, is amended to read as follows:

7 2. a. An electric utility subject to this
8 division, except a utility ~~which~~ that elects rate
9 regulation pursuant to section 476.1A, shall not be
10 required to purchase, at any one time, more than its
11 scheduled percentage share of one hundred five
12 megawatts of power its Iowa retail load from
13 alternative energy production facilities or small
14 hydro facilities at the rates established pursuant to
15 section 476.43. The board shall ~~allocate the one~~
16 ~~hundred five megawatts~~ make the allocations based upon
17 each utility's percentage of the total Iowa retail
18 peak demand, for ~~the~~ each year beginning January 1,
19 1990, of all utilities subject to this section, based
20 on the following schedule:

21 (1) Until January 1, 2004, two percent.

22 (2) Beginning January 1, 2005, five percent.

23 (3) Beginning January 1, 2006, six percent.

24 (4) Beginning January 1, 2007, seven percent.

25 (5) Beginning January 1, 2008, eight percent.

26 (6) Beginning January 1, 2009, nine percent.

27 (7) Beginning January 1, 2010, ten percent.

28 b. If a utility undergoes reorganization as
29 defined in section 476.76, the board shall combine the
30 allocated purchases of power for each utility involved
31 in the reorganization.

32 c. Notwithstanding the ~~one hundred five megawatt~~
33 current applicable maximum, the board may increase the
34 amount of power that a utility is required to purchase
35 at the rates established pursuant to section 476.43 if
36 the board finds that a utility, including a
37 reorganized utility, exceeds its ~~1990~~ previous Iowa
38 retail peak demand level by twenty percent, and the
39 additional power the utility is required to purchase
40 will encourage the development of alternate energy
41 production facilities and small hydro facilities. The
42 increase shall not exceed the utility's increase in
43 peak demand multiplied by the ratio of the utility's
44 share of the ~~one hundred five megawatt~~ current
45 scheduled maximum to its ~~1990~~ Iowa retail peak demand.

46 d. At least five percent of an electric utility's
47 yearly scheduled allocation pursuant to the schedule
48 in paragraph "a" shall be derived from alternate
49 energy production facilities or small hydro facilities
50 with an electrical energy production capacity of three

S-3687

S-3687

Page 2

- 1 megawatts or less, if available."
 2 2. By renumbering and correcting internal
 3 references as necessary.

By MARY LOU FREEMAN
 MARY A. LUNDBY
 JOE BOLKCOM
 JACK HOLVECK
 ANDY MCKEAN
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 BETTY A. SOUKUP

S-3687 FILED MAY 7, 2001

0/0
6/19/01 Special Session
HOUSE FILE 577

S-3689

- 1 Amend the amendment, S-3673, to House File 577, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 4 1. Page 1, line 4, by striking the word "or" and
 5 inserting the following: ", or".
 6 2. Page 3, by striking lines 29 through 35.
 7 3. Page 3, line 36, by striking the figure "(3)"
 8 and inserting the following: "(1)".
 9 4. Page 3, line 39, by striking the figure "(4)"
 10 and inserting the following: "(2)".
 11 5. Page 4, by inserting after line 3 the
 12 following:
 13 "____. Page 5, by striking lines 17 and 18, and
 14 inserting the following: "available technology and
 15 the economics of available alternatives."
 16 _____. Page 12, line 12, by inserting after the
 17 word "bonds" the following: "or"."
 18 6. By renumbering as necessary.

By JOANN JOHNSON**S-3689** FILED MAY 7, 2001

0/0
6/19/01
Special Session

HOUSE FILE 577

S-3691

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. Section 476.1A, Code 2001, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 5A. Filing alternate energy
8 purchase program plans with the board, and offering
9 such programs to customers, pursuant to section
10 476.47."

11 2. Page 1, line 2, by striking the word
12 "paragraph" and inserting the following:
13 "paragraphs".

14 3. Page 1, by inserting after line 8 the
15 following:

16 "n. Filing alternate energy purchase program plans
17 with the board, and offering such programs to
18 customers, pursuant to section 476.47."

19 4. Page 2, by inserting after line 21 the
20 following:

21 "Sec. ____ NEW SECTION. 476.47 ALTERNATE ENERGY
22 PURCHASE PROGRAMS.

23 1. Beginning January 1, 2004, all electric
24 utilities, whether or not rate-regulated under this
25 chapter, shall offer alternate energy purchase
26 programs to all customers, based on energy produced by
27 alternate energy production facilities in Iowa.

28 2. The board shall require electric utilities to
29 file plans for alternate energy purchase programs
30 offered pursuant to this section.

31 a. Rate-regulated electric utilities shall file
32 alternate energy purchase programs that allow
33 customers to contribute voluntarily to the development
34 of alternate energy in Iowa, and shall file tariffs as
35 required by the board by rule.

36 b. Electric utilities that are not rate-regulated
37 shall offer alternate energy purchase programs at
38 rates determined by their governing authority, and
39 shall file tariffs with the board for informational
40 purposes only.

41 3. The electric utility shall notify consumers of
42 its alternate energy purchase program and any proposed
43 modifications to such program at least sixty days
44 prior to implementation of the program or any
45 modification.

46 4. For purposes of this section, an electric
47 utility may purchase energy from an alternate energy
48 production facility located outside of Iowa under
49 either of the following circumstances:

50 a. The purchase is pursuant to a contract in

S-3691

-1-

S-3691

Page 2

1 effect prior to July 1, 2001, and continues until the
2 expiration of the contract, including any options to
3 renew that are exercised by the electric utility.

4 b. The electric utility has a financial interest,
5 as of July 1, 2001, in the alternate energy production
6 facility that is located outside of Iowa.

7 5. This section shall not apply to non-rate-
8 regulated electric utilities physically located
9 outside of Iowa that serve Iowa customers."

10 5. By renumbering, relettering, redesignating,
11 and correcting internal references as necessary.

By JOANN JOHNSON

S-3691 FILED MAY 7, 2001

O/O 6/19/01 Special Session
HOUSE FILE 577

S-3701

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. ____ Section 476A.2, Code 2001, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 5. This chapter shall not apply
8 to an alternate energy production facility, as defined
9 in section 476.42, on which construction is begun on
10 or after July 1, 2001. This provision does not exempt
11 an alternate energy production facility from complying
12 with other federal, state, and local requirements in
13 connection with construction of an alternate energy
14 production facility.

15 However, a proposed alternate energy production
16 facility shall provide written notice to the board, at
17 least thirty days prior to commencing construction of
18 the alternate energy production facility, of at least
19 the following information:

20 a. The type of alternate energy production
21 facility, including the fuel or other energy source to
22 be utilized by the alternate energy production
23 facility in the production of electrical energy.

24 b. The total production capacity of the alternate
25 energy production facility, in megawatts.

26 c. The location of the proposed site for the
27 alternate energy production facility.

28 d. The proposed date of operation when the
29 alternate energy production facility is expected to be
30 in service."

31 2. By renumbering, relettering, redesignating,
32 and correcting internal references as necessary.

By JOANN JOHNSON

S-3701 FILED MAY 8, 2001

O/O 6/19/01
Special Session

HOUSE FILE 577

S-3713

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. Section 12C.1, subsection 1, Code
6 2001, as amended by 2001 Iowa Acts, House File 637,
7 section 4, is amended to read as follows:

8 1. All funds held by the following officers or
9 institutions shall be deposited in one or more
10 depositories first approved by the appropriate
11 governing body as indicated: for the treasurer of
12 state, by the executive council; for judicial officers
13 and court employees, by the supreme court; for the
14 county treasurer, recorder, auditor, and sheriff, by
15 the board of supervisors; for the city treasurer or
16 other designated financial officer of a city, by the
17 city council; for the county public hospital or merged
18 area hospital, by the board of hospital trustees; for
19 a memorial hospital, by the memorial hospital
20 commission; for a school corporation, by the board of
21 school directors; for a city utility or combined
22 utility system established under chapter 388, by the
23 utility board; for a library service area established
24 under chapter 256, by the library service area board
25 of trustees; and for an electric power agency as
26 defined in section 28F.2 or 476A.20, by the governing
27 body of the electric power agency. However, the
28 treasurer of state and the treasurer of each political
29 subdivision or the designated financial officer of a
30 city shall invest all funds not needed for current
31 operating expenses in time certificates of deposit in
32 approved depositories pursuant to this chapter or in
33 investments permitted by section 12B.10. The list of
34 public depositories and the amounts severally
35 deposited in the depositories are matters of public
36 record. This subsection does not limit the definition
37 of "public funds" contained in subsection 2.
38 Notwithstanding provisions of this section to the
39 contrary, public funds of a state government deferred
40 compensation plan established by the executive council
41 may also be invested in the investment products
42 authorized under section 509A.12.

43 Sec. 2. Section 12C.1, subsection 2, paragraph b,
44 Code 2001, is amended to read as follows:

45 b. "Public funds" and "public deposits" mean the
46 moneys of the state or a political subdivision or
47 instrumentality of the state including a county,
48 school corporation, special district, drainage
49 district, unincorporated town or township,
50 municipality, or municipal corporation or any agency,

S-3713

S-3713

Page 2

1 board, or commission of the state or a political
2 subdivision; any court or public body noted in
3 subsection 1; a legal or administrative entity created
4 pursuant to chapter 28E; an electric power agency as
5 defined in section 28F.2 or 476A.20; and federal and
6 state grant moneys of a quasi-public state entity that
7 are placed in a depository pursuant to this chapter.

8 Sec. 3. Section 28F.2, Code 2001, is amended to
9 read as follows:

10 28F.2 DEFINITIONS.

11 As used in this chapter, unless the context
12 otherwise requires:

13 1. ~~The terms "public~~ "Public agency", "state", and
14 "private agency" shall have the meanings prescribed by
15 section 28E.2.

16 2. ~~The term "project"~~ "Project" or "projects"
17 ~~shall mean~~ means any works or facilities referred to
18 in section 28F.1 and shall include all property real
19 and personal, pertinent thereto or connected with such
20 project or projects, and the existing works or
21 facilities, if any, to which such project or projects
22 are an extension, addition, betterment or improvement.

23 3. "Electric power agency" means an entity
24 financing or acquiring electric power facilities
25 pursuant to this chapter or chapter 28E or 476A.

26 Sec. 4. Section 427.1, subsection 2, Code 2001, is
27 amended to read as follows:

28 2. MUNICIPAL AND MILITARY PROPERTY. The property
29 of a county, township, city, school corporation, levee
30 district, drainage district, or the Iowa national
31 guard, when devoted to public use and not held for
32 pecuniary profit, except property of a municipally
33 owned electric utility held under joint ownership and
34 property of an electric power facility financed under
35 chapter 28F ~~which~~ or 476A that shall be subject to
36 taxation under chapter 437A and facilities of a
37 municipal utility that are used for the provision of
38 local exchange services pursuant to chapter 476, but
39 only to the extent such facilities are used to provide
40 such services, which shall be subject to taxation
41 under chapter 433, except that section 433.11 shall
42 not apply. The exemption for property owned by a city
43 or county also applies to property which is operated
44 by a city or county as a library, art gallery or
45 museum, conservatory, botanical garden or display,
46 observatory or science museum, or as a location for
47 holding athletic contests, sports or entertainment
48 events, expositions, meetings or conventions, or
49 leased from the city or county for any such purposes,
50 or leased from the city or county by the Iowa national

S-3713

-2-

S-3713

Page 3

1 guard or by a federal agency for the benefit of the
2 Iowa national guard when devoted for public use and
3 not for pecuniary profit. Food and beverages may be
4 served at the events or locations without affecting
5 the exemptions, provided the city has approved the
6 serving of food and beverages on the property if the
7 property is owned by the city or the county has
8 approved the serving of food and beverages on the
9 property if the property is owned by the county.

10 Sec. 5. Section 437A.3, subsection 17, paragraph
11 b, Code 2001, is amended to read as follows:

12 b. An electric power generating plant where the
13 acquisition cost of all interests acquired exceeds ten
14 million dollars. For purposes of this paragraph,
15 "electric power generating plant" means each nameplate
16 rated electric power generating plant owned solely or
17 jointly by any person or electric power facility
18 financed under the provisions of chapter 28F or 476A
19 in which electrical energy is produced from other
20 forms of energy, including all equipment used in the
21 production of such energy through its step-up
22 transformer.

23 Sec. 6. Section 437A.6, subsection 1, paragraph b,
24 Code 2001, is amended to read as follows:

25 b. Facilities owned by or leased to a municipal
26 utility when devoted to public use and not held for
27 pecuniary profit, except facilities of a municipally
28 owned electric utility held under joint ownership or
29 lease and facilities of an electric power facility
30 financed under chapter 28F or 476A.

31 Sec. 7. Section 437A.7, subsection 2, paragraph a,
32 Code 2001, is amended to read as follows:

33 a. Transmission lines owned by or leased to a
34 municipal utility when devoted to public use and not
35 for pecuniary profit, except transmission lines of a
36 municipally owned electric utility held under joint
37 ownership and transmission lines of an electric power
38 facility financed under chapter 28F or 476A.

39 Sec. 8. Section 476.1A, Code 2001, is amended by
40 adding the following new subsection:

41 NEW SUBSECTION. 5A. Filing alternate energy
42 purchase program plans with the board, and offering
43 such programs to customers, pursuant to section
44 476.47.

45 Sec. 9. Section 476.1B, subsection 1, Code 2001,
46 is amended by adding the following new paragraphs:

47 NEW PARAGRAPH. m. An electric power agency as
48 defined in chapters 28F and 476A that includes as a
49 member a city or municipally owned utility that builds
50 transmission facilities after July 1, 2001, is subject

S-3713

S-3713

Page 4

1 to applicable transmission reliability rules or
2 standards adopted by the board for those facilities.
3 n. Filing alternate energy purchase program plans
4 with the board, and offering such programs to
5 customers, pursuant to section 476.47.

6 Sec. 10. Section 476.6, Code 2001, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING
9 FACILITY EMISSIONS.

10 a. It is the intent of the general assembly that
11 the state, through a collaborative effort involving
12 state agencies and affected generation owners, provide
13 for compatible statewide environmental and electric
14 energy policies with respect to regulated emissions
15 from rate-regulated electric power generating
16 facilities in the state that are fueled by coal. Each
17 rate-regulated public utility that is an owner of one
18 or more electric power generating facilities fueled by
19 coal and located in this state on July 1, 2001, shall
20 develop a multiyear plan and budget for managing
21 regulated emissions from its facilities in a cost-
22 effective manner.

23 (1) The initial multiyear plan and budget shall be
24 filed with the board by April 1, 2002. Updates to the
25 plan and budget shall be filed at least every twenty-
26 four months.

27 (2) Copies of the initial plan and budget, as well
28 as any subsequent updates, shall be served on the
29 environmental protection division of the department of
30 natural resources.

31 (3) The initial multiyear plan and budget and any
32 subsequent updates shall be considered in a contested
33 case proceeding pursuant to chapter 17A. The
34 environmental protection division of the department of
35 natural resources and the consumer advocate shall
36 participate as parties to the proceeding.

37 (4) The department of natural resources shall
38 state whether the plan or update meets applicable
39 state environmental requirements for regulated
40 emissions. If the plan does not meet these
41 requirements, the department shall recommend
42 amendments that outline actions necessary to bring the
43 plan or update into compliance with the environmental
44 requirements.

45 b. The board shall not approve a plan or update
46 that does not meet applicable state environmental
47 requirements and federal ambient air quality standards
48 for regulated emissions from electric power generating
49 facilities located in the state.

50 c. The board shall review the plan or update and

S-3713

S-3713

Page 5

1 the associated budget, and shall approve the plan or
2 update and the associated budget if the plan or update
3 and the associated budget are reasonably expected to
4 achieve cost effective compliance with applicable
5 state environmental requirements and federal ambient
6 air quality standards. In reaching its decision, the
7 board shall consider whether the plan or update and
8 the associated budget reasonably balance costs,
9 environmental requirements, economic development
10 potential, and the reliability of the electric
11 generation and transmission system.

12 d. The board shall issue an order approving or
13 rejecting a plan, update, or budget within one hundred
14 eighty days after the public utility's filing is
15 deemed complete; however, upon good cause shown, the
16 board may extend the time for issuing the order as
17 follows:

18 (1) The board may grant an extension of thirty
19 days.

20 (2) The board may grant more than one extension,
21 but each extension must rely upon a separate showing
22 of good cause.

23 (3) A subsequent extension must not be granted any
24 earlier than five days prior to the expiration of the
25 original one-hundred-eighty-day period, or the current
26 extension.

27 e. The reasonable costs incurred by a rate-
28 regulated public utility in preparing and filing the
29 plan, update, or budget and in participating in the
30 proceedings before the board and the reasonable costs
31 associated with implementing the plan, update, or
32 budget shall be included in its regulated retail
33 rates.

34 f. It is the intent of the general assembly that
35 the board, in an environmental plan, update, or
36 associated budget filed under this section by a rate-
37 regulated public utility, may limit investments or
38 expenditures that are proposed to be undertaken prior
39 to the time that the environmental benefit to be
40 produced by the investment or expenditure would be
41 required by state or federal law.

42 g. The board shall report to the general assembly
43 by January 21, 2003, on the appropriateness and
44 desirability of requiring the municipal utilities and
45 the rural electric cooperatives to file multiyear
46 plans and budgets for managing regulated emissions
47 from their electric power generating facilities fueled
48 by coal and located in this state, similar to the
49 process required for rate-regulated public utilities
50 under this subsection.

S-3713

-5-

S-3713

Page 6

1 Sec. 11. NEW SECTION. 476.47 ALTERNATE ENERGY
2 PURCHASE PROGRAMS.

3 1. Beginning January 1, 2004, all electric
4 utilities, whether or not rate-regulated under this
5 chapter, shall offer alternate energy purchase
6 programs to all customers, based on energy produced by
7 alternate energy production facilities in Iowa.

8 2. The board shall require electric utilities to
9 file plans for alternate energy purchase programs
10 offered pursuant to this section.

11 a. Rate-regulated electric utilities shall file
12 plans for alternate energy purchase programs that
13 allow customers to contribute voluntarily to the
14 development of alternate energy in Iowa, and shall
15 file tariffs as required by the board by rule.

16 b. Electric utilities that are not rate-regulated
17 shall offer alternate energy purchase programs at
18 rates determined by their governing authority, and
19 shall file tariffs with the board for informational
20 purposes only.

21 3. The electric utility shall notify consumers of
22 its alternate energy purchase program and any proposed
23 modifications to such program at least sixty days
24 prior to implementation of the program or any
25 modification.

26 4. For purposes of this section, an electric
27 utility may base its program on energy produced by an
28 alternate energy production facility located outside
29 of Iowa under any of the following circumstances:

30 a. The energy is purchased by the electric utility
31 pursuant to a contract in effect prior to July 1,
32 2001, and continues until the expiration of the
33 contract, including any options to renew that are
34 exercised by the electric utility.

35 b. The electric utility has a financial interest,
36 as of July 1, 2001, in the alternate energy production
37 facility that is located outside of Iowa, or in an
38 entity that has a financial interest in an alternate
39 energy production facility located outside of Iowa.

40 c. The energy is purchased by an electric utility
41 that is not rate-regulated and that is required to
42 purchase all of its electric power requirements from a
43 single supplier that is physically located outside of
44 Iowa.

45 5. This section shall not apply to non-rate-
46 regulated electric utilities physically located
47 outside of Iowa that serve Iowa customers.

48 Sec. 12. Section 476.53, Code 2001, is amended by
49 striking the section and inserting in lieu thereof the
50 following:

S-3713

-6-

S-3713

Page 7

1 476.53 ELECTRIC GENERATING AND TRANSMISSION
2 FACILITIES.

3 1. It is the intent of the general assembly to
4 attract the development of electric power generating
5 and transmission facilities within the state in
6 sufficient quantity to ensure reliable electric
7 service to Iowa consumers and provide economic
8 benefits to the state.

9 2. The general assembly's intent with regard to
10 the development of electric power generating and
11 transmission facilities, as provided in subsection 1,
12 shall be implemented in a manner that is cost-
13 effective and compatible with the environmental
14 policies of the state, as expressed in Title XI.

15 3. a. If a rate-regulated public utility files an
16 application pursuant to section 476A.3 to construct in
17 Iowa a baseload electric power generating facility
18 with a nameplate generating capacity equal to or
19 greater than three hundred megawatts or a combined-
20 cycle electric power generating facility, or an
21 alternate energy production facility as defined in
22 section 476.42, or if a rate-regulated public utility
23 leases or owns in Iowa, in whole or in part, a new
24 baseload electric power generating facility with a
25 nameplate generating capacity equal to or greater than
26 three hundred megawatts or a combined-cycle electric
27 power generating facility, or a new alternate energy
28 production facility as defined in section 476.42, the
29 board shall specify in advance, by order issued after
30 a contested case proceeding, the ratemaking principles
31 that will apply when the costs of the facility are
32 included in regulated electric rates.

33 b. In determining the applicable ratemaking
34 principles, the board shall not be limited to
35 traditional ratemaking principles or traditional cost
36 recovery mechanisms.

37 c. In determining the applicable ratemaking
38 principles, the board shall make the following
39 findings:

40 (1) The rate-regulated public utility has in
41 effect a board-approved energy efficiency plan as
42 required under section 476.6, subsection 19.

43 (2) The rate-regulated public utility has
44 demonstrated to the board that the public utility has
45 considered other sources for long-term electric supply
46 and that the facility or lease is reasonable when
47 compared to other feasible alternative sources of
48 supply. The rate-regulated public utility may satisfy
49 the requirements of this subparagraph through a
50 competitive bidding process, under rules adopted by

S-3713

S-3713

Page 8

1 the board, that demonstrate the facility or lease is a
2 reasonable alternative to meet its electric supply
3 needs.

4 d. The applicable ratemaking principles shall be
5 determined in a contested case proceeding, which
6 proceeding may be combined with the proceeding for
7 issuance of a certificate conducted pursuant to
8 chapter 476A.

9 e. The order setting forth the applicable
10 ratemaking principles shall be issued prior to the
11 commencement of construction or lease of the facility.

12 f. Following issuance of the order, the rate-
13 regulated public utility shall have the option of
14 proceeding with construction or lease of the facility
15 in Iowa, or withdrawing its application for a
16 certificate under chapter 476A.

17 g. Notwithstanding any provision of this chapter
18 to the contrary, the ratemaking principles established
19 by the order issued pursuant to paragraph "e" shall be
20 binding with regard to the specific electric power
21 generating facility in any subsequent rate proceeding.

22 Sec. 13. Section 476A.4, Code 2001, is amended by
23 adding the following new subsection:

24 NEW SUBSECTION. 5. A proceeding for the issuance
25 of a certificate under section 476A.5 may be
26 consolidated with a contested case proceeding for
27 determination of applicable ratemaking principles
28 under section 476.53.

29 Sec. 14. Section 476A.6, Code 2001, is amended to
30 read as follows:

31 476A.6 DECISION -- CRITERIA.

32 The board shall render a decision on the
33 application in an expeditious manner. A certificate
34 shall be issued to the applicant if the board finds
35 all of the following:

36 1. The services and operations resulting from the
37 construction of the facility are ~~required by the~~
38 ~~present or future public convenience, use and~~
39 ~~necessity~~ consistent with legislative intent as
40 expressed in section 476.53 and the economic
41 development policy of the state as expressed in Title
42 I, subtitle 5, and will not be detrimental to the
43 provision of adequate and reliable electric service.

44 2. The applicant is willing to ~~perform such~~
45 ~~services and~~ construct, maintain, and operate the
46 facility pursuant to the provisions of the certificate
47 and this chapter.

48 3. The construction, maintenance, and operation of
49 the facility will ~~cause minimum adverse~~ be consistent
50 with reasonable land use, and environmental, and

S-3713

-8-

S-3713

Page 9

1 ~~aesthetic impact policies~~ and are consonant with
2 reasonable utilization of air, land, and water
3 resources, ~~for beneficial purposes~~ considering
4 available technology and the economics of available
5 alternatives.

6 ~~4. The applicant, if a public utility as defined~~
7 ~~in section 476.1, has in effect a comprehensive energy~~
8 ~~management program designed to reduce peak loads and~~
9 ~~to increase efficiency of use of energy by all classes~~
10 ~~of customers of the utility, and the facility in the~~
11 ~~application is necessary notwithstanding the existence~~
12 ~~of the comprehensive energy management program. As~~
13 ~~used in this subsection, a "comprehensive energy~~
14 ~~management program" includes at a minimum the~~
15 ~~following:~~

16 a. ~~Establishment of load management and~~
17 ~~interruptible service programs, where cost effective.~~

18 b. ~~Development of wheeling agreements and other~~
19 ~~energy sharing agreements, where cost effective with~~
20 ~~utilities that have available capacity.~~

21 c. ~~Establishment of cost effective energy~~
22 ~~efficiency and renewable energy services and programs.~~

23 d. ~~Compliance with board rules on energy~~
24 ~~management procedures.~~

25 ~~5. The applicant, if a public utility as defined~~
26 ~~in section 476.1, shall demonstrate to the board that~~
27 ~~the utility has considered sources for long term~~
28 ~~electric supply from either purchase of electricity or~~
29 ~~investment in facilities owned by other persons.~~

30 ~~6. The applicant, if a public utility as defined~~
31 ~~in section 476.1, has considered all feasible~~
32 ~~alternatives to the proposed facility including~~
33 ~~nongeneration alternatives; has ranked those~~
34 ~~alternatives by cost; has implemented the least cost~~
35 ~~alternatives first; and the facility in the~~
36 ~~application is necessary notwithstanding the~~
37 ~~implementation of these alternatives.~~

38 Sec. 15. Section 476A.7, Code 2001, is amended by
39 adding the following new subsection:

40 NEW SUBSECTION. 3. Pursuant to the provisions of
41 section 476.53, a rate-regulated public utility shall
42 have the option of withdrawing its application for
43 issuance of a certificate at any time prior to the
44 issuance of the certificate, or after the certificate
45 has been issued.

46 Sec. 16. Section 476A.15, Code 2001, is amended to
47 read as follows:

48 476A.15 WAIVER.

49 The board, if it determines that the public
50 interest would not be adversely affected, may waive

S-3713

S-3713

Page 10

1 any of the requirements of this chapter ~~for facilities~~
2 ~~with a capacity of one hundred or fewer megawatts.~~

3 Sec. 17. NEW SECTION. 476A.20 DEFINITIONS.

4 For purposes of this subchapter, unless the context
5 otherwise requires:

6 1. "Electric power agency" means an entity as
7 defined in section 28F.2.

8 2. "Facility" means an electric power generating
9 plant, or transmission line or system, as defined in
10 section 476A.1.

11 3. "Public bond or obligation" means an obligation
12 as defined in section 76.14.

13 Sec. 18. NEW SECTION. 476A.21 ELECTRIC POWER
14 AGENCY -- GENERAL AUTHORITY.

15 In addition to other powers conferred upon an
16 electric power agency by chapter 28F or other
17 applicable law, an electric power agency may enter
18 into and carry out joint agreements with other
19 participants for the acquisition of ownership of a
20 joint facility and for the planning, financing,
21 operation, and maintenance of the joint facility, as
22 provided in this subchapter.

23 Sec. 19. NEW SECTION. 476A.22 ELECTRIC POWER
24 AGENCY -- AUTHORITY -- CONFLICTING PROVISIONS.

25 1. In addition to any powers conferred upon an
26 electric power agency under chapter 28F or other
27 applicable law, an electric power agency may exercise
28 all other powers reasonably necessary or appropriate
29 for or incidental to the effectuation of the electric
30 power agency's authorized purposes, including without
31 limitation, the powers enumerated in chapters 6A and
32 6B for purposes of constructing or acquiring an
33 electric power facility.

34 2. An electric power agency, in connection with
35 its property and affairs, and in connection with
36 property within its control, may exercise any and all
37 powers that might be exercised by a natural person or
38 a private corporation in connection with similar
39 property and affairs.

40 3. The enumeration of specified powers and
41 functions of an electric power agency in this
42 subchapter is not a limitation of the powers of an
43 electric power agency, but the procedures prescribed
44 for exercising the powers and functions enumerated in
45 this subchapter control and govern in the event of any
46 conflict with any other provision of law.

47 4. The authority conferred pursuant to this
48 subchapter applies to electric power agencies,
49 notwithstanding any contrary provisions of section
50 28F.1.

S-3713

-10-

S-3713

Page 11

1 Sec. 20. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC
2 BONDS OR OBLIGATIONS -- PURPOSES -- LIMITATIONS.

3 1. An electric power agency may from time to time
4 issue its public bonds or obligations in such
5 principal amounts as the electric power agency deems
6 necessary to provide sufficient funds to carry out any
7 of its purposes and powers, including but not limited
8 to any of the following:

9 a. The acquisition or construction of any project
10 to be owned or leased by the electric power agency, or
11 the acquisition of any interest in such project or any
12 right to the capacity of such project, including the
13 acquisition, construction, or acquisition of any
14 interest in an electric power generating plant to be
15 constructed in this state, or the acquisition,
16 construction, or acquisition of any interest in a
17 transmission line or system.

18 b. The funding or refunding of the principal of,
19 or interest or redemption premiums on, any public
20 bonds or obligations issued by the electric power
21 agency whether or not the public bonds or obligations
22 or interest to be funded or refunded have become due.

23 c. The establishment or increase of reserves to
24 secure or to pay the public bonds or obligations or
25 interest on the public bonds or obligations.

26 d. The payment of all other costs or expenses of
27 the electric power agency incident to and necessary to
28 carry out its purposes and powers.

29 2. Notwithstanding anything in this subchapter or
30 chapter 28F to the contrary, a facility shall not be
31 financed with the proceeds of public bonds or
32 obligations, the interest on which is exempt from
33 federal income tax, unless the public issuer of such
34 public bonds or obligations covenants that the issuer
35 shall comply with the requirements or limitations
36 imposed by the Internal Revenue Code or other
37 applicable federal law to preserve the tax exemption
38 of interest payable on the bonds or obligations.

39 3. Notwithstanding anything in this subchapter or
40 chapter 28F to the contrary, an electric power
41 generating facility shall not be financed under this
42 subchapter unless all of the following conditions are
43 satisfied:

44 a. The portion of the electric power generating
45 facility financed by the electric power agency is not
46 designed to serve the electric power requirements of
47 retail customers of members that are municipal
48 electric utilities established in the state after
49 January 1, 2001.

50 b. The electric power agency annually files with

S-3713

S-3713

Page 12

1 the board, in a manner to be determined by the board,
2 information regarding sales from the electric power
3 generating facility in sufficient detail to determine
4 compliance with these provisions.

5 The board shall report to the general assembly if
6 any of the provisions are being violated.

7 Sec. 21. NEW SECTION. 476A.24 PUBLIC BONDS OR
8 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD --
9 TERMS.

10 1. The board of directors of an electric power
11 agency, by resolution, may authorize the issuance of
12 public bonds or obligations of the electric power
13 agency.

14 2. The public bonds or obligations may be issued
15 in one or more series under the resolution or under a
16 trust indenture or other security agreement.

17 3. The resolution, trust indenture, or other
18 security agreement, with respect to such public bonds
19 or obligations, shall provide for all of the
20 following:

21 a. The date on the public bonds or obligations.

22 b. The time of maturity.

23 c. The rate of interest.

24 d. The denomination.

25 e. The form, either coupon or registered.

26 f. The conversion, registration, and exchange
27 privileges.

28 g. The rank or priority.

29 h. The manner of execution.

30 i. The medium of payment, including the place of
31 payment, either within or outside of the state.

32 j. The terms of redemption, either with or without
33 premium.

34 k. Such other terms and conditions as set forth by
35 the board in the resolution, trust indenture, or other
36 security agreement.

37 4. Public bonds or obligations authorized by the
38 board of directors shall not be subject to any
39 restriction under other law with respect to the
40 amount, maturity, interest rate, or other terms of
41 obligation of a public agency or private person.

42 5. Chapter 75 shall not apply to public bonds or
43 obligations authorized by the board of directors as
44 provided in this section.

45 Sec. 22. NEW SECTION. 476A.25 PUBLIC BONDS OR
46 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
47 FUNDS.

48 1. The principal of and interest on any public
49 bonds or obligations issued by an electric power
50 agency shall be payable solely from the revenues or

S-3713

-12-

S-3713

Page 13

1 funds pledged or available for their payment as
2 authorized in this subchapter.

3 2. Each public bond or obligation shall contain
4 all of the following terms:

5 a. That the principal of or interest on such
6 public bonds or obligations is payable solely from
7 revenues or funds of the electric power agency.

8 b. That neither the state or a political
9 subdivision of the state other than the electric power
10 agency, nor a public agency that is a member of the
11 electric power agency is obligated to pay the
12 principal or interest on such public bonds or
13 obligations.

14 c. That neither the full faith and credit nor the
15 taxing power of the state, of any political
16 subdivision of the state, or of any such public agency
17 is pledged to the payment of the principal of or the
18 interest on the public bonds or obligations.

19 Sec. 23. NEW SECTION. 476A.26 PUBLIC BONDS OR
20 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT --
21 SECURITY.

22 1. Except as otherwise expressly provided by this
23 subchapter or by the electric power agency, every
24 issue of public bonds or obligations of the electric
25 power agency shall be payable out of any revenues or
26 funds of the electric power agency, subject only to
27 any agreements with the holders of particular public
28 bonds or obligations pledging any particular revenues
29 or funds.

30 2. An electric power agency may issue types of
31 public bonds or obligations as it may determine,
32 including public bonds or obligations as to which the
33 principal and interest are payable exclusively from
34 the revenues from one or more projects, or from an
35 interest in such project or projects, or a right to
36 capacity of such project or projects, or from any
37 revenue-producing contract made by the electric power
38 agency with any person, or from its revenues
39 generally.

40 3. Any public bonds or obligations may be
41 additionally secured by a pledge of any grant,
42 subsidy, or contribution from any public agency or
43 other person, or a pledge of any income or revenues,
44 funds, or moneys of the electric power agency from any
45 other source.

46 Sec. 24. NEW SECTION. 476A.27 PUBLIC BONDS OR
47 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO
48 STATE APPROVAL.

49 Public bonds or obligations of an electric power
50 agency may be issued under this subchapter, and rents,

S-3713

-13-

S-3713

Page 14

1 rates, and charges may be established in the same
2 manner as provided in section 28F.5 and pledged for
3 the security of public bonds or obligations and
4 interest and redemption premiums on such public bonds
5 or obligations, without obtaining the consent of any
6 department, division, commission, board, bureau, or
7 agency of the state and without any other proceeding
8 or the happening of any other condition or occurrence,
9 except as specifically required by this subchapter.

10 Sec. 25. NEW SECTION. 476A.28 PUBLIC BONDS OR
11 OBLIGATIONS TO BE NEGOTIABLE.

12 All public bonds or obligations of an electric
13 power agency shall be negotiable within the meaning
14 and for all of the purposes of the uniform commercial
15 code, chapter 554, subject only to the registration
16 requirement of section 76.10.

17 Sec. 26. NEW SECTION. 476A.29 VALIDITY OF PUBLIC
18 BONDS OR OBLIGATIONS AT DELIVERY -- TEMPORARY BONDS.

19 1. Any public bonds or obligations may be issued
20 and delivered, notwithstanding that one or more of the
21 officers executing them shall have ceased to hold
22 office at the time when the public bonds or
23 obligations are actually delivered.

24 2. Pending preparation of definitive bonds or
25 obligations, an electric power agency may issue
26 temporary bonds or obligations that shall be exchanged
27 for the definitive bonds or obligations upon their
28 issuance.

29 Sec. 27. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
30 SALE OF BONDS AND NOTES.

31 Public bonds or obligations of an electric power
32 agency may be sold at public or private sale for a
33 price and in a manner determined by the electric power
34 agency.

35 Sec. 28. NEW SECTION. 476A.31 PUBLIC BONDS OR
36 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
37 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

38 The following persons may legally invest any debt
39 service funds, money, or other funds belonging to such
40 person or within such person's control in any public
41 bonds or obligations issued pursuant to this
42 subchapter:

43 1. A bank, trust company, savings association,
44 building and loan association, savings and loan
45 association, or investment company.

46 2. An insurance company, insurance association, or
47 any other person carrying on an insurance business.

48 3. An executor, administrator, conservator,
49 trustee, or other fiduciary.

50 4. Any other person authorized to invest in bonds

S-3713

-14-

S-3713

Page 15

1 or obligations of the state.

2 Sec. 29. NEW SECTION. 476A.32 RESOLUTION, TRUST
3 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
4 -- PROVISIONS.

5 The resolution, trust indenture, or other security
6 agreement under which any public bonds or obligations
7 are issued shall constitute a contract with the
8 holders of the public bonds or obligations, and may
9 contain provisions, among others, prescribing any of
10 the following terms:

11 1. The terms and provisions of the public bonds or
12 obligations.

13 2. The mortgage or pledge of and the grant of a
14 security interest in any real or personal property and
15 all or any part of the revenue from any project or any
16 revenue producing contract made by the electric power
17 agency with any person to secure the payment of public
18 bonds or obligations, subject to any agreements with
19 the holders of public bonds or obligations which might
20 then exist.

21 3. The custody, collection, securing, investment,
22 and payment of any revenues, assets, money, funds, or
23 property with respect to which the electric power
24 agency may have any rights or interest.

25 4. The rates or charges for electric energy sold
26 by, or services rendered by, the electric power
27 agency, the amount to be raised by the rates or
28 charges, and the use and disposition of any or all
29 revenue.

30 5. The creation of reserves or debt service funds
31 and the regulation and disposition of such reserves or
32 funds.

33 6. The purposes to which the proceeds from the
34 sale of any public bonds or obligations to be issued
35 may be applied, and the pledge of the proceeds to
36 secure the payment of the public bonds or obligations.

37 7. Limitations on the issuance of any additional
38 public bonds or obligations, the terms upon which
39 additional public bonds or obligations may be issued
40 and secured, and the refunding of outstanding public
41 bonds or obligations.

42 8. The rank or priority of any public bonds or
43 obligations with respect to any lien or security.

44 9. The creation of special funds or moneys to be
45 held for operating expenses, payment, or redemption of
46 public bonds or obligations, reserves or other
47 purposes, and the use and disposition of moneys held
48 in these funds.

49 10. The procedure by which the terms of any
50 contract with or for the benefit of the holders of

S-3713

S-3713

Page 16

1 public bonds or obligations may be amended or
2 abrogated, the amount of public bonds or obligations
3 the holders of which must consent to such amendment or
4 abrogation, and the manner in which consent may be
5 given.

6 11. The definition of the acts or omissions to act
7 that constitute a default in the duties of the
8 electric power agency to holders of its public bonds
9 or obligations, and the rights and remedies of the
10 holders in the event of default including, if the
11 electric power agency so determines, the right to
12 accelerate the date of the maturation of the public
13 bonds or obligations or the right to appoint a
14 receiver or receivers of the property or revenues
15 subject to the lien of the resolution, trust
16 indenture, or other security agreement.

17 12. Any other or additional agreements with or for
18 the benefit of the holders of public bonds or
19 obligations or any covenants or restrictions necessary
20 or desirable to safeguard the interests of the
21 holders.

22 13. The custody of any of the electric power
23 agency's property or investments, the safekeeping of
24 such property or investments, the insurance to be
25 carried on such property or investments, and the use
26 and disposition of insurance proceeds.

27 14. The vesting in a trustee or trustees, within
28 or outside the state, of such property, rights,
29 powers, and duties as the electric power agency may
30 determine; or the limiting or abrogating of the rights
31 of the holders of any public bonds or obligations to
32 appoint a trustee, or the limiting of the rights,
33 powers, and duties of such trustee.

34 15. The appointment of and the establishment of
35 the duties and obligations of any paying agent or
36 other fiduciary within or outside the state.

37 Sec. 30. NEW SECTION. 476A.33 MORTGAGE OR TRUST
38 DEED TO SECURE BONDS.

39 For the security of public bonds or obligations
40 issued or to be issued by an electric power agency,
41 the electric power agency may mortgage or execute
42 deeds of trust of the whole or any part of its
43 property.

44 Sec. 31. NEW SECTION. 476A.34 NO PERSONAL
45 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

46 An official, director, member of an electric power
47 agency, or any person executing public bonds or
48 obligations shall not be liable personally on the
49 public bonds or obligations or be subject to any
50 personal liability or accountability by reason of the

S-3713

S-3713

Page 17

1 issuance of such public bonds or obligations.

2 Sec. 32. NEW SECTION. 476A.35 REPURCHASE OF
3 SECURITIES.

4 An electric power agency may purchase public bonds
5 or obligations out of any funds available for such
6 purchase, and hold, pledge, cancel, or resell the
7 public bonds or obligations, subject to and in
8 accordance with any agreements with the holders.

9 Sec. 33. NEW SECTION. 476A.36 PLEDGE OF REVENUE
10 AS SECURITY.

11 An electric power agency may pledge its rates,
12 rents, and other revenues, or any part of such rates,
13 rents, and revenues, as security for the repayment,
14 with interest and redemption premiums, if any, of the
15 moneys borrowed by the electric power agency or
16 advanced to the electric power agency for any of its
17 authorized purposes and as security for the payment of
18 moneys due and owed by the electric power agency under
19 any contract.

20 Sec. 34. Section 478.3, Code 2001, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 3. For the purpose of this
23 section, the term "public" shall not be interpreted to
24 be limited to consumers located in this state.

25 Sec. 35. CODE EDITOR DIRECTIVE. The Code editor
26 shall change references to "this chapter" in sections
27 476A.1 through 476A.15 as necessary and appropriate to
28 reflect the addition of the new subchapter to chapter
29 476A as a result of this Act.

30 Sec. 36. EFFECTIVE DATE. This Act, being deemed
31 of immediate importance, takes effect upon enactment."

32 2. Title page, line 2, by inserting after the
33 word "construction" the following: "or lease".

34 3. Title page, line 3, by inserting after the
35 word "facility" the following: ", and for the
36 development of ratemaking principles to apply to
37 certain electric generating facilities".

38 4. Title page, line 4, by inserting after the
39 word "contracts" the following: ", and for approval
40 of plans and budgets for regulating emissions from
41 coal-fired plants".

42 5. Title page, line 5, by inserting after the
43 word "policy;" the following: "providing for
44 alternate energy purchase programs;".

45 6. Title page, line 11, by inserting after the
46 word "transmission" the following: "; and providing
47 an effective date".

By JOANN JOHNSON

S-3713 FILED JUNE 19, 2001
WITHDRAWN

Special Session

HOUSE FILE 577

S-3717

1 Amend House File 577, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. Section 12C.1, subsection 1, Code
6 2001, as amended by 2001 Iowa Acts, House File 637,
7 section 4, is amended to read as follows:

8 1. All funds held by the following officers or
9 institutions shall be deposited in one or more
10 depositories first approved by the appropriate
11 governing body as indicated: for the treasurer of
12 state, by the executive council; for judicial officers
13 and court employees, by the supreme court; for the
14 county treasurer, recorder, auditor, and sheriff, by
15 the board of supervisors; for the city treasurer or
16 other designated financial officer of a city, by the
17 city council; for the county public hospital or merged
18 area hospital, by the board of hospital trustees; for
19 a memorial hospital, by the memorial hospital
20 commission; for a school corporation, by the board of
21 school directors; for a city utility or combined
22 utility system established under chapter 388, by the
23 utility board; for a library service area established
24 under chapter 256, by the library service area board
25 of trustees; and for an electric power agency as
26 defined in section 28F.2 or 476A.20, by the governing
27 body of the electric power agency. However, the
28 treasurer of state and the treasurer of each political
29 subdivision or the designated financial officer of a
30 city shall invest all funds not needed for current
31 operating expenses in time certificates of deposit in
32 approved depositories pursuant to this chapter or in
33 investments permitted by section 12B.10. The list of
34 public depositories and the amounts severally
35 deposited in the depositories are matters of public
36 record. This subsection does not limit the definition
37 of "public funds" contained in subsection 2.
38 Notwithstanding provisions of this section to the
39 contrary, public funds of a state government deferred
40 compensation plan established by the executive council
41 may also be invested in the investment products
42 authorized under section 509A.12.

43 Sec. 2. Section 12C.1, subsection 2, paragraph b,
44 Code 2001, is amended to read as follows:

45 b. "Public funds" and "public deposits" mean the
46 moneys of the state or a political subdivision or
47 instrumentality of the state including a county,
48 school corporation, special district, drainage
49 district, unincorporated town or township,
50 municipality, or municipal corporation or any agency,

S-3717

S-3717

Page 2

1 board, or commission of the state or a political
2 subdivision; any court or public body noted in
3 subsection 1; a legal or administrative entity created
4 pursuant to chapter 28E; an electric power agency as
5 defined in section 28F.2 or 476A.20; and federal and
6 state grant moneys of a quasi-public state entity that
7 are placed in a depository pursuant to this chapter.

8 Sec. 3. Section 28F.2, Code 2001, is amended to
9 read as follows:

10 28F.2 DEFINITIONS.

11 As used in this chapter, unless the context
12 otherwise requires:

13 1. ~~The terms "public~~ "Public agency", "state", and
14 "private agency" shall have the meanings prescribed by
15 section 28E.2.

16 2. ~~The term "project"~~ "Project" or "projects"
17 ~~shall mean~~ means any works or facilities referred to
18 in section 28F.1 and shall include all property real
19 and personal, pertinent thereto or connected with such
20 project or projects, and the existing works or
21 facilities, if any, to which such project or projects
22 are an extension, addition, betterment or improvement.

23 3. "Electric power agency" means an entity
24 financing or acquiring electric power facilities
25 pursuant to this chapter or chapter 28E or 476A.

26 Sec. 4. Section 427.1, subsection 2, Code 2001, is
27 amended to read as follows:

28 2. MUNICIPAL AND MILITARY PROPERTY. The property
29 of a county, township, city, school corporation, levee
30 district, drainage district, or the Iowa national
31 guard, when devoted to public use and not held for
32 pecuniary profit, except property of a municipally
33 owned electric utility held under joint ownership and
34 property of an electric power facility financed under
35 chapter 28F ~~which~~ or 476A that shall be subject to
36 taxation under chapter 437A and facilities of a
37 municipal utility that are used for the provision of
38 local exchange services pursuant to chapter 476, but
39 only to the extent such facilities are used to provide
40 such services, which shall be subject to taxation
41 under chapter 433, except that section 433.11 shall
42 not apply. The exemption for property owned by a city
43 or county also applies to property which is operated
44 by a city or county as a library, art gallery or
45 museum, conservatory, botanical garden or display,
46 observatory or science museum, or as a location for
47 holding athletic contests, sports or entertainment
48 events, expositions, meetings or conventions, or
49 leased from the city or county for any such purposes,
50 or leased from the city or county by the Iowa national

S-3717

-2-

S-3717

Page 3

1 guard or by a federal agency for the benefit of the
2 Iowa national guard when devoted for public use and
3 not for pecuniary profit. Food and beverages may be
4 served at the events or locations without affecting
5 the exemptions, provided the city has approved the
6 serving of food and beverages on the property if the
7 property is owned by the city or the county has
8 approved the serving of food and beverages on the
9 property if the property is owned by the county.

10 Sec. 5. Section 437A.3, subsection 17, paragraph
11 b, Code 2001, is amended to read as follows:

12 b. An electric power generating plant where the
13 acquisition cost of all interests acquired exceeds ten
14 million dollars. For purposes of this paragraph,
15 "electric power generating plant" means each nameplate
16 rated electric power generating plant owned solely or
17 jointly by any person or electric power facility
18 financed under the provisions of chapter 28F or 476A
19 in which electrical energy is produced from other
20 forms of energy, including all equipment used in the
21 production of such energy through its step-up
22 transformer.

23 Sec. 6. Section 437A.6, subsection 1, paragraph b,
24 Code 2001, is amended to read as follows:

25 b. Facilities owned by or leased to a municipal
26 utility when devoted to public use and not held for
27 pecuniary profit, except facilities of a municipally
28 owned electric utility held under joint ownership or
29 lease and facilities of an electric power facility
30 financed under chapter 28F or 476A.

31 Sec. 7. Section 437A.7, subsection 2, paragraph a,
32 Code 2001, is amended to read as follows:

33 a. Transmission lines owned by or leased to a
34 municipal utility when devoted to public use and not
35 for pecuniary profit, except transmission lines of a
36 municipally owned electric utility held under joint
37 ownership and transmission lines of an electric power
38 facility financed under chapter 28F or 476A.

39 Sec. 8. Section 476.1A, Code 2001, is amended by
40 adding the following new subsection:

41 NEW SUBSECTION. 5A. Filing alternate energy
42 purchase program plans with the board, and offering
43 such programs to customers, pursuant to section
44 476.47.

45 Sec. 9. Section 476.1B, subsection 1, Code 2001,
46 is amended by adding the following new paragraphs:

47 NEW PARAGRAPH. m. An electric power agency as
48 defined in chapters 28F and 476A that includes as a
49 member a city or municipally owned utility that builds
50 transmission facilities after July 1, 2001, is subject

S-3717

-3-

S-3717

Page 4

1 to applicable transmission reliability rules or
2 standards adopted by the board for those facilities.
3 n. Filing alternate energy purchase program plans
4 with the board, and offering such programs to
5 customers, pursuant to section 476.47.

6 Sec. 10. Section 476.6, Code 2001, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING
9 FACILITY EMISSIONS.

10 a. It is the intent of the general assembly that
11 the state, through a collaborative effort involving
12 state agencies and affected generation owners, provide
13 for compatible statewide environmental and electric
14 energy policies with respect to regulated emissions
15 from rate-regulated electric power generating
16 facilities in the state that are fueled by coal. Each
17 rate-regulated public utility that is an owner of one
18 or more electric power generating facilities fueled by
19 coal and located in this state on July 1, 2001, shall
20 develop a multiyear plan and budget for managing
21 regulated emissions from its facilities in a cost-
22 effective manner.

23 (1) The initial multiyear plan and budget shall be
24 filed with the board by April 1, 2002. Updates to the
25 plan and budget shall be filed at least every twenty-
26 four months.

27 (2) Copies of the initial plan and budget, as well
28 as any subsequent updates, shall be served on the
29 environmental protection division of the department of
30 natural resources.

31 (3) The initial multiyear plan and budget and any
32 subsequent updates shall be considered in a contested
33 case proceeding pursuant to chapter 17A. The
34 environmental protection division of the department of
35 natural resources and the consumer advocate shall
36 participate as parties to the proceeding.

37 (4) The department of natural resources shall
38 state whether the plan or update meets applicable
39 state environmental requirements for regulated
40 emissions. If the plan does not meet these
41 requirements, the department shall recommend
42 amendments that outline actions necessary to bring the
43 plan or update into compliance with the environmental
44 requirements.

45 b. The board shall not approve a plan or update
46 that does not meet applicable state environmental
47 requirements and federal ambient air quality standards
48 for regulated emissions from electric power generating
49 facilities located in the state.

50 c. The board shall review the plan or update and

S-3717

S-3717

Page 5

1 the associated budget, and shall approve the plan or
2 update and the associated budget if the plan or update
3 and the associated budget are reasonably expected to
4 achieve cost effective compliance with applicable
5 state environmental requirements and federal ambient
6 air quality standards. In reaching its decision, the
7 board shall consider whether the plan or update and
8 the associated budget reasonably balance costs,
9 environmental requirements, economic development
10 potential, and the reliability of the electric
11 generation and transmission system.

12 d. The board shall issue an order approving or
13 rejecting a plan, update, or budget within one hundred
14 eighty days after the public utility's filing is
15 deemed complete; however, upon good cause shown, the
16 board may extend the time for issuing the order as
17 follows:

18 (1) The board may grant an extension of thirty
19 days.

20 (2) The board may grant more than one extension,
21 but each extension must rely upon a separate showing
22 of good cause.

23 (3) A subsequent extension must not be granted any
24 earlier than five days prior to the expiration of the
25 original one-hundred-eighty-day period, or the current
26 extension.

27 e. The reasonable costs incurred by a rate-
28 regulated public utility in preparing and filing the
29 plan, update, or budget and in participating in the
30 proceedings before the board and the reasonable costs
31 associated with implementing the plan, update, or
32 budget shall be included in its regulated retail
33 rates.

34 f. It is the intent of the general assembly that
35 the board, in an environmental plan, update, or
36 associated budget filed under this section by a rate-
37 regulated public utility, may limit investments or
38 expenditures that are proposed to be undertaken prior
39 to the time that the environmental benefit to be
40 produced by the investment or expenditure would be
41 required by state or federal law.

42 g. The board shall report to the general assembly
43 by January 21, 2003, on the appropriateness and
44 desirability of requiring the municipal utilities and
45 the rural electric cooperatives to file multiyear
46 plans and budgets for managing regulated emissions
47 from their electric power generating facilities fueled
48 by coal and located in this state, similar to the
49 process required for rate-regulated public utilities
50 under this subsection.

S-3717

S-3717

Page 6

1 Sec. 11. NEW SECTION. 476.47 ALTERNATE ENERGY
2 PURCHASE PROGRAMS.

3 1. Beginning January 1, 2004, an electric utility,
4 whether or not rate-regulated under this chapter,
5 shall offer an alternate energy purchase program to
6 customers, based on energy produced by alternate
7 energy production facilities in Iowa.

8 2. The board shall require electric utilities to
9 file plans for alternate energy purchase programs
10 offered pursuant to this section.

11 a. Rate-regulated electric utilities shall file
12 plans for alternate energy purchase programs that
13 allow customers to contribute voluntarily to the
14 development of alternate energy in Iowa, and shall
15 file tariffs as required by the board by rule.

16 b. Electric utilities that are not rate-regulated
17 shall offer alternate energy purchase programs at
18 rates determined by their governing authority, and
19 shall file tariffs with the board for informational
20 purposes only.

21 3. The electric utility shall notify consumers of
22 its alternate energy purchase program and any proposed
23 modifications to such program at least sixty days
24 prior to implementation of the program or any
25 modification.

26 4. For purposes of this section, an electric
27 utility may base its program on energy produced by
28 alternate energy production facilities located outside
29 of Iowa under any of the following circumstances:

30 a. The energy is purchased by the electric utility
31 pursuant to a contract in effect prior to July 1,
32 2001, and continues until the expiration of the
33 contract, including any options to renew that are
34 exercised by the electric utility.

35 b. The electric utility has a financial interest,
36 as of July 1, 2001, in the alternate energy production
37 facility that is located outside of Iowa, or in an
38 entity that has a financial interest in an alternate
39 energy production facility located outside of Iowa.

40 c. The energy is purchased by an electric utility
41 that is not rate-regulated and that is required to
42 purchase all of its electric power requirements from a
43 single supplier that is physically located outside of
44 Iowa.

45 5. This section shall not apply to non-rate-
46 regulated electric utilities physically located
47 outside of Iowa that serve Iowa customers.

48 6. Any consumer-owned utility may apply to the
49 board for a waiver under this section, and the board,
50 for good cause, may grant the waiver.

S-3717

-6-

S-3717

Page 7

1 Sec. 12. Section 476.53, Code 2001, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 476.53 ELECTRIC GENERATING AND TRANSMISSION
5 FACILITIES.

6 1. It is the intent of the general assembly to
7 attract the development of electric power generating
8 and transmission facilities within the state in
9 sufficient quantity to ensure reliable electric
10 service to Iowa consumers and provide economic
11 benefits to the state.

12 2. The general assembly's intent with regard to
13 the development of electric power generating and
14 transmission facilities, as provided in subsection 1,
15 shall be implemented in a manner that is cost-
16 effective and compatible with the environmental
17 policies of the state, as expressed in Title XI.

18 3. a. If a rate-regulated public utility files an
19 application pursuant to section 476A.3 to construct in
20 Iowa a baseload electric power generating facility
21 with a nameplate generating capacity equal to or
22 greater than three hundred megawatts or a combined-
23 cycle electric power generating facility, or an
24 alternate energy production facility as defined in
25 section 476.42, or if a rate-regulated public utility
26 leases or owns in Iowa, in whole or in part, a new
27 baseload electric power generating facility with a
28 nameplate generating capacity equal to or greater than
29 three hundred megawatts or a combined-cycle electric
30 power generating facility, or a new alternate energy
31 production facility as defined in section 476.42, the
32 board shall specify in advance, by order issued after
33 a contested case proceeding, the ratemaking principles
34 that will apply when the costs of the facility are
35 included in regulated electric rates.

36 b. In determining the applicable ratemaking
37 principles, the board shall not be limited to
38 traditional ratemaking principles or traditional cost
39 recovery mechanisms.

40 c. In determining the applicable ratemaking
41 principles, the board shall make the following
42 findings:

43 (1) The rate-regulated public utility has in
44 effect a board-approved energy efficiency plan as
45 required under section 476.6, subsection 19.

46 (2) The rate-regulated public utility has
47 demonstrated to the board that the public utility has
48 considered other sources for long-term electric supply
49 and that the facility or lease is reasonable when
50 compared to other feasible alternative sources of

S-3717

S-3717

Page 8

1 supply. The rate-regulated public utility may satisfy
2 the requirements of this subparagraph through a
3 competitive bidding process, under rules adopted by
4 the board, that demonstrate the facility or lease is a
5 reasonable alternative to meet its electric supply
6 needs.

7 d. The applicable ratemaking principles shall be
8 determined in a contested case proceeding, which
9 proceeding may be combined with the proceeding for
10 issuance of a certificate conducted pursuant to
11 chapter 476A.

12 e. The order setting forth the applicable
13 ratemaking principles shall be issued prior to the
14 commencement of construction or lease of the facility.

15 f. Following issuance of the order, the rate-
16 regulated public utility shall have the option of
17 proceeding with construction or lease of the facility
18 in Iowa, or withdrawing its application for a
19 certificate under chapter 476A.

20 g. Notwithstanding any provision of this chapter
21 to the contrary, the ratemaking principles established
22 by the order issued pursuant to paragraph "e" shall be
23 binding with regard to the specific electric power
24 generating facility in any subsequent rate proceeding.

25 Sec. 13. Section 476A.4, Code 2001, is amended by
26 adding the following new subsection:

27 NEW SUBSECTION. 5. A proceeding for the issuance
28 of a certificate under section 476A.5 may be
29 consolidated with a contested case proceeding for
30 determination of applicable ratemaking principles
31 under section 476.53.

32 Sec. 14. Section 476A.6, Code 2001, is amended to
33 read as follows:

34 476A.6 DECISION -- CRITERIA.

35 The board shall render a decision on the
36 application in an expeditious manner. A certificate
37 shall be issued to the applicant if the board finds
38 all of the following:

39 1. The services and operations resulting from the
40 construction of the facility are ~~required by the~~
41 ~~present or future public convenience, use and~~
42 necessity consistent with legislative intent as
43 expressed in section 476.53 and the economic
44 development policy of the state as expressed in Title
45 I, subtitle 5, and will not be detrimental to the
46 provision of adequate and reliable electric service.

47 2. The applicant is willing to ~~perform such~~
48 ~~services and~~ construct, maintain, and operate the
49 facility pursuant to the provisions of the certificate
50 and this chapter.

S-3717

-8-

S-3717

Page 9

1 3. The construction, maintenance, and operation of
2 the facility will ~~cause minimum adverse~~ be consistent
3 with reasonable land use, and environmental, and
4 aesthetic impact policies and are consonant with
5 reasonable utilization of air, land, and water
6 resources, ~~for beneficial purposes~~ considering
7 available technology and the economics of available
8 alternatives.

9 ~~4. The applicant, if a public utility as defined~~
10 ~~in section 476.1, has in effect a comprehensive energy~~
11 ~~management program designed to reduce peak loads and~~
12 ~~to increase efficiency of use of energy by all classes~~
13 ~~of customers of the utility, and the facility in the~~
14 ~~application is necessary notwithstanding the existence~~
15 ~~of the comprehensive energy management program. As~~
16 ~~used in this subsection, a "comprehensive energy~~
17 ~~management program" includes at a minimum the~~
18 ~~following:~~

19 ~~a. Establishment of load management and~~
20 ~~interruptible service programs, where cost effective.~~

21 ~~b. Development of wheeling agreements and other~~
22 ~~energy sharing agreements, where cost effective with~~
23 ~~utilities that have available capacity.~~

24 ~~c. Establishment of cost effective energy~~
25 ~~efficiency and renewable energy services and programs.~~

26 ~~d. Compliance with board rules on energy~~
27 ~~management procedures.~~

28 ~~5. The applicant, if a public utility as defined~~
29 ~~in section 476.1, shall demonstrate to the board that~~
30 ~~the utility has considered sources for long term~~
31 ~~electric supply from either purchase of electricity or~~
32 ~~investment in facilities owned by other persons.~~

33 ~~6. The applicant, if a public utility as defined~~
34 ~~in section 476.1, has considered all feasible~~
35 ~~alternatives to the proposed facility including~~
36 ~~nongeneration alternatives; has ranked those~~
37 ~~alternatives by cost; has implemented the least cost~~
38 ~~alternatives first; and the facility in the~~
39 ~~application is necessary notwithstanding the~~
40 ~~implementation of these alternatives.~~

41 Sec. 15. Section 476A.7, Code 2001, is amended by
42 adding the following new subsection:

43 NEW SUBSECTION. 3. Pursuant to the provisions of
44 section 476.53, a rate-regulated public utility shall
45 have the option of withdrawing its application for
46 issuance of a certificate at any time prior to the
47 issuance of the certificate, or after the certificate
48 has been issued.

49 Sec. 16. Section 476A.15, Code 2001, is amended to
50 read as follows:

S-3717

S-3717

Page 10

1 476A.15 WAIVER.

2 The board, if it determines that the public
3 interest would not be adversely affected, may waive
4 any of the requirements of this chapter ~~for facilities~~
5 ~~with a capacity of one hundred or fewer megawatts.~~

6 Sec. 17. NEW SECTION. 476A.20 DEFINITIONS.

7 For purposes of this subchapter, unless the context
8 otherwise requires:

9 1. "Electric power agency" means an entity as
10 defined in section 28F.2.

11 2. "Facility" means an electric power generating
12 plant, or transmission line or system, as defined in
13 section 476A.1.

14 3. "Public bond or obligation" means an obligation
15 as defined in section 76.14.

16 Sec. 18. NEW SECTION. 476A.21 ELECTRIC POWER
17 AGENCY -- GENERAL AUTHORITY.

18 In addition to other powers conferred upon an
19 electric power agency by chapter 28F or other
20 applicable law, an electric power agency may enter
21 into and carry out joint agreements with other
22 participants for the acquisition of ownership of a
23 joint facility and for the planning, financing,
24 operation, and maintenance of the joint facility, as
25 provided in this subchapter.

26 Sec. 19. NEW SECTION. 476A.22 ELECTRIC POWER
27 AGENCY -- AUTHORITY -- CONFLICTING PROVISIONS.

28 1. In addition to any powers conferred upon an
29 electric power agency under chapter 28F or other
30 applicable law, an electric power agency may exercise
31 all other powers reasonably necessary or appropriate
32 for or incidental to the effectuation of the electric
33 power agency's authorized purposes, including without
34 limitation, the powers enumerated in chapters 6A and
35 6B for purposes of constructing or acquiring an
36 electric power facility.

37 2. An electric power agency, in connection with
38 its property and affairs, and in connection with
39 property within its control, may exercise any and all
40 powers that might be exercised by a natural person or
41 a private corporation in connection with similar
42 property and affairs.

43 3. The enumeration of specified powers and
44 functions of an electric power agency in this
45 subchapter is not a limitation of the powers of an
46 electric power agency, but the procedures prescribed
47 for exercising the powers and functions enumerated in
48 this subchapter control and govern in the event of any
49 conflict with any other provision of law.

50 4. The authority conferred pursuant to this

S-3717

-10-

S-3717

Page 11

1 subchapter applies to electric power agencies,
2 notwithstanding any contrary provisions of section
3 28F.1.

4 Sec. 20. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC
5 BONDS OR OBLIGATIONS -- PURPOSES -- LIMITATIONS.

6 1. An electric power agency may from time to time
7 issue its public bonds or obligations in such
8 principal amounts as the electric power agency deems
9 necessary to provide sufficient funds to carry out any
10 of its purposes and powers, including but not limited
11 to any of the following:

12 a. The acquisition or construction of any project
13 to be owned or leased by the electric power agency, or
14 the acquisition of any interest in such project or any
15 right to the capacity of such project, including the
16 acquisition, construction, or acquisition of any
17 interest in an electric power generating plant to be
18 constructed in this state, or the acquisition,
19 construction, or acquisition of any interest in a
20 transmission line or system.

21 b. The funding or refunding of the principal of,
22 or interest or redemption premiums on, any public
23 bonds or obligations issued by the electric power
24 agency whether or not the public bonds or obligations
25 or interest to be funded or refunded have become due.

26 c. The establishment or increase of reserves to
27 secure or to pay the public bonds or obligations or
28 interest on the public bonds or obligations.

29 d. The payment of all other costs or expenses of
30 the electric power agency incident to and necessary to
31 carry out its purposes and powers.

32 2. Notwithstanding anything in this subchapter or
33 chapter 28F to the contrary, a facility shall not be
34 financed with the proceeds of public bonds or
35 obligations, the interest on which is exempt from
36 federal income tax, unless the public issuer of such
37 public bonds or obligations covenants that the issuer
38 shall comply with the requirements or limitations
39 imposed by the Internal Revenue Code or other
40 applicable federal law to preserve the tax exemption
41 of interest payable on the bonds or obligations.

42 3. Notwithstanding anything in this subchapter or
43 chapter 28F to the contrary, an electric power
44 generating facility shall not be financed under this
45 subchapter unless all of the following conditions are
46 satisfied:

47 a. The portion of the electric power generating
48 facility financed by the electric power agency is not
49 designed to serve the electric power requirements of
50 retail customers of members that are municipal

S-3717

S-3717

Page 12

1 electric utilities established in the state after
2 January 1, 2001.

3 b. The electric power agency annually files with
4 the board, in a manner to be determined by the board,
5 information regarding sales from the electric power
6 generating facility in sufficient detail to determine
7 compliance with these provisions.

8 The board shall report to the general assembly if
9 any of the provisions are being violated.

10 Sec. 21. NEW SECTION. 476A.24 PUBLIC BONDS OR
11 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD --
12 TERMS.

13 1. The board of directors of an electric power
14 agency, by resolution, may authorize the issuance of
15 public bonds or obligations of the electric power
16 agency.

17 2. The public bonds or obligations may be issued
18 in one or more series under the resolution or under a
19 trust indenture or other security agreement.

20 3. The resolution, trust indenture, or other
21 security agreement, with respect to such public bonds
22 or obligations, shall provide for all of the
23 following:

24 a. The date on the public bonds or obligations.

25 b. The time of maturity.

26 c. The rate of interest.

27 d. The denomination.

28 e. The form, either coupon or registered.

29 f. The conversion, registration, and exchange
30 privileges.

31 g. The rank or priority.

32 h. The manner of execution.

33 i. The medium of payment, including the place of
34 payment, either within or outside of the state.

35 j. The terms of redemption, either with or without
36 premium.

37 k. Such other terms and conditions as set forth by
38 the board in the resolution, trust indenture, or other
39 security agreement.

40 4. Public bonds or obligations authorized by the
41 board of directors shall not be subject to any
42 restriction under other law with respect to the
43 amount, maturity, interest rate, or other terms of
44 obligation of a public agency or private person.

45 5. Chapter 75 shall not apply to public bonds or
46 obligations authorized by the board of directors as
47 provided in this section.

48 Sec. 22. NEW SECTION. 476A.25 PUBLIC BONDS OR
49 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
50 FUNDS.

S-3717

-12-

S-3717

Page 13

1 1. The principal of and interest on any public
2 bonds or obligations issued by an electric power
3 agency shall be payable solely from the revenues or
4 funds pledged or available for their payment as
5 authorized in this subchapter.

6 2. Each public bond or obligation shall contain
7 all of the following terms:

8 a. That the principal of or interest on such
9 public bonds or obligations is payable solely from
10 revenues or funds of the electric power agency.

11 b. That neither the state or a political
12 subdivision of the state other than the electric power
13 agency, nor a public agency that is a member of the
14 electric power agency is obligated to pay the
15 principal or interest on such public bonds or
16 obligations.

17 c. That neither the full faith and credit nor the
18 taxing power of the state, of any political
19 subdivision of the state, or of any such public agency
20 is pledged to the payment of the principal of or the
21 interest on the public bonds or obligations.

22 Sec. 23. NEW SECTION. 476A.26 PUBLIC BONDS OR
23 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT --
24 SECURITY.

25 1. Except as otherwise expressly provided by this
26 subchapter or by the electric power agency, every
27 issue of public bonds or obligations of the electric
28 power agency shall be payable out of any revenues or
29 funds of the electric power agency, subject only to
30 any agreements with the holders of particular public
31 bonds or obligations pledging any particular revenues
32 or funds.

33 2. An electric power agency may issue types of
34 public bonds or obligations as it may determine,
35 including public bonds or obligations as to which the
36 principal and interest are payable exclusively from
37 the revenues from one or more projects, or from an
38 interest in such project or projects, or a right to
39 capacity of such project or projects, or from any
40 revenue-producing contract made by the electric power
41 agency with any person, or from its revenues
42 generally.

43 3. Any public bonds or obligations may be
44 additionally secured by a pledge of any grant,
45 subsidy, or contribution from any public agency or
46 other person, or a pledge of any income or revenues,
47 funds, or moneys of the electric power agency from any
48 other source.

49 Sec. 24. NEW SECTION. 476A.27 PUBLIC BONDS OR
50 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO

S-3717

S-3717

Page 14

1 STATE APPROVAL.

2 Public bonds or obligations of an electric power
3 agency may be issued under this subchapter, and rents,
4 rates, and charges may be established in the same
5 manner as provided in section 28F.5 and pledged for
6 the security of public bonds or obligations and
7 interest and redemption premiums on such public bonds
8 or obligations, without obtaining the consent of any
9 department, division, commission, board, bureau, or
10 agency of the state and without any other proceeding
11 or the happening of any other condition or occurrence,
12 except as specifically required by this subchapter.

13 Sec. 25. NEW SECTION. 476A.28 PUBLIC BONDS OR
14 OBLIGATIONS TO BE NEGOTIABLE.

15 All public bonds or obligations of an electric
16 power agency shall be negotiable within the meaning
17 and for all of the purposes of the uniform commercial
18 code, chapter 554, subject only to the registration
19 requirement of section 76.10.

20 Sec. 26. NEW SECTION. 476A.29 VALIDITY OF PUBLIC
21 BONDS OR OBLIGATIONS AT DELIVERY -- TEMPORARY BONDS.

22 1. Any public bonds or obligations may be issued
23 and delivered, notwithstanding that one or more of the
24 officers executing them shall have ceased to hold
25 office at the time when the public bonds or
26 obligations are actually delivered.

27 2. Pending preparation of definitive bonds or
28 obligations, an electric power agency may issue
29 temporary bonds or obligations that shall be exchanged
30 for the definitive bonds or obligations upon their
31 issuance.

32 Sec. 27. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
33 SALE OF BONDS AND NOTES.

34 Public bonds or obligations of an electric power
35 agency may be sold at public or private sale for a
36 price and in a manner determined by the electric power
37 agency.

38 Sec. 28. NEW SECTION. 476A.31 PUBLIC BONDS OR
39 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
40 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

41 The following persons may legally invest any debt
42 service funds, money, or other funds belonging to such
43 person or within such person's control in any public
44 bonds or obligations issued pursuant to this
45 subchapter:

46 1. A bank, trust company, savings association,
47 building and loan association, savings and loan
48 association, or investment company.

49 2. An insurance company, insurance association, or
50 any other person carrying on an insurance business.

S-3717

-14-

S-3717

Page 15

1 3. An executor, administrator, conservator,
2 trustee, or other fiduciary.

3 4. Any other person authorized to invest in bonds
4 or obligations of the state.

5 Sec. 29. NEW SECTION. 476A.32 RESOLUTION, TRUST
6 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
7 -- PROVISIONS.

8 The resolution, trust indenture, or other security
9 agreement under which any public bonds or obligations
10 are issued shall constitute a contract with the
11 holders of the public bonds or obligations, and may
12 contain provisions, among others, prescribing any of
13 the following terms:

14 1. The terms and provisions of the public bonds or
15 obligations.

16 2. The mortgage or pledge of and the grant of a
17 security interest in any real or personal property and
18 all or any part of the revenue from any project or any
19 revenue producing contract made by the electric power
20 agency with any person to secure the payment of public
21 bonds or obligations, subject to any agreements with
22 the holders of public bonds or obligations which might
23 then exist.

24 3. The custody, collection, securing, investment,
25 and payment of any revenues, assets, money, funds, or
26 property with respect to which the electric power
27 agency may have any rights or interest.

28 4. The rates or charges for electric energy sold
29 by, or services rendered by, the electric power
30 agency, the amount to be raised by the rates or
31 charges, and the use and disposition of any or all
32 revenue.

33 5. The creation of reserves or debt service funds
34 and the regulation and disposition of such reserves or
35 funds.

36 6. The purposes to which the proceeds from the
37 sale of any public bonds or obligations to be issued
38 may be applied, and the pledge of the proceeds to
39 secure the payment of the public bonds or obligations.

40 7. Limitations on the issuance of any additional
41 public bonds or obligations, the terms upon which
42 additional public bonds or obligations may be issued
43 and secured, and the refunding of outstanding public
44 bonds or obligations.

45 8. The rank or priority of any public bonds or
46 obligations with respect to any lien or security.

47 9. The creation of special funds or moneys to be
48 held for operating expenses, payment, or redemption of
49 public bonds or obligations, reserves or other
50 purposes, and the use and disposition of moneys held

S-3717

S-3717

Page 16

1 in these funds.

2 10. The procedure by which the terms of any
3 contract with or for the benefit of the holders of
4 public bonds or obligations may be amended or
5 abrogated, the amount of public bonds or obligations
6 the holders of which must consent to such amendment or
7 abrogation, and the manner in which consent may be
8 given.

9 11. The definition of the acts or omissions to act
10 that constitute a default in the duties of the
11 electric power agency to holders of its public bonds
12 or obligations, and the rights and remedies of the
13 holders in the event of default including, if the
14 electric power agency so determines, the right to
15 accelerate the date of the maturation of the public
16 bonds or obligations or the right to appoint a
17 receiver or receivers of the property or revenues
18 subject to the lien of the resolution, trust
19 indenture, or other security agreement.

20 12. Any other or additional agreements with or for
21 the benefit of the holders of public bonds or
22 obligations or any covenants or restrictions necessary
23 or desirable to safeguard the interests of the
24 holders.

25 13. The custody of any of the electric power
26 agency's property or investments, the safekeeping of
27 such property or investments, the insurance to be
28 carried on such property or investments, and the use
29 and disposition of insurance proceeds.

30 14. The vesting in a trustee or trustees, within
31 or outside the state, of such property, rights,
32 powers, and duties as the electric power agency may
33 determine; or the limiting or abrogating of the rights
34 of the holders of any public bonds or obligations to
35 appoint a trustee, or the limiting of the rights,
36 powers, and duties of such trustee.

37 15. The appointment of and the establishment of
38 the duties and obligations of any paying agent or
39 other fiduciary within or outside the state.

40 Sec. 30. NEW SECTION. 476A.33 MORTGAGE OR TRUST
41 DEED TO SECURE BONDS.

42 For the security of public bonds or obligations
43 issued or to be issued by an electric power agency,
44 the electric power agency may mortgage or execute
45 deeds of trust of the whole or any part of its
46 property.

47 Sec. 31. NEW SECTION. 476A.34 NO PERSONAL
48 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

49 An official, director, member of an electric power
50 agency, or any person executing public bonds or

S-3717

-16-

S-3717

Page 17

1 obligations shall not be liable personally on the
2 public bonds or obligations or be subject to any
3 personal liability or accountability by reason of the
4 issuance of such public bonds or obligations.

5 Sec. 32. NEW SECTION. 476A.35 REPURCHASE OF
6 SECURITIES.

7 An electric power agency may purchase public bonds
8 or obligations out of any funds available for such
9 purchase, and hold, pledge, cancel, or resell the
10 public bonds or obligations, subject to and in
11 accordance with any agreements with the holders.

12 Sec. 33. NEW SECTION. 476A.36 PLEDGE OF REVENUE
13 AS SECURITY.

14 An electric power agency may pledge its rates,
15 rents, and other revenues, or any part of such rates,
16 rents, and revenues, as security for the repayment,
17 with interest and redemption premiums, if any, of the
18 moneys borrowed by the electric power agency or
19 advanced to the electric power agency for any of its
20 authorized purposes and as security for the payment of
21 moneys due and owed by the electric power agency under
22 any contract.

23 Sec. 34. Section 478.3, Code 2001, is amended by
24 adding the following new subsection:

25 NEW SUBSECTION. 3. For the purpose of this
26 section, the term "public" shall not be interpreted to
27 be limited to consumers located in this state.

28 Sec. 35. CODE EDITOR DIRECTIVE. The Code editor
29 shall change references to "this chapter" in sections
30 476A.1 through 476A.15 as necessary and appropriate to
31 reflect the addition of the new subchapter to chapter
32 476A as a result of this Act.

33 Sec. 36. EFFECTIVE DATE. This Act, being deemed
34 of immediate importance, takes effect upon enactment."

35 2. Title page, line 2, by inserting after the
36 word "construction" the following: "or lease".

37 3. Title page, line 3, by inserting after the
38 word "facility" the following: ", and for the
39 development of ratemaking principles to apply to
40 certain electric generating facilities".

41 4. Title page, lines 3 and 4, by striking the
42 words "approval of power purchase contracts;".

43 5. Title page, line 5, by inserting after the
44 word "policy;" the following: "providing for
45 alternate energy purchase programs; approval of plans
46 and budgets for regulating emissions from coal-fired
47 plants;".

48 6. Title page, line 11, by inserting after the
49 word "transmission" the following: "; and providing
50 an effective date".

By JOANN JOHNSON

S-3717 FILED JUNE 19, 2001

ADOPTED

Special Session

SENATE AMENDMENT TO

HOUSE FILE 577

2053

1 Amend House File 577, as amended, passed, and
1 2 reprinted by the House, as follows:

1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:

1 5 <Section 1. Section 12C.1, subsection 1, Code
1 6 2001, as amended by 2001 Iowa Acts, House File 637,
1 7 section 4, is amended to read as follows:

1 8 1. All funds held by the following officers or
1 9 institutions shall be deposited in one or more
1 10 depositories first approved by the appropriate
1 11 governing body as indicated: for the treasurer of
1 12 state, by the executive council; for judicial officers
1 13 and court employees, by the supreme court; for the
1 14 county treasurer, recorder, auditor, and sheriff, by
1 15 the board of supervisors; for the city treasurer or
1 16 other designated financial officer of a city, by the
1 17 city council; for the county public hospital or merged
1 18 area hospital, by the board of hospital trustees; for
1 19 a memorial hospital, by the memorial hospital
1 20 commission; for a school corporation, by the board of
1 21 school directors; for a city utility or combined
1 22 utility system established under chapter 388, by the
1 23 utility board; for a library service area established
1 24 under chapter 256, by the library service area board
1 25 of trustees; and for an electric power agency as
1 26 defined in section 28F.2 or 476A.20, by the governing
1 27 body of the electric power agency. However, the
1 28 treasurer of state and the treasurer of each political
1 29 subdivision or the designated financial officer of a
1 30 city shall invest all funds not needed for current
1 31 operating expenses in time certificates of deposit in
1 32 approved depositories pursuant to this chapter or in
1 33 investments permitted by section 12B.10. The list of
1 34 public depositories and the amounts severally
1 35 deposited in the depositories are matters of public
1 36 record. This subsection does not limit the definition
1 37 of "public funds" contained in subsection 2.
1 38 Notwithstanding provisions of this section to the
1 39 contrary, public funds of a state government deferred
1 40 compensation plan established by the executive council
1 41 may also be invested in the investment products
1 42 authorized under section 509A.12.

1 43 Sec. 2. Section 12C.1, subsection 2, paragraph b,
1 44 Code 2001, is amended to read as follows:

1 45 b. "Public funds" and "public deposits" mean the
1 46 moneys of the state or a political subdivision or
1 47 instrumentality of the state including a county,
1 48 school corporation, special district, drainage
1 49 district, unincorporated town or township,
1 50 municipality, or municipal corporation or any agency,
2 1 board, or commission of the state or a political
2 2 subdivision; any court or public body noted in
2 3 subsection 1; a legal or administrative entity created
2 4 pursuant to chapter 28E; an electric power agency as
2 5 defined in section 28F.2 or 476A.20; and federal and

2 6 state grant moneys of a quasi=public state entity that
2 7 are placed in a depository pursuant to this chapter.

2 8 Sec. 3. Section 28F.2, Code 2001, is amended to
2 9 read as follows:

2 10 28F.2 DEFINITIONS.

2 11 As used in this chapter, unless the context
2 12 otherwise requires:

2 13 1. ~~The terms-~~"public" "Public agency", "state", and
2 14 "private agency" shall have the meanings prescribed by
2 15 section 28E.2.

2 16 2. ~~The term-~~"project" "Project" or "projects"
2 17 ~~shall-mean~~ means any works or facilities referred to
2 18 in section 28F.1 and shall include all property real
2 19 and personal, pertinent thereto or connected with such
2 20 project or projects, and the existing works or
2 21 facilities, if any, to which such project or projects
2 22 are an extension, addition, betterment or improvement.

2 23 3. "Electric power agency" means an entity
2 24 financing or acquiring electric power facilities
2 25 pursuant to this chapter or chapter 28E or 476A.

2 26 Sec. 4. Section 427.1, subsection 2, Code 2001, is
2 27 amended to read as follows:

2 28 2. MUNICIPAL AND MILITARY PROPERTY. The property
2 29 of a county, township, city, school corporation, levee
2 30 district, drainage district, or the Iowa national
2 31 guard, when devoted to public use and not held for
2 32 pecuniary profit, except property of a municipally
2 33 owned electric utility held under joint ownership and
2 34 property of an electric power facility financed under
2 35 chapter 28F ~~which~~ or 476A ~~that~~ shall be subject to
2 36 taxation under chapter 437A and facilities of a
2 37 municipal utility that are used for the provision of
2 38 local exchange services pursuant to chapter 476, but
2 39 only to the extent such facilities are used to provide
2 40 such services, which shall be subject to taxation
2 41 under chapter 433, except that section 433.11 shall
2 42 not apply. The exemption for property owned by a city
2 43 or county also applies to property which is operated
2 44 by a city or county as a library, art gallery or
2 45 museum, conservatory, botanical garden or display,
2 46 observatory or science museum, or as a location for
2 47 holding athletic contests, sports or entertainment
2 48 events, expositions, meetings or conventions, or
2 49 leased from the city or county for any such purposes,
2 50 or leased from the city or county by the Iowa national
3 1 guard or by a federal agency for the benefit of the
3 2 Iowa national guard when devoted for public use and
3 3 not for pecuniary profit. Food and beverages may be
3 4 served at the events or locations without affecting
3 5 the exemptions, provided the city has approved the
3 6 serving of food and beverages on the property if the
3 7 property is owned by the city or the county has
3 8 approved the serving of food and beverages on the
3 9 property if the property is owned by the county.

3 10 Sec. 5. Section 437A.3, subsection 17, paragraph
3 11 b, Code 2001, is amended to read as follows:

3 12 b. An electric power generating plant where the
3 13 acquisition cost of all interests acquired exceeds ten

3 14 million dollars. For purposes of this paragraph,
3 15 "electric power generating plant" means each nameplate
3 16 rated electric power generating plant owned solely or
3 17 jointly by any person or electric power facility
3 18 financed under the provisions of chapter 28F or 476A
3 19 in which electrical energy is produced from other
3 20 forms of energy, including all equipment used in the
3 21 production of such energy through its step-up
3 22 transformer.

3 23 Sec. 6. Section 437A.6, subsection 1, paragraph b,
3 24 Code 2001, is amended to read as follows:

3 25 b. Facilities owned by or leased to a municipal
3 26 utility when devoted to public use and not held for
3 27 pecuniary profit, except facilities of a municipally
3 28 owned electric utility held under joint ownership or
3 29 lease and facilities of an electric power facility
3 30 financed under chapter 28F or 476A.

3 31 Sec. 7. Section 437A.7, subsection 2, paragraph a,
3 32 Code 2001, is amended to read as follows:

3 33 a. Transmission lines owned by or leased to a
3 34 municipal utility when devoted to public use and not
3 35 for pecuniary profit, except transmission lines of a
3 36 municipally owned electric utility held under joint
3 37 ownership and transmission lines of an electric power
3 38 facility financed under chapter 28F or 476A.

3 39 Sec. 8. Section 476.1A, Code 2001, is amended by
3 40 adding the following new subsection:

3 41 NEW SUBSECTION. 5A. Filing alternate energy
3 42 purchase program plans with the board, and offering
3 43 such programs to customers, pursuant to section
3 44 476.47.

3 45 Sec. 9. Section 476.1B, subsection 1, Code 2001,
3 46 is amended by adding the following new paragraphs:

3 47 NEW PARAGRAPH. m. An electric power agency as
3 48 defined in chapters 28F and 476A that includes as a
3 49 member a city or municipally owned utility that builds
3 50 transmission facilities after July 1, 2001, is subject
4 1 to applicable transmission reliability rules or
4 2 standards adopted by the board for those facilities.

4 3 n. Filing alternate energy purchase program plans
4 4 with the board, and offering such programs to
4 5 customers, pursuant to section 476.47.

4 6 Sec. 10. Section 476.6, Code 2001, is amended by
4 7 adding the following new subsection:

4 8 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING
4 9 FACILITY EMISSIONS.

4 10 a. It is the intent of the general assembly that
4 11 the state, through a collaborative effort involving
4 12 state agencies and affected generation owners, provide
4 13 for compatible statewide environmental and electric
4 14 energy policies with respect to regulated emissions
4 15 from rate-regulated electric power generating
4 16 facilities in the state that are fueled by coal. Each
4 17 rate-regulated public utility that is an owner of one
4 18 or more electric power generating facilities fueled by
4 19 coal and located in this state on July 1, 2001, shall
4 20 develop a multiyear plan and budget for managing
4 21 regulated emissions from its facilities in a cost=

4 22 effective manner.

4 23 (1) The initial multiyear plan and budget shall be
4 24 filed with the board by April 1, 2002. Updates to the
4 25 plan and budget shall be filed at least every twenty=
4 26 four months.

4 27 (2) Copies of the initial plan and budget, as well
4 28 as any subsequent updates, shall be served on the
4 29 environmental protection division of the department of
4 30 natural resources.

4 31 (3) The initial multiyear plan and budget and any
4 32 subsequent updates shall be considered in a contested
4 33 case proceeding pursuant to chapter 17A. The
4 34 environmental protection division of the department of
4 35 natural resources and the consumer advocate shall
4 36 participate as parties to the proceeding.

4 37 (4) The department of natural resources shall
4 38 state whether the plan or update meets applicable
4 39 state environmental requirements for regulated
4 40 emissions. If the plan does not meet these
4 41 requirements, the department shall recommend
4 42 amendments that outline actions necessary to bring the
4 43 plan or update into compliance with the environmental
4 44 requirements.

4 45 b. The board shall not approve a plan or update
4 46 that does not meet applicable state environmental
4 47 requirements and federal ambient air quality standards
4 48 for regulated emissions from electric power generating
4 49 facilities located in the state.

4 50 c. The board shall review the plan or update and
5 1 the associated budget, and shall approve the plan or
5 2 update and the associated budget if the plan or update
5 3 and the associated budget are reasonably expected to
5 4 achieve cost effective compliance with applicable
5 5 state environmental requirements and federal ambient
5 6 air quality standards. In reaching its decision, the
5 7 board shall consider whether the plan or update and
5 8 the associated budget reasonably balance costs,
5 9 environmental requirements, economic development
5 10 potential, and the reliability of the electric
5 11 generation and transmission system.

5 12 d. The board shall issue an order approving or
5 13 rejecting a plan, update, or budget within one hundred
5 14 eighty days after the public utility's filing is
5 15 deemed complete; however, upon good cause shown, the
5 16 board may extend the time for issuing the order as
5 17 follows:

5 18 (1) The board may grant an extension of thirty
5 19 days.

5 20 (2) The board may grant more than one extension,
5 21 but each extension must rely upon a separate showing
5 22 of good cause.

5 23 (3) A subsequent extension must not be granted any
5 24 earlier than five days prior to the expiration of the
5 25 original one=hundred=eighty=day period, or the current
5 26 extension.

5 27 e. The reasonable costs incurred by a rate=
5 28 regulated public utility in preparing and filing the
5 29 plan, update, or budget and in participating in the

5 30 proceedings before the board and the reasonable costs
5 31 associated with implementing the plan, update, or
5 32 budget shall be included in its regulated retail
5 33 rates.

5 34 f. It is the intent of the general assembly that
5 35 the board, in an environmental plan, update, or
5 36 associated budget filed under this section by a rate=
5 37 regulated public utility, may limit investments or
5 38 expenditures that are proposed to be undertaken prior
5 39 to the time that the environmental benefit to be
5 40 produced by the investment or expenditure would be
5 41 required by state or federal law.

5 42 g. The board shall report to the general assembly
5 43 by January 21, 2003, on the appropriateness and
5 44 desirability of requiring the municipal utilities and
5 45 the rural electric cooperatives to file multiyear
5 46 plans and budgets for managing regulated emissions
5 47 from their electric power generating facilities fueled
5 48 by coal and located in this state, similar to the
5 49 process required for rate=regulated public utilities
5 50 under this subsection.

6 1 Sec. 11. NEW SECTION. 476.47 ALTERNATE ENERGY
6 2 PURCHASE PROGRAMS.

6 3 1. Beginning January 1, 2004, an electric utility,
6 4 whether or not rate=regulated under this chapter,
6 5 shall offer an alternate energy purchase program to
6 6 customers, based on energy produced by alternate
6 7 energy production facilities in Iowa.

6 8 2. The board shall require electric utilities to
6 9 file plans for alternate energy purchase programs
6 10 offered pursuant to this section.

6 11 a. Rate=regulated electric utilities shall file
6 12 plans for alternate energy purchase programs that
6 13 allow customers to contribute voluntarily to the
6 14 development of alternate energy in Iowa, and shall
6 15 file tariffs as required by the board by rule.

6 16 b. Electric utilities that are not rate=regulated
6 17 shall offer alternate energy purchase programs at
6 18 rates determined by their governing authority, and
6 19 shall file tariffs with the board for informational
6 20 purposes only.

6 21 3. The electric utility shall notify consumers of
6 22 its alternate energy purchase program and any proposed
6 23 modifications to such program at least sixty days
6 24 prior to implementation of the program or any
6 25 modification.

6 26 4. For purposes of this section, an electric
6 27 utility may base its program on energy produced by
6 28 alternate energy production facilities located outside
6 29 of Iowa under any of the following circumstances:

6 30 a. The energy is purchased by the electric utility
6 31 pursuant to a contract in effect prior to July 1,
6 32 2001, and continues until the expiration of the
6 33 contract, including any options to renew that are
6 34 exercised by the electric utility.

6 35 b. The electric utility has a financial interest,
6 36 as of July 1, 2001, in the alternate energy production
6 37 facility that is located outside of Iowa, or in an

6 38 entity that has a financial interest in an alternate
6 39 energy production facility located outside of Iowa.
6 40 c. The energy is purchased by an electric utility
6 41 that is not rate-regulated and that is required to
6 42 purchase all of its electric power requirements from a
6 43 single supplier that is physically located outside of
6 44 Iowa.

6 45 5. This section shall not apply to non-rate-
6 46 regulated electric utilities physically located
6 47 outside of Iowa that serve Iowa customers.

6 48 6. Any consumer-owned utility may apply to the
6 49 board for a waiver under this section, and the board,
6 50 for good cause, may grant the waiver.

7 1 Sec. 12. Section 476.53, Code 2001, is amended by
7 2 striking the section and inserting in lieu thereof the
7 3 following:

7 4 476.53 ELECTRIC GENERATING AND TRANSMISSION
7 5 FACILITIES.

7 6 1. It is the intent of the general assembly to
7 7 attract the development of electric power generating
7 8 and transmission facilities within the state in
7 9 sufficient quantity to ensure reliable electric
7 10 service to Iowa consumers and provide economic
7 11 benefits to the state.

7 12 2. The general assembly's intent with regard to
7 13 the development of electric power generating and
7 14 transmission facilities, as provided in subsection 1,
7 15 shall be implemented in a manner that is cost-
7 16 effective and compatible with the environmental
7 17 policies of the state, as expressed in Title XI.

7 18 3. a. If a rate-regulated public utility files an
7 19 application pursuant to section 476A.3 to construct in
7 20 Iowa a baseload electric power generating facility
7 21 with a nameplate generating capacity equal to or
7 22 greater than three hundred megawatts or a combined-
7 23 cycle electric power generating facility, or an
7 24 alternate energy production facility as defined in
7 25 section 476.42, or if a rate-regulated public utility
7 26 leases or owns in Iowa, in whole or in part, a new
7 27 baseload electric power generating facility with a
7 28 nameplate generating capacity equal to or greater than
7 29 three hundred megawatts or a combined-cycle electric
7 30 power generating facility, or a new alternate energy
7 31 production facility as defined in section 476.42, the
7 32 board shall specify in advance, by order issued after
7 33 a contested case proceeding, the ratemaking principles
7 34 that will apply when the costs of the facility are
7 35 included in regulated electric rates.

7 36 b. In determining the applicable ratemaking
7 37 principles, the board shall not be limited to
7 38 traditional ratemaking principles or traditional cost
7 39 recovery mechanisms.

7 40 c. In determining the applicable ratemaking
7 41 principles, the board shall make the following
7 42 findings:

7 43 (1) The rate-regulated public utility has in
7 44 effect a board-approved energy efficiency plan as
7 45 required under section 476.6, subsection 19.

7 46 (2) The rate-regulated public utility has
7 47 demonstrated to the board that the public utility has
7 48 considered other sources for long-term electric supply
7 49 and that the facility or lease is reasonable when
7 50 compared to other feasible alternative sources of
8 1 supply. The rate-regulated public utility may satisfy
8 2 the requirements of this subparagraph through a
8 3 competitive bidding process, under rules adopted by
8 4 the board, that demonstrate the facility or lease is a
8 5 reasonable alternative to meet its electric supply
8 6 needs.

8 7 d. The applicable ratemaking principles shall be
8 8 determined in a contested case proceeding, which
8 9 proceeding may be combined with the proceeding for
8 10 issuance of a certificate conducted pursuant to
8 11 chapter 476A.

8 12 e. The order setting forth the applicable
8 13 ratemaking principles shall be issued prior to the
8 14 commencement of construction or lease of the facility.

8 15 f. Following issuance of the order, the rate-
8 16 regulated public utility shall have the option of
8 17 proceeding with construction or lease of the facility
8 18 in Iowa, or withdrawing its application for a
8 19 certificate under chapter 476A.

8 20 g. Notwithstanding any provision of this chapter
8 21 to the contrary, the ratemaking principles established
8 22 by the order issued pursuant to paragraph "e" shall be
8 23 binding with regard to the specific electric power
8 24 generating facility in any subsequent rate proceeding.

8 25 Sec. 13. Section 476A.4, Code 2001, is amended by
8 26 adding the following new subsection:

8 27 NEW SUBSECTION. 5. A proceeding for the issuance
8 28 of a certificate under section 476A.5 may be
8 29 consolidated with a contested case proceeding for
8 30 determination of applicable ratemaking principles
8 31 under section 476.53.

8 32 Sec. 14. Section 476A.6, Code 2001, is amended to
8 33 read as follows:

8 34 476A.6 DECISION == CRITERIA.

8 35 The board shall render a decision on the
8 36 application in an expeditious manner. A certificate
8 37 shall be issued to the applicant if the board finds
8 38 all of the following:

8 39 1. The services and operations resulting from the
8 40 construction of the facility are ~~required-by-the~~
8 41 ~~present-or-future-public-convenience,-use-and~~
8 42 ~~necessity consistent with legislative intent as~~
8 43 ~~expressed in section 476.53 and the economic~~
8 44 ~~development policy of the state as expressed in Title~~
8 45 ~~I, subtitle 5, and will not be detrimental to the~~
8 46 ~~provision of adequate and reliable electric service.~~

8 47 2. The applicant is willing to ~~perform-such~~
8 48 ~~services-and~~ construct, maintain, and operate the
8 49 facility pursuant to the provisions of the certificate
8 50 and this chapter.

9 1 3. The construction, maintenance, and operation of
9 2 the facility will ~~cause-minimum-adverse~~ be consistent
9 3 with reasonable land use, and environmental, ~~and~~

9 4 aesthetic-impact policies and are consonant with
9 5 reasonable utilization of air, land, and water
9 6 resources, for-beneficial-purposes considering
9 7 available technology and the economics of available
9 8 alternatives.

9 9 4.--The-applicant, if-a-public-utility-as-defined
9 10 in-section-476.17, has-in-effect-a-comprehensive-energy
9 11 management-program-designed-to-reduce-peak-loads-and
9 12 to-increase-efficiency-of-use-of-energy-by-all-classes
9 13 of-customers-of-the-utility, and-the-facility-in-the
9 14 application-is-necessary-notwithstanding-the-existence
9 15 of-the-comprehensive-energy-management-program.--As
9 16 used-in-this-subsection, a-"comprehensive-energy
9 17 management-program"-includes-at-a-minimum-the
9 18 following:

- 9 19 a.--Establishment-of-load-management-and
9 20 interruptible-service-programs, where-cost-effective.
- 9 21 b.--Development-of-wheeling-agreements-and-other
9 22 energy-sharing-agreements, where-cost-effective-with
9 23 utilities-that-have-available-capacity.
- 9 24 c.--Establishment-of-cost-effective-energy
9 25 efficiency-and-renewable-energy-services-and-programs.
- 9 26 d.--Compliance-with-board-rules-on-energy
9 27 management-procedures.

9 28 5.--The-applicant, if-a-public-utility-as-defined
9 29 in-section-476.17, shall-demonstrate-to-the-board-that
9 30 the-utility-has-considered-sources-for-long-term
9 31 electric-supply-from-either-purchase-of-electricity-or
9 32 investment-in-facilities-owned-by-other-persons.

9 33 6.--The-applicant, if-a-public-utility-as-defined
9 34 in-section-476.17, has-considered-all-feasible
9 35 alternatives-to-the-proposed-facility-including
9 36 nongeneration-alternatives, has-ranked-those
9 37 alternatives-by-cost, has-implemented-the-least-cost
9 38 alternatives-first, and-the-facility-in-the
9 39 application-is-necessary-notwithstanding-the
9 40 implementation-of-these-alternatives.

9 41 Sec. 15. Section 476A.7, Code 2001, is amended by
9 42 adding the following new subsection:

9 43 NEW SUBSECTION. 3. Pursuant to the provisions of
9 44 section 476.53, a rate-regulated public utility shall
9 45 have the option of withdrawing its application for
9 46 issuance of a certificate at any time prior to the
9 47 issuance of the certificate, or after the certificate
9 48 has been issued.

9 49 Sec. 16. Section 476A.15, Code 2001, is amended to
9 50 read as follows:

10 1 476A.15 WAIVER.

10 2 The board, if it determines that the public
10 3 interest would not be adversely affected, may waive
10 4 any of the requirements of this chapter for-facilities
10 5 with-a-capacity-of-one-hundred-or-fewer-megawatts.

10 6 Sec. 17. NEW SECTION. 476A.20 DEFINITIONS.

10 7 For purposes of this subchapter, unless the context
10 8 otherwise requires:

10 9 1. "Electric power agency" means an entity as
10 10 defined in section 28F.2.

10 11 2. "Facility" means an electric power generating

10 12 plant, or transmission line or system, as defined in
10 13 section 476A.1.

10 14 3. "Public bond or obligation" means an obligation
10 15 as defined in section 76.14.

10 16 Sec. 18. NEW SECTION. 476A.21 ELECTRIC POWER
10 17 AGENCY == GENERAL AUTHORITY.

10 18 In addition to other powers conferred upon an
10 19 electric power agency by chapter 28F or other
10 20 applicable law, an electric power agency may enter
10 21 into and carry out joint agreements with other
10 22 participants for the acquisition of ownership of a
10 23 joint facility and for the planning, financing,
10 24 operation, and maintenance of the joint facility, as
10 25 provided in this subchapter.

10 26 Sec. 19. NEW SECTION. 476A.22 ELECTRIC POWER
10 27 AGENCY == AUTHORITY == CONFLICTING PROVISIONS.

10 28 1. In addition to any powers conferred upon an
10 29 electric power agency under chapter 28F or other
10 30 applicable law, an electric power agency may exercise
10 31 all other powers reasonably necessary or appropriate
10 32 for or incidental to the effectuation of the electric
10 33 power agency's authorized purposes, including without
10 34 limitation, the powers enumerated in chapters 6A and
10 35 6B for purposes of constructing or acquiring an
10 36 electric power facility.

10 37 2. An electric power agency, in connection with
10 38 its property and affairs, and in connection with
10 39 property within its control, may exercise any and all
10 40 powers that might be exercised by a natural person or
10 41 a private corporation in connection with similar
10 42 property and affairs.

10 43 3. The enumeration of specified powers and
10 44 functions of an electric power agency in this
10 45 subchapter is not a limitation of the powers of an
10 46 electric power agency, but the procedures prescribed
10 47 for exercising the powers and functions enumerated in
10 48 this subchapter control and govern in the event of any
10 49 conflict with any other provision of law.

10 50 4. The authority conferred pursuant to this
11 1 subchapter applies to electric power agencies,
11 2 notwithstanding any contrary provisions of section
11 3 28F.1.

11 4 Sec. 20. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC
11 5 BONDS OR OBLIGATIONS == PURPOSES == LIMITATIONS.

11 6 1. An electric power agency may from time to time
11 7 issue its public bonds or obligations in such
11 8 principal amounts as the electric power agency deems
11 9 necessary to provide sufficient funds to carry out any
11 10 of its purposes and powers, including but not limited
11 11 to any of the following:

11 12 a. The acquisition or construction of any project
11 13 to be owned or leased by the electric power agency, or
11 14 the acquisition of any interest in such project or any
11 15 right to the capacity of such project, including the
11 16 acquisition, construction, or acquisition of any
11 17 interest in an electric power generating plant to be
11 18 constructed in this state, or the acquisition,
11 19 construction, or acquisition of any interest in a

11 20 transmission line or system.

11 21 b. The funding or refunding of the principal of,
11 22 or interest or redemption premiums on, any public
11 23 bonds or obligations issued by the electric power
11 24 agency whether or not the public bonds or obligations
11 25 or interest to be funded or refunded have become due.

11 26 c. The establishment or increase of reserves to
11 27 secure or to pay the public bonds or obligations or
11 28 interest on the public bonds or obligations.

11 29 d. The payment of all other costs or expenses of
11 30 the electric power agency incident to and necessary to
11 31 carry out its purposes and powers.

11 32 2. Notwithstanding anything in this subchapter or
11 33 chapter 28F to the contrary, a facility shall not be
11 34 financed with the proceeds of public bonds or
11 35 obligations, the interest on which is exempt from
11 36 federal income tax, unless the public issuer of such
11 37 public bonds or obligations covenants that the issuer
11 38 shall comply with the requirements or limitations
11 39 imposed by the Internal Revenue Code or other
11 40 applicable federal law to preserve the tax exemption
11 41 of interest payable on the bonds or obligations.

11 42 3. Notwithstanding anything in this subchapter or
11 43 chapter 28F to the contrary, an electric power
11 44 generating facility shall not be financed under this
11 45 subchapter unless all of the following conditions are
11 46 satisfied:

11 47 a. The portion of the electric power generating
11 48 facility financed by the electric power agency is not
11 49 designed to serve the electric power requirements of
11 50 retail customers of members that are municipal
12 1 electric utilities established in the state after
12 2 January 1, 2001.

12 3 b. The electric power agency annually files with
12 4 the board, in a manner to be determined by the board,
12 5 information regarding sales from the electric power
12 6 generating facility in sufficient detail to determine
12 7 compliance with these provisions.

12 8 The board shall report to the general assembly if
12 9 any of the provisions are being violated.

12 10 Sec. 21. NEW SECTION. 476A.24 PUBLIC BONDS OR
12 11 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD ==
12 12 TERMS.

12 13 1. The board of directors of an electric power
12 14 agency, by resolution, may authorize the issuance of
12 15 public bonds or obligations of the electric power
12 16 agency.

12 17 2. The public bonds or obligations may be issued
12 18 in one or more series under the resolution or under a
12 19 trust indenture or other security agreement.

12 20 3. The resolution, trust indenture, or other
12 21 security agreement, with respect to such public bonds
12 22 or obligations, shall provide for all of the
12 23 following:

12 24 a. The date on the public bonds or obligations.

12 25 b. The time of maturity.

12 26 c. The rate of interest.

12 27 d. The denomination.

- 12 28 e. The form, either coupon or registered.
12 29 f. The conversion, registration, and exchange
12 30 privileges.
12 31 g. The rank or priority.
12 32 h. The manner of execution.
12 33 i. The medium of payment, including the place of
12 34 payment, either within or outside of the state.
12 35 j. The terms of redemption, either with or without
12 36 premium.
12 37 k. Such other terms and conditions as set forth by
12 38 the board in the resolution, trust indenture, or other
12 39 security agreement.

12 40 4. Public bonds or obligations authorized by the
12 41 board of directors shall not be subject to any
12 42 restriction under other law with respect to the
12 43 amount, maturity, interest rate, or other terms of
12 44 obligation of a public agency or private person.

12 45 5. Chapter 75 shall not apply to public bonds or
12 46 obligations authorized by the board of directors as
12 47 provided in this section.

12 48 Sec. 22. NEW SECTION. 476A.25 PUBLIC BONDS OR
12 49 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
12 50 FUNDS.

13 1 1. The principal of and interest on any public
13 2 bonds or obligations issued by an electric power
13 3 agency shall be payable solely from the revenues or
13 4 funds pledged or available for their payment as
13 5 authorized in this subchapter.

13 6 2. Each public bond or obligation shall contain
13 7 all of the following terms:

13 8 a. That the principal of or interest on such
13 9 public bonds or obligations is payable solely from
13 10 revenues or funds of the electric power agency.

13 11 b. That neither the state or a political
13 12 subdivision of the state other than the electric power
13 13 agency, nor a public agency that is a member of the
13 14 electric power agency is obligated to pay the
13 15 principal or interest on such public bonds or
13 16 obligations.

13 17 c. That neither the full faith and credit nor the
13 18 taxing power of the state, of any political
13 19 subdivision of the state, or of any such public agency
13 20 is pledged to the payment of the principal of or the
13 21 interest on the public bonds or obligations.

13 22 Sec. 23. NEW SECTION. 476A.26 PUBLIC BONDS OR
13 23 OBLIGATIONS == TYPES == SOURCES FOR PAYMENT ==
13 24 SECURITY.

13 25 1. Except as otherwise expressly provided by this
13 26 subchapter or by the electric power agency, every
13 27 issue of public bonds or obligations of the electric
13 28 power agency shall be payable out of any revenues or
13 29 funds of the electric power agency, subject only to
13 30 any agreements with the holders of particular public
13 31 bonds or obligations pledging any particular revenues
13 32 or funds.

13 33 2. An electric power agency may issue types of
13 34 public bonds or obligations as it may determine,
13 35 including public bonds or obligations as to which the

13 36 principal and interest are payable exclusively from
13 37 the revenues from one or more projects, or from an
13 38 interest in such project or projects, or a right to
13 39 capacity of such project or projects, or from any
13 40 revenue-producing contract made by the electric power
13 41 agency with any person, or from its revenues
13 42 generally.

13 43 3. Any public bonds or obligations may be
13 44 additionally secured by a pledge of any grant,
13 45 subsidy, or contribution from any public agency or
13 46 other person, or a pledge of any income or revenues,
13 47 funds, or moneys of the electric power agency from any
13 48 other source.

13 49 Sec. 24. NEW SECTION. 476A.27 PUBLIC BONDS OR
13 50 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO
14 1 STATE APPROVAL.

14 2 Public bonds or obligations of an electric power
14 3 agency may be issued under this subchapter, and rents,
14 4 rates, and charges may be established in the same
14 5 manner as provided in section 28F.5 and pledged for
14 6 the security of public bonds or obligations and
14 7 interest and redemption premiums on such public bonds
14 8 or obligations, without obtaining the consent of any
14 9 department, division, commission, board, bureau, or
14 10 agency of the state and without any other proceeding
14 11 or the happening of any other condition or occurrence,
14 12 except as specifically required by this subchapter.

14 13 Sec. 25. NEW SECTION. 476A.28 PUBLIC BONDS OR
14 14 OBLIGATIONS TO BE NEGOTIABLE.

14 15 All public bonds or obligations of an electric
14 16 power agency shall be negotiable within the meaning
14 17 and for all of the purposes of the uniform commercial
14 18 code, chapter 554, subject only to the registration
14 19 requirement of section 76.10.

14 20 Sec. 26. NEW SECTION. 476A.29 VALIDITY OF PUBLIC
14 21 BONDS OR OBLIGATIONS AT DELIVERY == TEMPORARY BONDS.

14 22 1. Any public bonds or obligations may be issued
14 23 and delivered, notwithstanding that one or more of the
14 24 officers executing them shall have ceased to hold
14 25 office at the time when the public bonds or
14 26 obligations are actually delivered.

14 27 2. Pending preparation of definitive bonds or
14 28 obligations, an electric power agency may issue
14 29 temporary bonds or obligations that shall be exchanged
14 30 for the definitive bonds or obligations upon their
14 31 issuance.

14 32 Sec. 27. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
14 33 SALE OF BONDS AND NOTES.

14 34 Public bonds or obligations of an electric power
14 35 agency may be sold at public or private sale for a
14 36 price and in a manner determined by the electric power
14 37 agency.

14 38 Sec. 28. NEW SECTION. 476A.31 PUBLIC BONDS OR
14 39 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
14 40 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

14 41 The following persons may legally invest any debt
14 42 service funds, money, or other funds belonging to such
14 43 person or within such person's control in any public

14 44 bonds or obligations issued pursuant to this
14 45 subchapter:

14 46 1. A bank, trust company, savings association,
14 47 building and loan association, savings and loan
14 48 association, or investment company.

14 49 2. An insurance company, insurance association, or
14 50 any other person carrying on an insurance business.

15 1 3. An executor, administrator, conservator,
15 2 trustee, or other fiduciary.

15 3 4. Any other person authorized to invest in bonds
15 4 or obligations of the state.

15 5 Sec. 29. NEW SECTION. 476A.32 RESOLUTION, TRUST
15 6 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
15 7 == PROVISIONS.

15 8 The resolution, trust indenture, or other security
15 9 agreement under which any public bonds or obligations
15 10 are issued shall constitute a contract with the
15 11 holders of the public bonds or obligations, and may
15 12 contain provisions, among others, prescribing any of
15 13 the following terms:

15 14 1. The terms and provisions of the public bonds or
15 15 obligations.

15 16 2. The mortgage or pledge of and the grant of a
15 17 security interest in any real or personal property and
15 18 all or any part of the revenue from any project or any
15 19 revenue producing contract made by the electric power
15 20 agency with any person to secure the payment of public
15 21 bonds or obligations, subject to any agreements with
15 22 the holders of public bonds or obligations which might
15 23 then exist.

15 24 3. The custody, collection, securing, investment,
15 25 and payment of any revenues, assets, money, funds, or
15 26 property with respect to which the electric power
15 27 agency may have any rights or interest.

15 28 4. The rates or charges for electric energy sold
15 29 by, or services rendered by, the electric power
15 30 agency, the amount to be raised by the rates or
15 31 charges, and the use and disposition of any or all
15 32 revenue.

15 33 5. The creation of reserves or debt service funds
15 34 and the regulation and disposition of such reserves or
15 35 funds.

15 36 6. The purposes to which the proceeds from the
15 37 sale of any public bonds or obligations to be issued
15 38 may be applied, and the pledge of the proceeds to
15 39 secure the payment of the public bonds or obligations.

15 40 7. Limitations on the issuance of any additional
15 41 public bonds or obligations, the terms upon which
15 42 additional public bonds or obligations may be issued
15 43 and secured, and the refunding of outstanding public
15 44 bonds or obligations.

15 45 8. The rank or priority of any public bonds or
15 46 obligations with respect to any lien or security.

15 47 9. The creation of special funds or moneys to be
15 48 held for operating expenses, payment, or redemption of
15 49 public bonds or obligations, reserves or other
15 50 purposes, and the use and disposition of moneys held
16 1 in these funds.

16 2 10. The procedure by which the terms of any
16 3 contract with or for the benefit of the holders of
16 4 public bonds or obligations may be amended or
16 5 abrogated, the amount of public bonds or obligations
16 6 the holders of which must consent to such amendment or
16 7 abrogation, and the manner in which consent may be
16 8 given.

16 9 11. The definition of the acts or omissions to act
16 10 that constitute a default in the duties of the
16 11 electric power agency to holders of its public bonds
16 12 or obligations, and the rights and remedies of the
16 13 holders in the event of default including, if the
16 14 electric power agency so determines, the right to
16 15 accelerate the date of the maturation of the public
16 16 bonds or obligations or the right to appoint a
16 17 receiver or receivers of the property or revenues
16 18 subject to the lien of the resolution, trust
16 19 indenture, or other security agreement.

16 20 12. Any other or additional agreements with or for
16 21 the benefit of the holders of public bonds or
16 22 obligations or any covenants or restrictions necessary
16 23 or desirable to safeguard the interests of the
16 24 holders.

16 25 13. The custody of any of the electric power
16 26 agency's property or investments, the safekeeping of
16 27 such property or investments, the insurance to be
16 28 carried on such property or investments, and the use
16 29 and disposition of insurance proceeds.

16 30 14. The vesting in a trustee or trustees, within
16 31 or outside the state, of such property, rights,
16 32 powers, and duties as the electric power agency may
16 33 determine; or the limiting or abrogating of the rights
16 34 of the holders of any public bonds or obligations to
16 35 appoint a trustee, or the limiting of the rights,
16 36 powers, and duties of such trustee.

16 37 15. The appointment of and the establishment of
16 38 the duties and obligations of any paying agent or
16 39 other fiduciary within or outside the state.

16 40 Sec. 30. NEW SECTION. 476A.33 MORTGAGE OR TRUST
16 41 DEED TO SECURE BONDS.

16 42 For the security of public bonds or obligations
16 43 issued or to be issued by an electric power agency,
16 44 the electric power agency may mortgage or execute
16 45 deeds of trust of the whole or any part of its
16 46 property.

16 47 Sec. 31. NEW SECTION. 476A.34 NO PERSONAL
16 48 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

16 49 An official, director, member of an electric power
16 50 agency, or any person executing public bonds or
17 1 obligations shall not be liable personally on the
17 2 public bonds or obligations or be subject to any
17 3 personal liability or accountability by reason of the
17 4 issuance of such public bonds or obligations.

17 5 Sec. 32. NEW SECTION. 476A.35 REPURCHASE OF
17 6 SECURITIES.

17 7 An electric power agency may purchase public bonds
17 8 or obligations out of any funds available for such
17 9 purchase, and hold, pledge, cancel, or resell the

17 10 public bonds or obligations, subject to and in
17 11 accordance with any agreements with the holders.
17 12 Sec. 33. NEW SECTION. 476A.36 PLEDGE OF REVENUE
17 13 AS SECURITY.
17 14 An electric power agency may pledge its rates,
17 15 rents, and other revenues, or any part of such rates,
17 16 rents, and revenues, as security for the repayment,
17 17 with interest and redemption premiums, if any, of the
17 18 moneys borrowed by the electric power agency or
17 19 advanced to the electric power agency for any of its
17 20 authorized purposes and as security for the payment of
17 21 moneys due and owed by the electric power agency under
17 22 any contract.
17 23 Sec. 34. Section 478.3, Code 2001, is amended by
17 24 adding the following new subsection:
17 25 NEW SUBSECTION. 3. For the purpose of this
17 26 section, the term "public" shall not be interpreted to
17 27 be limited to consumers located in this state.
17 28 Sec. 35. CODE EDITOR DIRECTIVE. The Code editor
17 29 shall change references to "this chapter" in sections
17 30 476A.1 through 476A.15 as necessary and appropriate to
17 31 reflect the addition of the new subchapter to chapter
17 32 476A as a result of this Act.
17 33 Sec. 36. EFFECTIVE DATE. This Act, being deemed
17 34 of immediate importance, takes effect upon enactment.>
17 35 #2. Title page, line 2, by inserting after the
17 36 word <construction> the following: <or lease>.
17 37 #3. Title page, line 3, by inserting after the
17 38 word <facility> the following: <, and for the
17 39 development of ratemaking principles to apply to
17 40 certain electric generating facilities>.
17 41 #4. Title page, lines 3 and 4, by striking the
17 42 words <approval of power purchase contracts;>.
17 43 #5. Title page, line 5, by inserting after the
17 44 word <policy;> the following: <providing for
17 45 alternate energy purchase programs; approval of plans
17 46 and budgets for regulating emissions from coal-fired
17 47 plants;>.
17 48 #6. Title page, line 11, by inserting after the
17 49 word <transmission> the following: <; and providing
17 50 an effective date>.
18 1 HF 577.S
18 2 jj/cc/26

H-2053, Concurred

HOUSE FILE 577

AN ACT

RELATING TO ELECTRIC POWER GENERATION AND TRANSMISSION, BY ADDRESSING THE CRITERIA FOR CONSTRUCTION OR LEASE OF AN ELECTRIC GENERATING FACILITY, AND FOR THE DEVELOPMENT OF RATEMAKING PRINCIPLES TO APPLY TO CERTAIN ELECTRIC GENERATING FACILITIES; WAIVERS; PROVIDING FOR THE DEVELOPMENT OF A STATE ELECTRIC ENERGY POLICY; PROVIDING FOR ALTERNATE ENERGY PURCHASE PROGRAMS; APPROVAL OF PLANS AND BUDGETS FOR REGULATING EMISSIONS FROM COAL-FIRED PLANTS; PROVIDING FOR JOINT AGREEMENTS FOR ACQUISITION OF OWNERSHIP OF A JOINT FACILITY FOR ELECTRIC POWER GENERATION AND TRANSMISSION, AND FOR THE PLANNING, FINANCING, OPERATION, AND MAINTENANCE OF THE JOINT FACILITY; PROVIDING FOR THE BONDING AUTHORITY OF ELECTRIC POWER AGENCIES; AND MAKING CERTAIN OTHER CHANGES AND REQUIREMENTS RELATED TO ELECTRIC GENERATION AND TRANSMISSION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 12C.1, subsection 1, Code 2001, as amended by 2001 Iowa Acts, House File 637, section 4, is amended to read as follows:

1. All funds held by the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: for the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the

board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a library service area established under chapter 256, by the library service area board of trustees; and for an electric power agency as defined in section 28F.2 or 476A.20, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 12B.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2. Notwithstanding provisions of this section to the contrary, public funds of a state government deferred compensation plan established by the executive council may also be invested in the investment products authorized under section 509A.12.

Sec. 2. Section 12C.1, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. "Public funds" and "public deposits" mean the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2 or 476A.20; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.

Sec. 3. Section 28F.2, Code 2001, is amended to read as follows:

28F.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. ~~The terms "public~~ "Public agency", "state", and "private agency" shall have the meanings prescribed by section 28E.2.

2. ~~The term "project"~~ "Project" or "projects" shall ~~mean~~ means any works or facilities referred to in section 28F.1 and shall include all property real and personal, pertinent thereto or connected with such project or projects, and the existing works or facilities, if any, to which such project or projects are an extension, addition, betterment or improvement.

3. "Electric power agency" means an entity financing or acquiring electric power facilities pursuant to this chapter or chapter 28E or 476A.

Sec. 4. Section 427.1, subsection 2, Code 2001, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district, or the Iowa national guard, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F ~~which~~ or 476A that shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for

any such purposes, or leased from the city or county by the Iowa national guard or by a federal agency for the benefit of the Iowa national guard when devoted for public use and not for pecuniary profit. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

Sec. 5. Section 437A.3, subsection 17, paragraph b, Code 2001, is amended to read as follows:

b. An electric power generating plant where the acquisition cost of all interests acquired exceeds ten million dollars. For purposes of this paragraph, "electric power generating plant" means each nameplate rated electric power generating plant owned solely or jointly by any person or electric power facility financed under the provisions of chapter 28F or 476A in which electrical energy is produced from other forms of energy, including all equipment used in the production of such energy through its step-up transformer.

Sec. 6. Section 437A.6, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Facilities owned by or leased to a municipal utility when devoted to public use and not held for pecuniary profit, except facilities of a municipally owned electric utility held under joint ownership or lease and facilities of an electric power facility financed under chapter 28F or 476A.

Sec. 7. Section 437A.7, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Transmission lines owned by or leased to a municipal utility when devoted to public use and not for pecuniary profit, except transmission lines of a municipally owned electric utility held under joint ownership and transmission lines of an electric power facility financed under chapter 28F or 476A.

Sec. 8. Section 476.1A, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Filing alternate energy purchase program plans with the board, and offering such programs to customers, pursuant to section 476.47.

Sec. 9. Section 476.1B, subsection 1, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. m. An electric power agency as defined in chapters 28F and 476A that includes as a member a city or municipally owned utility that builds transmission facilities after July 1, 2001, is subject to applicable transmission reliability rules or standards adopted by the board for those facilities.

n. Filing alternate energy purchase program plans with the board, and offering such programs to customers, pursuant to section 476.47.

Sec. 10. Section 476.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING FACILITY EMISSIONS.

a. It is the intent of the general assembly that the state, through a collaborative effort involving state agencies and affected generation owners, provide for compatible statewide environmental and electric energy policies with respect to regulated emissions from rate-regulated electric power generating facilities in the state that are fueled by coal. Each rate-regulated public utility that is an owner of one or more electric power generating facilities fueled by coal and located in this state on July 1, 2001, shall develop a multiyear plan and budget for managing regulated emissions from its facilities in a cost-effective manner.

(1) The initial multiyear plan and budget shall be filed with the board by April 1, 2002. Updates to the plan and budget shall be filed at least every twenty-four months.

(2) Copies of the initial plan and budget, as well as any subsequent updates, shall be served on the environmental protection division of the department of natural resources.

(3) The initial multiyear plan and budget and any subsequent updates shall be considered in a contested case proceeding pursuant to chapter 17A. The environmental protection division of the department of natural resources and the consumer advocate shall participate as parties to the proceeding.

(4) The department of natural resources shall state whether the plan or update meets applicable state environmental requirements for regulated emissions. If the plan does not meet these requirements, the department shall recommend amendments that outline actions necessary to bring the plan or update into compliance with the environmental requirements.

b. The board shall not approve a plan or update that does not meet applicable state environmental requirements and federal ambient air quality standards for regulated emissions from electric power generating facilities located in the state.

c. The board shall review the plan or update and the associated budget, and shall approve the plan or update and the associated budget if the plan or update and the associated budget are reasonably expected to achieve cost-effective compliance with applicable state environmental requirements and federal ambient air quality standards. In reaching its decision, the board shall consider whether the plan or update and the associated budget reasonably balance costs, environmental requirements, economic development potential, and the reliability of the electric generation and transmission system.

d. The board shall issue an order approving or rejecting a plan, update, or budget within one hundred eighty days after the public utility's filing is deemed complete; however, upon good cause shown, the board may extend the time for issuing the order as follows:

(1) The board may grant an extension of thirty days.

(2) The board may grant more than one extension, but each extension must rely upon a separate showing of good cause.

(3) A subsequent extension must not be granted any earlier than five days prior to the expiration of the original one-hundred-eighty-day period, or the current extension.

e. The reasonable costs incurred by a rate-regulated public utility in preparing and filing the plan, update, or budget and in participating in the proceedings before the board and the reasonable costs associated with implementing the plan, update, or budget shall be included in its regulated retail rates.

f. It is the intent of the general assembly that the board, in an environmental plan, update, or associated budget filed under this section by a rate-regulated public utility, may limit investments or expenditures that are proposed to be undertaken prior to the time that the environmental benefit to be produced by the investment or expenditure would be required by state or federal law.

g. The board shall report to the general assembly by January 21, 2003, on the appropriateness and desirability of requiring the municipal utilities and the rural electric cooperatives to file multiyear plans and budgets for managing regulated emissions from their electric power generating facilities fueled by coal and located in this state, similar to the process required for rate-regulated public utilities under this subsection.

Sec. 11. NEW SECTION. 476.47 ALTERNATE ENERGY PURCHASE PROGRAMS.

1. Beginning January 1, 2004, an electric utility, whether or not rate-regulated under this chapter, shall offer an alternate energy purchase program to customers, based on energy produced by alternate energy production facilities in Iowa.

2. The board shall require electric utilities to file plans for alternate energy purchase programs offered pursuant to this section.

a. Rate-regulated electric utilities shall file plans for alternate energy purchase programs that allow customers to contribute voluntarily to the development of alternate energy in Iowa, and shall file tariffs as required by the board by rule.

b. Electric utilities that are not rate-regulated shall offer alternate energy purchase programs at rates determined by their governing authority, and shall file tariffs with the board for informational purposes only.

3. The electric utility shall notify consumers of its alternate energy purchase program and any proposed modifications to such program at least sixty days prior to implementation of the program or any modification.

4. For purposes of this section, an electric utility may base its program on energy produced by alternate energy production facilities located outside of Iowa under any of the following circumstances:

a. The energy is purchased by the electric utility pursuant to a contract in effect prior to July 1, 2001, and continues until the expiration of the contract, including any options to renew that are exercised by the electric utility.

b. The electric utility has a financial interest, as of July 1, 2001, in the alternate energy production facility that is located outside of Iowa, or in an entity that has a financial interest in an alternate energy production facility located outside of Iowa.

c. The energy is purchased by an electric utility that is not rate-regulated and that is required to purchase all of its electric power requirements from a single supplier that is physically located outside of Iowa.

5. This section shall not apply to non-rate-regulated electric utilities physically located outside of Iowa that serve Iowa customers.

6. Any consumer-owned utility may apply to the board for a waiver under this section, and the board, for good cause, may grant the waiver.

Sec. 12. Section 476.53, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

476.53 ELECTRIC GENERATING AND TRANSMISSION FACILITIES.

1. It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.

2. The general assembly's intent with regard to the development of electric power generating and transmission facilities, as provided in subsection 1, shall be implemented in a manner that is cost-effective and compatible with the environmental policies of the state, as expressed in Title XI.

3. a. If a rate-regulated public utility files an application pursuant to section 476A.3 to construct in Iowa a baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or an alternate energy production facility as defined in section 476.42, or if a rate-regulated public utility leases or owns in Iowa, in whole or in part, a new baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or a new alternate energy production facility as defined in section 476.42, the board shall specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs of the facility are included in regulated electric rates.

b. In determining the applicable ratemaking principles, the board shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms.

c. In determining the applicable ratemaking principles, the board shall make the following findings:

(1) The rate-regulated public utility has in effect a board-approved energy efficiency plan as required under section 476.6, subsection 19.

(2) The rate-regulated public utility has demonstrated to the board that the public utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. The rate-regulated public utility may satisfy the requirements of this subparagraph through a competitive bidding process, under rules adopted by the board, that demonstrate the facility or lease is a reasonable alternative to meet its electric supply needs.

d. The applicable ratemaking principles shall be determined in a contested case proceeding, which proceeding may be combined with the proceeding for issuance of a certificate conducted pursuant to chapter 476A.

e. The order setting forth the applicable ratemaking principles shall be issued prior to the commencement of construction or lease of the facility.

f. Following issuance of the order, the rate-regulated public utility shall have the option of proceeding with construction or lease of the facility in Iowa, or withdrawing its application for a certificate under chapter 476A.

g. Notwithstanding any provision of this chapter to the contrary, the ratemaking principles established by the order issued pursuant to paragraph "e" shall be binding with regard to the specific electric power generating facility in any subsequent rate proceeding.

Sec. 13. Section 476A.4, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A proceeding for the issuance of a certificate under section 476A.5 may be consolidated with a contested case proceeding for determination of applicable ratemaking principles under section 476.53.

Sec. 14. Section 476A.6, Code 2001, is amended to read as follows:

476A.6 DECISION -- CRITERIA.

The board shall render a decision on the application in an expeditious manner. A certificate shall be issued to the applicant if the board finds all of the following:

1. The services and operations resulting from the construction of the facility are ~~required by the present or future public convenience, use and necessity~~ consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state as expressed in Title 1, subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service.

2. The applicant is willing to ~~perform such services and~~ construct, maintain, and operate the facility pursuant to the provisions of the certificate and this chapter.

3. The construction, maintenance, and operation of the facility will ~~cause minimum adverse~~ be consistent with reasonable land use and environmental, ~~and aesthetic impact~~ policies and are consonant with reasonable utilization of air, land, and water resources, ~~for beneficial purposes~~ considering available technology and the economics of available alternatives.

~~4. The applicant, if a public utility as defined in section 476.17, has in effect a comprehensive energy management program designed to reduce peak loads and to increase efficiency of use of energy by all classes of customers of the utility, and the facility in the application is necessary notwithstanding the existence of the comprehensive energy management program. As used in this subsection, a "comprehensive energy management program" includes at a minimum the following:~~

~~a. Establishment of load management and interruptible service programs, where cost effective;~~

~~b. Development of wheeling agreements and other energy sharing agreements, where cost effective with utilities that have available capacity;~~

~~c. Establishment of cost effective energy efficiency and renewable energy services and programs;~~

~~d. Compliance with board rules on energy management procedures;~~

~~5. The applicant, if a public utility as defined in section 476.17, shall demonstrate to the board that the utility has considered sources for long term electric supply from either purchase of electricity or investment in facilities owned by other persons;~~

~~6. The applicant, if a public utility as defined in section 476.17, has considered all feasible alternatives to the proposed facility including nongeneration alternatives, has ranked those alternatives by cost, has implemented the least cost alternatives first, and the facility in the application is necessary notwithstanding the implementation of these alternatives;~~

Sec. 15. Section 476A.7, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Pursuant to the provisions of section 476.53, a rate-regulated public utility shall have the option of withdrawing its application for issuance of a certificate at any time prior to the issuance of the certificate, or after the certificate has been issued.

Sec. 16. Section 476A.15, Code 2001, is amended to read as follows:

476A.15 WAIVER.

The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter for facilities with a capacity of one hundred or fewer megawatts.

Sec. 17. NEW SECTION. 476A.20 DEFINITIONS.

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

1. "Electric power agency" means an entity as defined in section 28F.2.

2. "Facility" means an electric power generating plant, or transmission line or system, as defined in section 476A.1.

3. "Public bond or obligation" means an obligation as defined in section 76.14.

Sec. 18. NEW SECTION. 476A.21 ELECTRIC POWER AGENCY --
GENERAL AUTHORITY.

In addition to other powers conferred upon an electric power agency by chapter 28F or other applicable law, an electric power agency may enter into and carry out joint agreements with other participants for the acquisition of ownership of a joint facility and for the planning, financing, operation, and maintenance of the joint facility, as provided in this subchapter.

Sec. 19. NEW SECTION. 476A.22 ELECTRIC POWER AGENCY --
AUTHORITY -- CONFLICTING PROVISIONS.

1. In addition to any powers conferred upon an electric power agency under chapter 28F or other applicable law, an electric power agency may exercise all other powers reasonably necessary or appropriate for or incidental to the effectuation of the electric power agency's authorized purposes, including without limitation, the powers enumerated in chapters 6A and 6B for purposes of constructing or acquiring an electric power facility.

2. An electric power agency, in connection with its property and affairs, and in connection with property within its control, may exercise any and all powers that might be exercised by a natural person or a private corporation in connection with similar property and affairs.

3. The enumeration of specified powers and functions of an electric power agency in this subchapter is not a limitation of the powers of an electric power agency, but the procedures prescribed for exercising the powers and functions enumerated in this subchapter control and govern in the event of any conflict with any other provision of law.

4. The authority conferred pursuant to this subchapter applies to electric power agencies, notwithstanding any contrary provisions of section 28F.1.

Sec. 20. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC BONDS
OR OBLIGATIONS -- PURPOSES -- LIMITATIONS.

1. An electric power agency may from time to time issue its public bonds or obligations in such principal amounts as the electric power agency deems necessary to provide sufficient funds to carry out any of its purposes and powers, including but not limited to any of the following:

a. The acquisition or construction of any project to be owned or leased by the electric power agency, or the acquisition of any interest in such project or any right to the capacity of such project, including the acquisition, construction, or acquisition of any interest in an electric power generating plant to be constructed in this state, or the acquisition, construction, or acquisition of any interest in a transmission line or system.

b. The funding or refunding of the principal of, or interest or redemption premiums on, any public bonds or obligations issued by the electric power agency whether or not the public bonds or obligations or interest to be funded or refunded have become due.

c. The establishment or increase of reserves to secure or to pay the public bonds or obligations or interest on the public bonds or obligations.

d. The payment of all other costs or expenses of the electric power agency incident to and necessary to carry out its purposes and powers.

2. Notwithstanding anything in this subchapter or chapter 28F to the contrary, a facility shall not be financed with the proceeds of public bonds or obligations, the interest on which is exempt from federal income tax, unless the public issuer of such public bonds or obligations covenants that the issuer shall comply with the requirements or limitations imposed by the Internal Revenue Code or other applicable federal law to preserve the tax exemption of interest payable on the bonds or obligations.

3. Notwithstanding anything in this subchapter or chapter 28F to the contrary, an electric power generating facility shall not be financed under this subchapter unless all of the following conditions are satisfied:

a. The portion of the electric power generating facility financed by the electric power agency is not designed to serve the electric power requirements of retail customers of members that are municipal electric utilities established in the state after January 1, 2001.

b. The electric power agency annually files with the board, in a manner to be determined by the board, information regarding sales from the electric power generating facility in sufficient detail to determine compliance with these provisions.

The board shall report to the general assembly if any of the provisions are being violated.

Sec. 21. NEW SECTION. 476A.24 PUBLIC BONDS OR OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD -- TERMS.

1. The board of directors of an electric power agency, by resolution, may authorize the issuance of public bonds or obligations of the electric power agency.

2. The public bonds or obligations may be issued in one or more series under the resolution or under a trust indenture or other security agreement.

3. The resolution, trust indenture, or other security agreement, with respect to such public bonds or obligations, shall provide for all of the following:

- a. The date on the public bonds or obligations.
- b. The time of maturity.
- c. The rate of interest.
- d. The denomination.
- e. The form, either coupon or registered.
- f. The conversion, registration, and exchange privileges.
- g. The rank or priority.
- h. The manner of execution.
- i. The medium of payment, including the place of payment, either within or outside of the state.
- j. The terms of redemption, either with or without premium.

k. Such other terms and conditions as set forth by the board in the resolution, trust indenture, or other security agreement.

4. Public bonds or obligations authorized by the board of directors shall not be subject to any restriction under other law with respect to the amount, maturity, interest rate, or other terms of obligation of a public agency or private person.

5. Chapter 75 shall not apply to public bonds or obligations authorized by the board of directors as provided in this section.

Sec. 22. NEW SECTION. 476A.25 PUBLIC BONDS OR OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR FUNDS.

1. The principal of and interest on any public bonds or obligations issued by an electric power agency shall be payable solely from the revenues or funds pledged or available for their payment as authorized in this subchapter.

2. Each public bond or obligation shall contain all of the following terms:

a. That the principal of or interest on such public bonds or obligations is payable solely from revenues or funds of the electric power agency.

b. That neither the state or a political subdivision of the state other than the electric power agency, nor a public agency that is a member of the electric power agency is obligated to pay the principal or interest on such public bonds or obligations.

c. That neither the full faith and credit nor the taxing power of the state, of any political subdivision of the state, or of any such public agency is pledged to the payment of the principal of or the interest on the public bonds or obligations.

Sec. 23. NEW SECTION. 476A.26 PUBLIC BONDS OR OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT -- SECURITY.

1. Except as otherwise expressly provided by this subchapter or by the electric power agency, every issue of

public bonds or obligations of the electric power agency shall be payable out of any revenues or funds of the electric power agency, subject only to any agreements with the holders of particular public bonds or obligations pledging any particular revenues or funds.

2. An electric power agency may issue types of public bonds or obligations as it may determine, including public bonds or obligations as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest in such project or projects, or a right to capacity of such project or projects, or from any revenue-producing contract made by the electric power agency with any person, or from its revenues generally.

3. Any public bonds or obligations may be additionally secured by a pledge of any grant, subsidy, or contribution from any public agency or other person, or a pledge of any income or revenues, funds, or moneys of the electric power agency from any other source.

Sec. 24. NEW SECTION. 476A.27 PUBLIC BONDS OR OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO STATE APPROVAL.

Public bonds or obligations of an electric power agency may be issued under this subchapter, and rents, rates, and charges may be established in the same manner as provided in section 28F.5 and pledged for the security of public bonds or obligations and interest and redemption premiums on such public bonds or obligations, without obtaining the consent of any department, division, commission, board, bureau, or agency of the state and without any other proceeding or the happening of any other condition or occurrence, except as specifically required by this subchapter.

Sec. 25. NEW SECTION. 476A.28 PUBLIC BONDS OR OBLIGATIONS TO BE NEGOTIABLE.

All public bonds or obligations of an electric power agency shall be negotiable within the meaning and for all of the purposes of the uniform commercial code, chapter 554, subject only to the registration requirement of section 76.10.

Sec. 26. NEW SECTION. 476A.29 VALIDITY OF PUBLIC BONDS OR OBLIGATIONS AT DELIVERY -- TEMPORARY BONDS.

1. Any public bonds or obligations may be issued and delivered, notwithstanding that one or more of the officers executing them shall have ceased to hold office at the time when the public bonds or obligations are actually delivered.

2. Pending preparation of definitive bonds or obligations, an electric power agency may issue temporary bonds or obligations that shall be exchanged for the definitive bonds or obligations upon their issuance.

Sec. 27. NEW SECTION. 476A.30 PUBLIC OR PRIVATE SALE OF BONDS AND NOTES.

Public bonds or obligations of an electric power agency may be sold at public or private sale for a price and in a manner determined by the electric power agency.

Sec. 28. NEW SECTION. 476A.31 PUBLIC BONDS OR OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

The following persons may legally invest any debt service funds, money, or other funds belonging to such person or within such person's control in any public bonds or obligations issued pursuant to this subchapter:

1. A bank, trust company, savings association, building and loan association, savings and loan association, or investment company.

2. An insurance company, insurance association, or any other person carrying on an insurance business.

3. An executor, administrator, conservator, trustee, or other fiduciary.

4. Any other person authorized to invest in bonds or obligations of the state.

Sec. 29. NEW SECTION. 476A.32 RESOLUTION, TRUST INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT -- PROVISIONS.

The resolution, trust indenture, or other security agreement under which any public bonds or obligations are

issued shall constitute a contract with the holders of the public bonds or obligations, and may contain provisions, among others, prescribing any of the following terms:

1. The terms and provisions of the public bonds or obligations.
2. The mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenue from any project or any revenue producing contract made by the electric power agency with any person to secure the payment of public bonds or obligations, subject to any agreements with the holders of public bonds or obligations which might then exist.
3. The custody, collection, securing, investment, and payment of any revenues, assets, money, funds, or property with respect to which the electric power agency may have any rights or interest.
4. The rates or charges for electric energy sold by, or services rendered by, the electric power agency, the amount to be raised by the rates or charges, and the use and disposition of any or all revenue.
5. The creation of reserves or debt service funds and the regulation and disposition of such reserves or funds.
6. The purposes to which the proceeds from the sale of any public bonds or obligations to be issued may be applied, and the pledge of the proceeds to secure the payment of the public bonds or obligations.
7. Limitations on the issuance of any additional public bonds or obligations, the terms upon which additional public bonds or obligations may be issued and secured, and the refunding of outstanding public bonds or obligations.
8. The rank or priority of any public bonds or obligations with respect to any lien or security.
9. The creation of special funds or moneys to be held for operating expenses, payment, or redemption of public bonds or obligations, reserves or other purposes, and the use and disposition of moneys held in these funds.

10. The procedure by which the terms of any contract with or for the benefit of the holders of public bonds or obligations may be amended or abrogated, the amount of public bonds or obligations the holders of which must consent to such amendment or abrogation, and the manner in which consent may be given.

11. The definition of the acts or omissions to act that constitute a default in the duties of the electric power agency to holders of its public bonds or obligations, and the rights and remedies of the holders in the event of default including, if the electric power agency so determines, the right to accelerate the date of the maturation of the public bonds or obligations or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the resolution, trust indenture, or other security agreement.

12. Any other or additional agreements with or for the benefit of the holders of public bonds or obligations or any covenants or restrictions necessary or desirable to safeguard the interests of the holders.

13. The custody of any of the electric power agency's property or investments, the safekeeping of such property or investments, the insurance to be carried on such property or investments, and the use and disposition of insurance proceeds.

14. The vesting in a trustee or trustees, within or outside the state, of such property, rights, powers, and duties as the electric power agency may determine; or the limiting or abrogating of the rights of the holders of any public bonds or obligations to appoint a trustee, or the limiting of the rights, powers, and duties of such trustee.

15. The appointment of and the establishment of the duties and obligations of any paying agent or other fiduciary within or outside the state.

Sec. 30. NEW SECTION. 476A.33 MORTGAGE OR TRUST DEED TO SECURE BONDS.

For the security of public bonds or obligations issued or to be issued by an electric power agency, the electric power agency may mortgage or execute deeds of trust of the whole or any part of its property.

Sec. 31. NEW SECTION. 476A.34 NO PERSONAL LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

An official, director, member of an electric power agency, or any person executing public bonds or obligations shall not be liable personally on the public bonds or obligations or be subject to any personal liability or accountability by reason of the issuance of such public bonds or obligations.

Sec. 32. NEW SECTION. 476A.35 REPURCHASE OF SECURITIES.

An electric power agency may purchase public bonds or obligations out of any funds available for such purchase, and hold, pledge, cancel, or resell the public bonds or obligations, subject to and in accordance with any agreements with the holders.

Sec. 33. NEW SECTION. 476A.36 PLEDGE OF REVENUE AS SECURITY.

An electric power agency may pledge its rates, rents, and other revenues, or any part of such rates, rents, and revenues, as security for the repayment, with interest and redemption premiums, if any, of the moneys borrowed by the electric power agency or advanced to the electric power agency for any of its authorized purposes and as security for the payment of moneys due and owed by the electric power agency under any contract.

Sec. 34. Section 478.3, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For the purpose of this section, the term "public" shall not be interpreted to be limited to consumers located in this state.

Sec. 35. CODE EDITOR DIRECTIVE. The Code editor shall change references to "this chapter" in sections 476A.1 through 476A.15 as necessary and appropriate to reflect the addition of the new subchapter to chapter 476A as a result of this Act.

Sec. 36. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 577, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 7/3, 2001

THOMAS J. VILSACK
Governor