

H. 5/2/01 Amend/Do Pass  
W/H 1906

MAY 1 2007  
WAYS AND MEANS

HOUSE FILE 751  
BY RANTS and MYERS

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

A BILL FOR

1 An Act providing tax credits for investments in qualifying  
2 businesses and allowing the transfer of investment tax  
3 credits.

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

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HF 751

1 Section 1. NEW SECTION. 15E.41 PURPOSE.

2 The purpose of this division is to enhance the quality of  
3 life for citizens of this state by encouraging the creation of  
4 new jobs, industry, products, and wealth through the increased  
5 availability and accessibility to capital, particularly at the  
6 seed and venture capital investment stages.

7 Sec. 2. NEW SECTION. 15E.42 INVESTMENT TAX CREDITS.

8 1. For tax years beginning on or after January 1, 2001, a  
9 tax credit shall be allowed against the taxes imposed in  
10 chapter 422, divisions II, III, and V, and in chapter 432, for  
11 a portion of the taxpayer's equity investment, as provided in  
12 subsection 2, in a qualified business. However, for tax  
13 credits earned from investments made in the 2001, 2002, 2003,  
14 and 2004 calendar years, taxpayers shall not claim the tax  
15 credit sooner than the tax year beginning in the 2005 calendar  
16 year. An individual may claim the credit of a partnership,  
17 limited liability company, S corporation, estate, or trust  
18 electing to have income taxed directly to the individual. The  
19 amount claimed by the individual shall be based upon the pro  
20 rata share of the individual's earnings from the partnership,  
21 limited liability company, S corporation, estate, or trust.  
22 Any tax credit in excess of the taxpayer's liability for the  
23 tax year may be credited to the tax liability for the  
24 following five years or until depleted, whichever is earlier.  
25 A tax credit shall not be carried back to a tax year prior to  
26 the tax year in which the taxpayer redeems the tax credit.

27 2. The tax credit equals fifty percent, not to exceed one  
28 hundred thousand dollars, of the taxpayer's equity investment  
29 made in a qualified business during the tax year.

30 3. The aggregate amount of tax credits issued under this  
31 section for taxes imposed pursuant to chapter 422, divisions  
32 II, III, and V, and chapter 432 shall not exceed a total of  
33 twenty-five million dollars.

34 4. The department of revenue and finance, in consultation  
35 with the department of economic development, shall develop a

1 system for registration, authorization, and redemption of tax  
2 credits issued by the state under this section. The  
3 department of revenue and finance and the department of  
4 economic development shall adopt any other policies,  
5 procedures, or rules pursuant to chapter 17A necessary for the  
6 administration of this division and of tax credits issued by  
7 the state under this section.

8 Sec. 3. NEW SECTION. 15E.43 QUALIFYING BUSINESSES.

9 1. In order for an equity investment to qualify for a tax  
10 credit, a taxpayer, within ninety days of making an investment  
11 in a qualifying business, shall notify the department of  
12 economic development regarding the investment and provide the  
13 department with information documenting the investment. In  
14 order to be a qualifying business, the business must meet all  
15 of the following criteria:

16 a. The principal business operations of the business are  
17 located in this state.

18 b. The business has been in operation for five years or  
19 less.

20 c. The business has a business plan approved by the  
21 department which details the business's growth strategy, the  
22 management team if applicable, a production or management  
23 plan, a financial plan, and other standard elements of a  
24 business plan.

25 d. The business has an owner who has successfully  
26 completed a recognized entrepreneurial venture development  
27 curriculum or has three years of relevant business experience.

28 e. The business is not a business engaged primarily in  
29 retail sales or the provision of health care or other  
30 professional services.

31 f. The business shall not have a net worth that exceeds  
32 five million dollars.

33 2. After verifying the eligibility of the business, the  
34 department of economic development shall notify the department  
35 of revenue and finance that the investment has been made in a

1 qualifying business and the department of revenue and finance  
2 shall issue a tax credit certificate to be attached to the  
3 person's tax return. The tax credit certificate shall contain  
4 the taxpayer's name, address, tax identification number, the  
5 amount of credit, other information required by the department  
6 of revenue and finance, and a place for the name and tax  
7 identification number of any transferee and the amount of the  
8 tax credit being transferred.

9 3. The tax credit shall not be redeemed during any tax  
10 year beginning prior to January 1, 2005.

11 4. A person receiving a tax credit under this section may  
12 transfer all or a portion of the unused tax credit to any  
13 other person. However, the tax credit shall only be  
14 transferred once. The transferee may use the amount of the  
15 tax credit transferred against taxes imposed under chapter  
16 422, divisions II, III, and V, and under chapter 432 for any  
17 tax year the original transferor could have claimed the  
18 credit. Any consideration received for the transfer of the  
19 tax credit shall not be included as income under chapter 422,  
20 divisions II, III, and V, or as premiums under chapter 432.  
21 Any consideration paid for the transfer of the tax credit  
22 shall not be deducted from income under chapter 422, divisions  
23 II, III, and V, or from premiums under chapter 432.

24 5. Any consideration received by a transferor shall be  
25 invested in the qualifying business.

26 Sec. 4. NEW SECTION. 422.11C INVESTMENT TAX CREDITS.

27 The taxes imposed under this division, less the credits  
28 allowed under sections 422.12 and 422.12B, shall be reduced by  
29 an investment tax credit authorized pursuant to sections  
30 15E.41 through 15E.43.

31 Sec. 5. Section 422.33, Code 2001, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 11. The taxes imposed under this division  
34 shall be reduced by an investment tax credit authorized  
35 pursuant to sections 15E.41 through 15E.43.

1 Sec. 6. Section 422.60, Code 2001, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 4. The taxes imposed under this division  
4 shall be reduced by an investment tax credit authorized  
5 pursuant to sections 15E.41 through 15E.43.

6 Sec. 7. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.

7 The taxes imposed under this chapter shall be reduced by an  
8 investment tax credit authorized pursuant to sections 15E.41  
9 through 15E.43.

10 EXPLANATION

11 This bill creates a personal income, corporate income,  
12 financial institution franchise, and insurance premium tax  
13 credit which may be claimed by a taxpayer for a portion of the  
14 taxpayer's equity investment in a qualified business. The  
15 bill provides that for tax credits earned from investments  
16 made in 2001, 2002, 2003, and 2004 calendar years, taxpayers  
17 shall not claim the tax credit sooner than the tax year  
18 beginning in the 2005 calendar year. The bill provides that  
19 any tax credit in excess of the taxpayer's liability for the  
20 tax year may be credited to the tax liability for the  
21 following five years or until depleted, whichever is earlier.  
22 The bill provides that the tax credit shall not be carried  
23 back to previous tax years. The bill provides that the tax  
24 credit equals 50 percent, not to exceed \$100,000, of the  
25 taxpayer's equity investment in a qualified business during  
26 the tax year.

27 The bill provides that, in order for an equity investment  
28 to qualify for a tax credit, a taxpayer, within 90 days of  
29 making an investment in a qualifying business, shall notify  
30 the department of economic development regarding the  
31 investment and provide the department with information  
32 documenting the investment and the business must meet certain  
33 identified criteria. The bill provides that, after verifying  
34 the eligibility of the business, the department of economic  
35 development shall notify the department of revenue and finance

1 that the investment has been made in a qualifying business and  
2 the department of revenue and finance shall issue a tax credit  
3 certificate to be attached to the person's tax return.

4 The bill provides that the aggregate amount of tax credits  
5 issued by the state shall not exceed a total of \$25 million.

6 The bill provides that a person receiving a tax credit may  
7 transfer all or a portion of the unused tax credit to any  
8 other person; however, a tax credit shall only be transferred  
9 once. The bill provides that the transferee may use the  
10 amount of the tax credit transferred against personal income  
11 taxes, corporate income taxes, financial institution franchise  
12 taxes, and insurance premium taxes for any tax year the  
13 original transferor could have claimed the tax credit. The  
14 bill provides that any consideration received by a transferor  
15 shall be invested in the qualifying business.

16 The bill requires the department of revenue and finance, in  
17 consultation with the department of economic development, to  
18 develop a system for registration, authorization, and  
19 redemption of investment tax credits.

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**HOUSE FILE 751****H-1919**

1 Amend House File 751 as follows:  
2 1. Page 1, line 10, by inserting after the figure  
3 "432" the following: "or 533".  
4 2. Page 1, line 32, by inserting after the figure  
5 "432" the following: "or 533".  
6 3. Page 3, line 1, by striking the words "revenue  
7 and finance" and inserting the following: "economic  
8 development".  
9 4. Page 3, line 16, by inserting after the figure  
10 "432" the following: "or 533".  
11 5. Page 3, line 20, by inserting after the figure  
12 "432" the following: "or as moneys and credits under  
13 chapter 533".  
14 6. Page 3, line 23, by inserting after the figure  
15 "432" the following: "or from moneys and credits  
16 under chapter 533".  
17 7. Page 3, by inserting after line 23 the  
18 following:  
19 "4A. Upon the transfer of all or a portion of an  
20 unused tax credit, the transferor shall provide  
21 notification to the department of revenue and finance  
22 regarding the transfer. The transferor shall report  
23 to the department the name and tax identification  
24 number of the transferee and the amount of the tax  
25 credit being transferred."  
26 8. Page 4, by inserting after line 9 the  
27 following:  
28 "Sec. \_\_\_\_ . Section 533.24, Code 2001, is amended  
29 by adding the following new unnumbered paragraph:  
30 NEW UNNUMBERED PARAGRAPH. The tax imposed on  
31 moneys and credits under this section shall be reduced  
32 by an investment tax credit authorized pursuant to  
33 sections 15E.41 through 15E.43."  
34 9. By renumbering as necessary.

By TEIG of Hamilton

**H-1919** FILED MAY 2, 2001

**HOUSE FILE 751****H-1921**

1 Amend the amendment, H-1906, to House File 751 as  
2 follows:  
3 1. Page 1, line 6, by striking the words "one  
4 million" and inserting the following: "five hundred  
5 thousand".

By FALLON of Polk

**H-1921** FILED MAY 2, 2001

**HOUSE FILE 751****H-1922**

- 1 Amend House File 751 as follows:  
2 1. Page 3, by inserting after line 25 the  
3 following:  
4 "Sec. \_\_\_\_ . NEW SECTION. 15E.44 REPORT.  
5 By January 15, 2005, the department of economic  
6 development shall submit a written report to the  
7 general assembly regarding the economic impact of the  
8 investments for which tax credit certificates were  
9 issued including, but not limited to, capital  
10 investments made, private moneys leveraged, jobs  
11 created, and wages and benefits of those jobs.  
12 Sec. \_\_\_\_ . NEW SECTION. 15E.45 REPEAL.  
13 Sections 15E.41 through 15E.44 are repealed on  
14 December 31, 2005."  
15 2. By renumbering as necessary.

By FALLON of Polk

**H-1922** FILED MAY 2, 2001

**HOUSE FILE 751****H-1906**

- 1 Amend House File 751 as follows:  
2 1. Page 1, by inserting after line 29, the  
3 following:  
4 "2A. The aggregate amount of tax credits which may  
5 be issued for investments in a single qualifying  
6 business shall not exceed one million dollars. The  
7 tax credits issued for investments in a particular  
8 qualifying business shall be issued on the basis of  
9 the chronological order of receipt by the department  
10 of economic development of notifications required  
11 pursuant to section 15E.43, subsection 1."  
12 2. Page 3, by striking lines 24 and 25, and  
13 inserting the following:  
14 "5. Any consideration received by a transferor  
15 shall be immediately invested in the qualifying  
16 business for which the original investment was made.  
17 The investment of the consideration received by the  
18 transferor shall not be considered an equity  
19 investment by the transferor and the transferor shall  
20 not be eligible to receive a tax credit for the  
21 investment of the proceeds received from the transfer  
22 of a tax credit."

By COMMITTEE ON WAYS AND MEANS  
VAN FOSSEN of Scott, Chairperson

**H-1906** FILED MAY 2, 2001



**HOUSE FILE 751****H-1923**

1 Amend House File 751 as follows:

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

4 "1A. In addition to the criteria listed in  
5 subsection 1, the department of economic development  
6 shall consider all of the following when making a  
7 determination of whether a business is a qualifying  
8 business:

9 a. Whether the wages, benefits, including health  
10 benefits, safety, and other attributes of the business  
11 would improve the quality of other existing regional  
12 or statewide cultural, recreational, entertainment,  
13 and educational activities or employment in the  
14 community.

15 b. The ability of the business to produce a long-  
16 term, tax-generating economic impact.

17 c. The investment of the city, county, or region  
18 in the business.

19 d. Other funding mechanisms.

20 e. The long-term economic viability of the  
21 business.

22 f. The extent to which the business has taken the  
23 following planning principles into consideration:

24 (1) Efficient and effective use of land resources  
25 and existing infrastructure by encouraging development  
26 in areas with existing infrastructure or capacity to  
27 avoid costly duplication of services and costly use of  
28 land.

29 (2) Provision for a variety of transportation  
30 choices, including pedestrian traffic.

31 (3) Maintenance of a unique sense of place by  
32 respecting local cultural and natural environmental  
33 features.

34 (4) Conservation of open space and farmland and  
35 preservation of critical environmental areas.

36 (5) Promotion of the safety, livability, and  
37 revitalization of existing urban and rural  
38 communities."

**By FALLON of Polk**

**H-1923 FILED MAY 2, 2001**

**HOUSE FILE 751****H-1924**

1 Amend House File 751 as follows:

2 1. Page 1, by striking lines 12 through 16, and  
3 inserting the following: "subsection 2, in a  
4 qualified business. An individual may claim the  
5 credit of a partnership,".

6 2. Page 3, by striking lines 9 and 10.

7 3. By renumbering as necessary.

**By FALLON of Polk**

**H-1924 FILED MAY 2, 2001**

## HOUSE FILE 751

## H-1933

1 Amend House File 751 as follows:

2 1. Page 4, by inserting after line 9, the  
3 following:

4 "Sec. \_\_\_\_\_. Section 476.1A, Code 2001, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 5A. Filing alternative energy  
7 purchase program plans with the board, and offering  
8 such programs to customers, pursuant to section  
9 476.47.

10 Sec. \_\_\_\_\_. Section 476.1B, subsection 1, Code 2001,  
11 is amended by adding the following new paragraphs:

12 NEW PARAGRAPH. m. An electric power agency as  
13 defined in chapters 28F and 476A that includes as a  
14 member a city or municipality owned utility that  
15 builds transmission facilities after July 1, 2001, is  
16 subject to applicable transmission reliability rules  
17 or standards adopted by the board for those  
18 facilities.

19 NEW PARAGRAPH. n. Filing alternative energy  
20 purchase program plans with the board, and offering  
21 such programs to customers, pursuant to section  
22 476.47.

23 Sec. \_\_\_\_\_. Section 476.6, Code 2001, is amended by  
24 adding the following new subsection:

25 NEW SUBSECTION. 16A. POWER PURCHASE CONTRACTS.

26 a. A rate-regulated public utility shall file with  
27 the board any contract for the purchase of electric  
28 power to serve Iowa retail electric consumers if the  
29 contract meets all of the following conditions:

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

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

35 (3) The power is being purchased from a new  
36 electric power generating facility that is being  
37 planned or is under construction in Iowa as of the  
38 date of the contract.

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

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

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

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

4 (3) A subsequent extension must not be granted any  
5 earlier than five days prior to the expiration of the  
6 original ninety-day period, or the current extension.

7 d. The board shall approve the contract if it  
8 finds, after a contested case proceeding, that the  
9 terms of the contract are reasonable and prudent. In  
10 determining whether the terms of the contract are  
11 reasonable and prudent, the board may consider the  
12 reliability and economic benefits of new, Iowa-based  
13 generation. The rate-regulated public utility shall  
14 also demonstrate to the board that it has considered  
15 other sources for long-term electric supply, and that  
16 the purchase power contract is reasonable when  
17 compared to other feasible alternative sources of  
18 supply including the building of utility-owned  
19 generation. The board may condition its approval upon  
20 the utility and the successful bidder agreeing to  
21 contract modifications identified by the board.

22 e. Board approval of a contract shall constitute  
23 an irrevocable determination of the prudence and  
24 reasonableness of the contract and its terms. The  
25 board, subsequent to approval of a contract, may at  
26 anytime by order compel the public utility to enforce  
27 the terms of the contract.

28 f. The costs of the contract shall be included in  
29 the public utility's regulated retail electric rates.  
30 The public utility may propose to recover the costs  
31 through an automatic adjustment of rates as provided  
32 in subsection 11.

33 g. The board shall adopt rules pursuant to chapter  
34 17A regarding the filing and approval of contracts  
35 under this subsection, including rules to ensure that  
36 there is a fair and open bidding process for power  
37 purchase contracts.

38 Sec. \_\_\_\_ . NEW SECTION. 476.47 ALTERNATE ENERGY  
39 PURCHASE PROGRAMS.

40 1. Beginning January 1, 2004, an electric utility,  
41 whether or not rate-regulated under this chapter,  
42 shall offer an alternate energy purchase program to  
43 its customers, based on energy produced by alternate  
44 energy production facilities in Iowa.

45 2. The board shall require electric utilities to  
46 file plans for alternate energy purchase programs  
47 offered pursuant to this section.

48 a. Rate-regulated electric utilities shall file  
49 alternate energy purchase programs that allow  
50 customers to contribute voluntarily to the development

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1 of alternative energy in Iowa, and shall file tariffs  
2 as required by the board by rule.

3 b. Electric utilities that are not rate-regulated  
4 shall offer alternate energy purchase programs at  
5 rates determined by their governing authority, and  
6 shall file tariffs with the board for informational  
7 purposes only. Electric utilities that are not rate-  
8 regulated may satisfy the alternate energy purchase  
9 program requirement by allowing customers to  
10 contribute voluntarily to the development of  
11 alternative energy in Iowa or through the inclusion of  
12 alternative energy in the utility's generation  
13 portfolio.

14 3. The electric utility shall notify consumers of  
15 its alternate energy purchase program and any proposed  
16 modifications to such program at least sixty days  
17 prior to implementation of the program or any  
18 modification.

19 4. For purposes of this section, an electric  
20 utility may base its program on energy produced by  
21 alternate energy production facilities located outside  
22 of Iowa under either of the following circumstances:

23 a. The energy is purchased by the electric utility  
24 pursuant to a contract in effect prior to July 1,  
25 2001, and continues until the expiration of the  
26 contract, including any options to renew that are  
27 exercised by the electric utility.

28 b. The electric utility has a financial interest,  
29 as of July 1, 2001, in the alternate energy production  
30 facility that is located outside of Iowa, or in an  
31 entity that has a financial interest in an alternate  
32 energy production facility located outside of Iowa.

33 5. This section shall not apply to non-rate-  
34 regulated electric utilities physically located  
35 outside of Iowa that serve Iowa customers.

36 Sec. \_\_\_\_ . Section 476.53, Code 2001, is amended by  
37 striking the section and inserting in lieu thereof the  
38 following:

39 476.53 ELECTRIC GENERATING AND TRANSMISSION  
40 FACILITIES.

41 1. It is the intent of the general assembly to  
42 attract the development of electric power generating  
43 and transmission facilities within the state in  
44 sufficient quantity to ensure reliable electric  
45 service to Iowa consumers and provide economic  
46 benefits to the state.

47 2. The general assembly's intent with regard to  
48 the development of electric power generating and  
49 transmission facilities, as provided in subsection 1,  
50 shall be implemented in a manner that is cost-

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1 effective and compatible with the environmental  
2 policies of the state, as expressed in Title XI.

3 3. a. If a rate-regulated public utility files an  
4 application pursuant to section 476A.3 to construct an  
5 electric power generating facility in Iowa equal to or  
6 greater than three hundred megawatts of nameplate  
7 baseload or combined-cycle capacity, or an alternate  
8 energy facility as defined in section 476.42, or if a  
9 rate-regulated public utility leases or owns, in whole  
10 or in part, a new electric power generating facility  
11 in Iowa equal to or greater than three hundred  
12 megawatts of nameplate baseload or combined-cycle  
13 capacity, or a new alternate energy facility as  
14 defined in section 476.42, the board shall specify in  
15 advance, by order issued after a contested case  
16 proceeding, the ratemaking principles that will apply  
17 when the costs of the facility are included in  
18 regulated electric rates.

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

23 c. In determining the applicable ratemaking  
24 principles, the board must find that the rate-  
25 regulated public utility has demonstrated to the board  
26 that the public utility has considered other sources  
27 for long-term electric supply and that the facility or  
28 lease is reasonable when compared to other feasible  
29 alternative sources of supply. The rate-regulated  
30 public utility may satisfy the requirements of this  
31 paragraph through a competitive bidding process, under  
32 rules adopted by the board, that demonstrate the  
33 facility or lease is a reasonable alternative to meet  
34 its electric supply needs.

35 d. The applicable ratemaking principles shall be  
36 determined in a contested case proceeding, which  
37 proceeding may be combined with the proceeding for  
38 issuance of a certificate conducted pursuant to  
39 chapter 476A.

40 e. The order setting forth the applicable  
41 ratemaking principles shall be issued prior to the  
42 commencement of construction or lease of the facility.

43 f. Following issuance of the order, the rate-  
44 regulated public utility shall have the option of  
45 proceeding with construction or lease of the facility  
46 in Iowa, or withdrawing its application for a  
47 certificate under chapter 476A.

48 g. Notwithstanding any provision of this chapter  
49 to the contrary, the ratemaking principles established  
50 by the order issued pursuant to paragraph "e" shall be

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1 binding with regard to the specific electric power  
2 generating facility in any subsequent rate proceeding.  
3 Sec. \_\_\_\_\_. Section 476A.4, Code 2001, is amended by  
4 adding the following new subsection:

5 NEW SUBSECTION. 5. A proceeding for the issuance  
6 of a certificate under section 476A.5 may be  
7 consolidated with a contested case proceeding for  
8 determination of applicable ratemaking principles  
9 under section 476.53.

10 Sec. \_\_\_\_\_. Section 476A.6, Code 2001, is amended to  
11 read as follows:

12 476A.6 DECISION -- CRITERIA.

13 The board shall render a decision on the  
14 application in an expeditious manner. A certificate  
15 shall be issued to the applicant if the board finds  
16 all of the following:

17 1. The services and operations resulting from the  
18 construction of the facility are ~~required by the~~  
19 ~~present or future public convenience, use and~~  
20 ~~necessity compatible with the energy policy of the~~  
21 state as developed under section 476.53 and the  
22 economic development policy of the state as expressed  
23 in Title I, subtitle 5, and will not be detrimental to  
24 the provision of adequate and reliable electric  
25 service.

26 2. The applicant is willing to ~~perform such~~  
27 ~~services and~~ construct, maintain, and operate the  
28 facility pursuant to the provisions of the certificate  
29 and this chapter.

30 3. The construction, maintenance, and operation of  
31 the facility will ~~cause minimum adverse~~ be consistent  
32 with reasonable land use, and environmental, and  
33 aesthetic impact policies and are consonant with  
34 reasonable utilization of air, land, and water  
35 resources, for beneficial purposes considering  
36 reasonably available technology and the economics of  
37 available alternatives.

38 4. ~~The applicant, if a public utility as defined~~  
39 ~~in section 476.1, has in effect a comprehensive energy~~  
40 ~~management program designed to reduce peak loads and~~  
41 ~~to increase efficiency of use of energy by all classes~~  
42 ~~of customers of the utility, and the facility in the~~  
43 ~~application is necessary notwithstanding the existence~~  
44 ~~of the comprehensive energy management program. As~~  
45 ~~used in this subsection, a "comprehensive energy~~  
46 ~~management program" includes at a minimum the~~  
47 ~~following:~~

48 a. ~~Establishment of load management and~~  
49 ~~interruptible service programs, where cost effective.~~

50 b. ~~Development of wheeling agreements and other~~

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~~1 energy sharing agreements, where cost effective with  
2 utilities that have available capacity.~~

~~3 e. Establishment of cost effective energy  
4 efficiency and renewable energy services and programs.~~

~~5 d. Compliance with board rules on energy  
6 management procedures.~~

~~7 5. The applicant, if a public utility as defined  
8 in section 476.1, shall demonstrate to the board that  
9 the utility has considered sources for long term  
10 electric supply from either purchase of electricity or  
11 investment in facilities owned by other persons.~~

~~12 6. The applicant, if a public utility as defined  
13 in section 476.1, has considered all feasible  
14 alternatives to the proposed facility including  
15 nongeneration alternatives; has ranked those  
16 alternatives by cost; has implemented the least cost  
17 alternatives first; and the facility in the  
18 application is necessary notwithstanding the  
19 implementation of these alternatives.~~

20 Sec. \_\_\_\_ . Section 476A.7, Code 2001, is amended by  
21 adding the following new subsection:

22 NEW SUBSECTION. 3. Pursuant to the provisions of  
23 section 476.53, a rate-regulated public utility shall  
24 have the option of withdrawing its application for  
25 issuance of a certificate at any time prior to the  
26 issuance of the certificate, or after the certificate  
27 has been issued.

28 Sec. \_\_\_\_ . Section 476A.15, Code 2001, is amended  
29 to read as follows:

30 476A.15 WAIVER.

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

35 Sec. \_\_\_\_ . NEW SECTION. 476A.20 DEFINITIONS.

36 For purposes of this subchapter, unless the context  
37 otherwise requires:

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

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

43 3. "Public bond or obligation" means an obligation  
44 as defined in section 76.14.

45 Sec. \_\_\_\_ . NEW SECTION. 476A.21 ELECTRIC POWER  
46 AGENCY -- GENERAL AUTHORITY.

47 In addition to other powers conferred upon an  
48 electric power agency by chapter 28F or other  
49 applicable law, an electric power agency may enter  
50 into and carry out joint agreements with other

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1 participants for the acquisition of ownership of a  
2 joint facility and for the planning, financing,  
3 operation, and maintenance of the joint facility, as  
4 provided in this subchapter.

5 Sec. \_\_\_\_\_. NEW SECTION. 476A.22 ELECTRIC POWER  
6 AGENCY -- AUTHORITY -- CONFLICTING PROVISIONS.

7 1. In addition to any powers conferred upon an  
8 electric power agency under chapter 28F or other  
9 applicable law, an electric power agency may exercise  
10 all other powers reasonably necessary or appropriate  
11 for or incidental to the effectuation of the electric  
12 power agency's authorized purposes, including without  
13 limitation, the powers enumerated in chapters 6A and  
14 6B for purposes of constructing or acquiring an  
15 electric power facility.

16 2. An electric power agency, in connection with  
17 its property and affairs, and in connection with  
18 property within its control, may exercise any and all  
19 powers that might be exercised by a natural person or  
20 a private corporation in connection with similar  
21 property and affairs.

22 3. The enumeration of specified powers and  
23 functions of an electric power agency in this  
24 subchapter is not a limitation of the powers of an  
25 electric power agency, but the procedures prescribed  
26 for exercising the powers and functions enumerated in  
27 this subchapter control and govern in the event of any  
28 conflict with any other provision of law.

29 4. The authority conferred pursuant to this  
30 subchapter applies to electric power agencies,  
31 notwithstanding any contrary provisions of section  
32 28F.1.

33 Sec. \_\_\_\_\_. NEW SECTION. 476A.23 ISSUANCE OF  
34 PUBLIC BONDS OR OBLIGATIONS -- PURPOSES --  
35 LIMITATIONS.

36 1. An electric power agency may from time to time  
37 issue its public bonds or obligations in such  
38 principal amounts as the electric power agency deems  
39 necessary to provide sufficient funds to carry out any  
40 of its purposes and powers, including but not limited  
41 to any of the following:

42 a. The acquisition or construction of any project  
43 to be owned or leased by the electric power agency, or  
44 the acquisition of any interest in such project or any  
45 right to the capacity of such project, including the  
46 acquisition, construction, or acquisition of any  
47 interest in an electric power generating plant to be  
48 constructed in this state, or the acquisition,  
49 construction, or acquisition of any interest in a  
50 transmission line or system.

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1 b. The funding or refunding of the principal of,  
2 or interest or redemption premiums on, any public  
3 bonds or obligations issued by the electric power  
4 agency whether or not the public bonds or obligations  
5 or interest to be funded or refunded have become due.

6 c. The establishment or increase of reserves to  
7 secure or to pay the public bonds or obligations or  
8 interest on the public bonds or obligations.

9 d. The payment of all other costs or expenses of  
10 the electric power agency incident to and necessary to  
11 carry out its purposes and powers.

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

22 3. Notwithstanding anything in this subchapter or  
23 chapter 28F to the contrary, an electric power  
24 generating facility shall not be financed under this  
25 subchapter unless all of the following conditions are  
26 satisfied:

27 a. The electric power generating facility is  
28 designed to serve only the electric power requirements  
29 of retail customers of members that were municipal  
30 electric utilities established in the state prior to  
31 January 1, 2001.

32 b. The electric power agency annually files with  
33 the board, in a manner to be determined by the board,  
34 information regarding sales from the electric power  
35 generating facility in sufficient detail to determine  
36 compliance with these provisions.

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

39 Sec. \_\_\_\_ . NEW SECTION. 476A.24 PUBLIC BONDS OR  
40 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD --  
41 TERMS.

42 1. The board of directors of an electric power  
43 agency, by resolution, may authorize the issuance of  
44 public bonds or obligations of the electric power  
45 agency.

46 2. The public bonds or obligations may be issued  
47 in one or more series under the resolution or under a  
48 trust indenture or other security agreement.

49 3. The resolution, trust indenture, or other  
50 security agreement, with respect to such public bonds

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1 or obligations, shall provide for all of the  
2 following:

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

19 4. Public bonds or obligations authorized by the  
20 board of directors shall not be subject to any  
21 restriction under other law with respect to the  
22 amount, maturity, interest rate, or other terms of  
23 obligation of a public agency or private person.

24 5. Chapter 75 shall not apply to public bonds or  
25 obligations authorized by the board of directors as  
26 provided in this section.

27 Sec. \_\_\_\_\_. NEW SECTION. 476A.25 PUBLIC BONDS OR  
28 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR  
29 FUNDS.

- 30 1. The principal of and interest on any public  
31 bonds or obligations issued by an electric power  
32 agency shall be payable solely from the revenues or  
33 funds pledged or available for their payment as  
34 authorized in this subchapter.
- 35 2. Each public bond or obligation shall contain  
36 all of the following terms:
  - 37 a. That the principal of or interest on such  
38 public bonds or obligation is payable solely from  
39 revenues or funds of the electric power agency.
  - 40 b. That neither the state or a political  
41 subdivision of the state other than the electric power  
42 agency, nor a public agency that is a member of the  
43 electric power agency is obligated to pay the  
44 principal or interest on such public bonds or  
45 obligations.
  - 46 c. That neither the full faith and credit nor the  
47 taxing power of the state, of any political  
48 subdivision of the state, or of any such public agency  
49 is pledged to the payment of the principal of or the  
50 interest on the public bonds or obligations.

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1 Sec. \_\_\_\_ . NEW SECTION. 476A.26 PUBLIC BONDS OR  
2 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT --  
3 SECURITY.

4 1. Except as otherwise expressly provided by this  
5 subchapter or by the electric power agency, every  
6 issue of public bonds or obligations of the electric  
7 power agency shall be payable out of any revenues or  
8 funds of the electric power agency, subject only to  
9 any agreements with the holders of particular public  
10 bonds or obligations pledging any particular revenues  
11 or funds.

12 2. An electric power agency may issue types of  
13 public bonds or obligations as it may determine,  
14 including public bonds or obligations as to which the  
15 principal and interest are payable exclusively from  
16 the revenues from one or more projects, or from an  
17 interest in such project or projects, or a right to  
18 capacity of such project or projects, or from any  
19 revenue-producing contract made by the electric power  
20 agency with any person, or from its revenues  
21 generally.

22 3. Any public bonds or obligations may be  
23 additionally secured by a pledge of any grant,  
24 subsidy, or contribution from any public agency or  
25 other person, or a pledge of any income or revenues,  
26 funds, or moneys of the electric power agency from any  
27 other source.

28 Sec. \_\_\_\_ . NEW SECTION. 476A.27 PUBLIC BONDS OR  
29 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO  
30 STATE APPROVAL.

31 Public bonds or obligations of an electric power  
32 agency may be issued under this subchapter, and rents,  
33 rates, and charges may be established in the same  
34 manner as provided in section 28F.5 and pledged for  
35 the security of public bonds or obligations and  
36 interest and redemption premiums on such public bonds  
37 or obligations, without obtaining the consent of any  
38 department, division, commission, board, bureau, or  
39 agency of the state and without any other proceeding  
40 or the happening of any other condition or occurrence,  
41 except as specifically required by this subchapter.

42 Sec. \_\_\_\_ . NEW SECTION. 476A.28 PUBLIC BONDS OR  
43 OBLIGATIONS TO BE NEGOTIABLE.

44 All public bonds or obligations of an electric  
45 power agency shall be negotiable within the meaning  
46 and for all of the purposes of the uniform commercial  
47 code, chapter 554, subject only to the registration  
48 requirement of section 76.10.

49 Sec. \_\_\_\_ . NEW SECTION. 476A.29 VALIDITY OF  
50 PUBLIC BONDS OR OBLIGATIONS AT DELIVERY -- TEMPORARY

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1 BONDS.

2 1. Any public bonds or obligations may be issued  
3 and delivered, notwithstanding that one or more of the  
4 officers executing them shall have ceased to hold  
5 office at the time when the public bonds or  
6 obligations are actually delivered.

7 2. Pending preparation of definitive bonds  
8 obligations, an electric power agency may issue  
9 temporary bonds or obligations that shall be exchanged  
10 for the definitive bonds or obligations upon their  
11 issuance.

12 Sec. \_\_\_\_ . NEW SECTION. 476A.30 PUBLIC OR PRIVATE  
13 SALE OF BONDS AND NOTES.

14 Public bonds or obligations of an electric power  
15 agency may be sold at public or private sale for a  
16 price and in a manner determined by the electric power  
17 agency.

18 Sec. \_\_\_\_ . NEW SECTION. 476A.31 PUBLIC BONDS OR  
19 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL  
20 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

21 The following persons may legally invest any debt  
22 service funds, money, or other funds belonging to such  
23 person or within such person's control in any public  
24 bonds or obligations issued pursuant to this  
25 subchapter:

26 1. A bank, trust company, savings association,  
27 building and loan association, savings and loan  
28 association, or investment company.

29 2. An insurance company, insurance association, or  
30 any other person carrying on an insurance business.

31 3. An executor, administrator, conservator,  
32 trustee, or other fiduciary.

33 4. Any other person authorized to invest in bonds  
34 or obligations of the state.

35 Sec. \_\_\_\_ . NEW SECTION. 476A.32 RESOLUTION, TRUST  
36 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT  
37 -- PROVISIONS.

38 The resolution, trust indenture, or other security  
39 agreement under which any public bonds or obligations  
40 are issued shall constitute a contract with the  
41 holders of the public bonds or obligations, and may  
42 contain provisions, among others, prescribing any of  
43 the following terms:

44 1. The terms and provisions of the public bonds or  
45 obligations.

46 2. The mortgage or pledge of and the grant of a  
47 security interest in any real or personal property and  
48 all or any part of the revenue from any project or any  
49 revenue producing contract made by the electric power  
50 agency with any person to secure the payment of public

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

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

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

13 5. The creation of reserves or debt service funds  
14 and the regulation and disposition of such reserves or  
15 funds.

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

20 7. Limitations on the issuance of any additional  
21 public bonds or obligations, the terms upon which  
22 additional public bonds or obligations may be issued  
23 and secured, and the refunding of outstanding public  
24 bonds or obligations.

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

27 9. The creation of special funds or moneys to be  
28 held for operating expenses, payment, or redemption of  
29 public bonds or obligations, reserves or other  
30 purposes, and the use and disposition of moneys held  
31 in these funds.

32 10. The procedure by which the terms of any  
33 contract with or for the benefit of the holders of  
34 public bonds or obligations may be amended or  
35 abrogated, the amount of public bonds or obligations  
36 the holders of which must consent to such amendment or  
37 abrogation, and the manner in which consent may be  
38 given.

39 11. The definition of the acts or omissions to act  
40 that constitute a default in the duties of the  
41 electric power agency to holders of its public bonds  
42 or obligations, and the rights and remedies of the  
43 holders in the event of default including, if the  
44 electric power agency so determines, the right to  
45 accelerate the date of the maturation of the public  
46 bonds or obligations or the right to appoint a  
47 receiver or receivers of the property or revenues  
48 subject to the lien of the resolution, trust  
49 indenture, or other security agreement.

50 12. Any other or additional agreements with or for

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1 the benefit of the holders of public bonds or  
2 obligations or any covenants or restrictions necessary  
3 or desirable to safeguard the interests of the  
4 holders.

5 13. The custody of any of the electric power  
6 agency's property or investments, the safekeeping of  
7 such property or investments, the insurance to be  
8 carried on such property or investments, and the use  
9 and disposition of insurance proceeds.

10 14. The vesting in a trustee or trustees, within  
11 or outside the state, of such property, rights,  
12 powers, and duties as the electric power agency may  
13 determine; or the limiting or abrogating of the rights  
14 of the holders of any public bonds or obligations to  
15 appoint a trustee, or the limiting of the rights,  
16 powers, and duties of such trustee.

17 15. The appointment of and the establishment of  
18 the duties and obligations of any paying agent or  
19 other fiduciary within or outside the state.

20 Sec. \_\_\_\_ . NEW SECTION. 476A.33 MORTGAGE OR TRUST  
21 DEED TO SECURE BONDS.

22 For the security of public bonds or obligations  
23 issued or to be issued by an electric power agency,  
24 the electric power agency may mortgage or execute  
25 deeds of trust of the whole or any part of its  
26 property.

27 Sec. \_\_\_\_ . NEW SECTION. 476A.34 NO PERSONAL  
28 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

29 An official, director, member of an electric power  
30 agency, or any person executing public bonds or  
31 obligations shall not be liable personally on the  
32 public bonds or obligations or be subject to any  
33 personal liability or accountability by reason of the  
34 issuance of such public bonds or obligations.

35 Sec. \_\_\_\_ . NEW SECTION. 476A.35 REPURCHASE OF  
36 SECURITIES.

37 An electric power agency may purchase public bonds  
38 or obligations out of any funds available for such  
39 purchase, and hold, pledge, cancel, or resell the  
40 public bonds or obligations, subject to and in  
41 accordance with any agreements with the holders.

42 Sec. \_\_\_\_ . NEW SECTION. 476A.36 PLEDGE OF REVENUE  
43 AS SECURITY.

44 An electric power agency may pledge its rates,  
45 rents, and other revenues, or any part of such rates,  
46 rents, and revenues, as security for the repayment,  
47 with interest and redemption premiums, if any, of the  
48 moneys borrowed by the electric power agency or  
49 advanced to the electric power agency for any of its  
50 authorized purposes and as security for the payment of

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## HOUSE FILE 751

## H-1936

1 Amend the amendment, H-1933, to House File 751, as  
2 follows:

3 1. By striking page 1, line 2, through page 14,  
4 line 29, and inserting the following:

5 "\_\_\_\_. Page 4, by inserting after line 9, the  
6 following:

7 "Sec. \_\_\_\_ NEW SECTION. 476A.20 DEFINITIONS.

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

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

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

15 3. "Public bond or obligation" means an obligation  
16 as defined in section 76.14.

17 Sec. \_\_\_\_ NEW SECTION. 476A.21 ELECTRIC POWER  
18 AGENCY -- GENERAL AUTHORITY.

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

27 Sec. \_\_\_\_ NEW SECTION. 476A.22 ELECTRIC POWER  
28 AGENCY -- AUTHORITY -- CONFLICTING PROVISIONS.

29 1. In addition to any powers conferred upon an  
30 electric power agency under chapter 28F or other  
31 applicable law, an electric power agency may exercise  
32 all other powers reasonably necessary or appropriate  
33 for or incidental to the effectuation of the electric  
34 power agency's authorized purposes, including without  
35 limitation, the powers enumerated in chapters 6A and  
36 6B for purposes of constructing or acquiring an  
37 electric power facility.

38 2. An electric power agency, in connection with  
39 its property and affairs, and in connection with  
40 property within its control, may exercise any and all  
41 powers that might be exercised by a natural person or  
42 a private corporation in connection with similar  
43 property and affairs.

44 3. The enumeration of specified powers and  
45 functions of an electric power agency in this  
46 subchapter is not a limitation of the powers of an  
47 electric power agency, but the procedures prescribed  
48 for exercising the powers and functions enumerated in  
49 this subchapter control and govern in the event of any  
50 conflict with any other provision of law.

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

5 Sec. \_\_\_\_ . NEW SECTION. 476A.23 ISSUANCE OF  
6 PUBLIC BONDS OR OBLIGATIONS -- PURPOSES --  
7 LIMITATIONS.

8 1. An electric power agency may from time to time  
9 issue its public bonds or obligations in such  
10 principal amounts as the electric power agency deems  
11 necessary to provide sufficient funds to carry out any  
12 of its purposes and powers, including but not limited  
13 to any of the following:

14 a. The acquisition or construction of any project  
15 to be owned or leased by the electric power agency, or  
16 the acquisition of any interest in such project or any  
17 right to the capacity of such project, including the  
18 acquisition, construction, or acquisition of any  
19 interest in an electric power generating plant to be  
20 constructed in this state, or the acquisition,  
21 construction, or acquisition of any interest in a  
22 transmission line or system.

23 b. The funding or refunding of the principal of,  
24 or interest or redemption premiums on, any public  
25 bonds or obligations issued by the electric power  
26 agency whether or not the public bonds or obligations  
27 or interest to be funded or refunded have become due.

28 c. The establishment or increase of reserves to  
29 secure or to pay the public bonds or obligations or  
30 interest on the public bonds or obligations.

31 d. The payment of all other costs or expenses of  
32 the electric power agency incident to and necessary to  
33 carry out its purposes and powers.

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

44 3. Notwithstanding anything in this subchapter or  
45 chapter 28F to the contrary, an electric power  
46 generating facility shall not be financed under this  
47 subchapter unless all of the following conditions are  
48 satisfied:

49 a. The electric power generating facility is  
50 designed to serve only the electric power requirements

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1 of retail customers of members that were municipal  
2 electric utilities established in the state prior to  
3 January 1, 2001.

4 b. The electric power agency annually files with  
5 the board, in a manner to be determined by the board,  
6 information regarding sales from the electric power  
7 generating facility in sufficient detail to determine  
8 compliance with these provisions.

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

11 Sec. \_\_\_\_ . NEW SECTION. 476A.24 PUBLIC BONDS OR  
12 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD --  
13 TERMS.

14 1. The board of directors of an electric power  
15 agency, by resolution, may authorize the issuance of  
16 public bonds or obligations of the electric power  
17 agency.

18 2. The public bonds or obligations may be issued  
19 in one or more series under the resolution or under a  
20 trust indenture or other security agreement.

21 3. The resolution, trust indenture, or other  
22 security agreement, with respect to such public bonds  
23 or obligations, shall provide for all of the  
24 following:

25 a. The date on the public bonds or obligations.

26 b. The time of maturity.

27 c. The rate of interest.

28 d. The denomination.

29 e. The form, either coupon or registered.

30 f. The conversion, registration, and exchange  
31 privileges.

32 g. The rank or priority.

33 h. The manner of execution.

34 i. The medium of payment, including the place of  
35 payment, either within or outside of the state.

36 j. The terms of redemption, either with or without  
37 premium.

38 k. Such other terms and conditions as set forth by  
39 the board in the resolution, trust indenture, or other  
40 security agreement.

41 4. Public bonds or obligations authorized by the  
42 board of directors shall not be subject to any  
43 restriction under other law with respect to the  
44 amount, maturity, interest rate, or other terms of  
45 obligation of a public agency or private person.

46 5. Chapter 75 shall not apply to public bonds or  
47 obligations authorized by the board of directors as  
48 provided in this section.

49 Sec. \_\_\_\_ . NEW SECTION. 476A.25 PUBLIC BONDS OR  
50 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR

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1 FUNDS.

2 1. The principal of and interest on any public  
3 bonds or obligations issued by an electric power  
4 agency shall be payable solely from the revenues or  
5 funds pledged or available for their payment as  
6 authorized in this subchapter.

7 2. Each public bond or obligation shall contain  
8 all of the following terms:

9 a. That the principal of or interest on such  
10 public bonds or obligation is payable solely from  
11 revenues or funds of the electric power agency.

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

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

23 Sec. \_\_\_\_ . NEW SECTION. 476A.26 PUBLIC BONDS OR  
24 OBLIGATIONS -- TYPES -- SOURCES FOR PAYMENT --  
25 SECURITY.

26 1. Except as otherwise expressly provided by this  
27 subchapter or by the electric power agency, every  
28 issue of public bonds or obligations of the electric  
29 power agency shall be payable out of any revenues or  
30 funds of the electric power agency, subject only to  
31 any agreements with the holders of particular public  
32 bonds or obligations pledging any particular revenues  
33 or funds.

34 2. An electric power agency may issue types of  
35 public bonds or obligations as it may determine,  
36 including public bonds or obligations as to which the  
37 principal and interest are payable exclusively from  
38 the revenues from one or more projects, or from an  
39 interest in such project or projects, or a right to  
40 capacity of such project or projects, or from any  
41 revenue-producing contract made by the electric power  
42 agency with any person, or from its revenues  
43 generally.

44 3. Any public bonds or obligations may be  
45 additionally secured by a pledge of any grant,  
46 subsidy, or contribution from any public agency or  
47 other person, or a pledge of any income or revenues,  
48 funds, or moneys of the electric power agency from any  
49 other source.

50 Sec. \_\_\_\_ . NEW SECTION. 476A.27 PUBLIC BONDS OR

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1 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO  
2 STATE APPROVAL.

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

14 Sec. \_\_\_\_ . NEW SECTION. 476A.28 PUBLIC BONDS OR  
15 OBLIGATIONS TO BE NEGOTIABLE.

16 All public bonds or obligations of an electric  
17 power agency shall be negotiable within the meaning  
18 and for all of the purposes of the uniform commercial  
19 code, chapter 554, subject only to the registration  
20 requirement of section 76.10.

21 Sec. \_\_\_\_ . NEW SECTION. 476A.29 VALIDITY OF  
22 PUBLIC BONDS OR OBLIGATIONS AT DELIVERY -- TEMPORARY  
23 BONDS.

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

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

34 Sec. \_\_\_\_ . NEW SECTION. 476A.30 PUBLIC OR PRIVATE  
35 SALE OF BONDS AND NOTES.

36 Public bonds or obligations of an electric power  
37 agency may be sold at public or private sale for a  
38 price and in a manner determined by the electric power  
39 agency.

40 Sec. \_\_\_\_ . NEW SECTION. 476A.31 PUBLIC BONDS OR  
41 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL  
42 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

43 The following persons may legally invest any debt  
44 service funds, money, or other funds belonging to such  
45 person or within such person's control in any public  
46 bonds or obligations issued pursuant to this  
47 subchapter:

48 1. A bank, trust company, savings association,  
49 building and loan association, savings and loan  
50 association, or investment company.

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

3 3. An executor, administrator, conservator,  
4 trustee, or other fiduciary.

5 4. Any other person authorized to invest in bonds  
6 or obligations of the state.

7 Sec. \_\_\_\_ . NEW SECTION. 476A.32 RESOLUTION, TRUST  
8 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT  
9 -- PROVISIONS.

10 The resolution, trust indenture, or other security  
11 agreement under which any public bonds or obligations  
12 are issued shall constitute a contract with the  
13 holders of the public bonds or obligations, and may  
14 contain provisions, among others, prescribing any of  
15 the following terms:

16 1. The terms and provisions of the public bonds or  
17 obligations.

18 2. The mortgage or pledge of and the grant of a  
19 security interest in any real or personal property and  
20 all or any part of the revenue from any project or any  
21 revenue producing contract made by the electric power  
22 agency with any person to secure the payment of public  
23 bonds or obligations, subject to any agreements with  
24 the holders of public bonds or obligations which might  
25 then exist.

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

30 4. The rates or charges for electric energy sold  
31 by, or services rendered by, the electric power  
32 agency, the amount to be raised by the rates or  
33 charges, and the use and disposition of any or all  
34 revenue.

35 5. The creation of reserves or debt service funds  
36 and the regulation and disposition of such reserves or  
37 funds.

38 6. The purposes to which the proceeds from the  
39 sale of any public bonds or obligations to be issued  
40 may be applied, and the pledge of the proceeds to  
41 secure the payment of the public bonds or obligations.

42 7. Limitations on the issuance of any additional  
43 public bonds or obligations, the terms upon which  
44 additional public bonds or obligations may be issued  
45 and secured, and the refunding of outstanding public  
46 bonds or obligations.

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

49 9. The creation of special funds or moneys to be  
50 held for operating expenses, payment, or redemption of

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1 public bonds or obligations, reserves or other  
2 purposes, and the use and disposition of moneys held  
3 in these funds.

4 10. The procedure by which the terms of any  
5 contract with or for the benefit of the holders of  
6 public bonds or obligations may be amended or  
7 abrogated, the amount of public bonds or obligations  
8 the holders of which must consent to such amendment or  
9 abrogation, and the manner in which consent may be  
10 given.

11 11. The definition of the acts or omissions to act  
12 that constitute a default in the duties of the  
13 electric power agency to holders of its public bonds  
14 or obligations, and the rights and remedies of the  
15 holders in the event of default including, if the  
16 electric power agency so determines, the right to  
17 accelerate the date of the maturation of the public  
18 bonds or obligations or the right to appoint a  
19 receiver or receivers of the property or revenues  
20 subject to the lien of the resolution, trust  
21 indenture, or other security agreement.

22 12. Any other or additional agreements with or for  
23 the benefit of the holders of public bonds or  
24 obligations or any covenants or restrictions necessary  
25 or desirable to safeguard the interests of the  
26 holders.

27 13. The custody of any of the electric power  
28 agency's property or investments, the safekeeping of  
29 such property or investments, the insurance to be  
30 carried on such property or investments, and the use  
31 and disposition of insurance proceeds.

32 14. The vesting in a trustee or trustees, within  
33 or outside the state, of such property, rights,  
34 powers, and duties as the electric power agency may  
35 determine; or the limiting or abrogating of the rights  
36 of the holders of any public bonds or obligations to  
37 appoint a trustee, or the limiting of the rights,  
38 powers, and duties of such trustee.

39 15. The appointment of and the establishment of  
40 the duties and obligations of any paying agent or  
41 other fiduciary within or outside the state.

42 Sec. \_\_\_\_ . NEW SECTION. 476A.33 MORTGAGE OR TRUST  
43 DEED TO SECURE BONDS.

44 For the security of public bonds or obligations  
45 issued or to be issued by an electric power agency,  
46 the electric power agency may mortgage or execute  
47 deeds of trust of the whole or any part of its  
48 property.

49 Sec. \_\_\_\_ . NEW SECTION. 476A.34 NO PERSONAL  
50 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

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1 An official, director, member of an electric power  
2 agency, or any person executing public bonds or  
3 obligations shall not be liable personally on the  
4 public bonds or obligations or be subject to any  
5 personal liability or accountability by reason of the  
6 issuance of such public bonds or obligations.

7 Sec. \_\_\_\_\_. NEW SECTION. 476A.35 REPURCHASE OF  
8 SECURITIES.

9 An electric power agency may purchase public bonds  
10 or obligations out of any funds available for such  
11 purchase, and hold, pledge, cancel, or resell the  
12 public bonds or obligations, subject to and in  
13 accordance with any agreements with the holders.

14 Sec. \_\_\_\_\_. NEW SECTION. 476A.36 PLEDGE OF REVENUE  
15 AS SECURITY.

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

25 Sec. \_\_\_\_\_. 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 \_\_\_\_\_. Title page, line 3, by inserting after the  
31 word "credits" the following: ", and providing for  
32 joint agreements for the acquisition of ownership of a  
33 joint facility for electric power generation and  
34 transmission, and for the planning, financing,  
35 operation, and maintenance of the joint facility, and  
36 providing for the bonding authority of electric power  
37 agencies".

38 \_\_\_\_\_. By renumbering, redesignating, and  
39 correcting internal references as necessary."

**By** CHIODO of Polk

**H-1936** FILED MAY 2, 2001

## HOUSE FILE 751

## H-1989

1 Amend House File 751 as follows:

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

4 "Section 1. Section 15.108, Code 2001, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 12. SCIENCE AND TECHNOLOGY. To  
7 provide, through the science and technology advisor  
8 appointed by the governor pursuant to section 15E.65,  
9 advice to state governmental entities, academia, the  
10 business community, and other constituencies regarding  
11 science and technology issues."

12 2. Page 4, by inserting after line 9 the  
13 following:

14 "Sec. \_\_\_\_ . NEW SECTION. 15E.61 SHORT TITLE.

15 This division shall be known and may be cited as  
16 the "Iowa New Economy Act".

17 Sec. \_\_\_\_ . NEW SECTION. 15E.62 PURPOSE.

18 The purpose of the Iowa new economy Act is to  
19 establish a structure for coordinating the development  
20 and implementation of a technology-led economic  
21 development strategic plan to competitively position  
22 Iowa as a world leader in the new economy and create  
23 high-wage, high-growth jobs in targeted industry  
24 clusters. The Iowa new economy council shall work  
25 with the board and the state board of regents to  
26 create regional technology innovation networks in  
27 areas of the state with a high concentration of  
28 technology-intensive businesses within the targeted  
29 industry clusters.

30 Sec. \_\_\_\_ . NEW SECTION. 15E.63 DEFINITIONS.

31 As used in this division, unless the context  
32 otherwise requires:

33 1. "Board" means the Iowa economic development  
34 board created in section 15.103.

35 2. "Department" means the Iowa department of  
36 economic development created in chapter 15.

37 3. "Industry clusters" means a group of companies  
38 that operate in the same or a related field, are  
39 linked by buyer-seller relationships, common  
40 customers, or other relationships, and rely on an  
41 active set of relationships among themselves for  
42 individual efficiency and competitiveness.

43 Sec. \_\_\_\_ . NEW SECTION. 15E.64 INDUSTRY CLUSTERS.

44 The Iowa new economy council shall define industry  
45 clusters identified in section 15.329.

46 Sec. \_\_\_\_ . NEW SECTION. 15E.65 IOWA NEW ECONOMY  
47 COUNCIL.

48 1. An Iowa new economy council is created.

49 2. A science and technology advisor shall be  
50 appointed by the governor and employed by the

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1 department of economic development. The advisor shall  
2 have significant, extensive expertise in the fields of  
3 science and technology. The advisor shall advise  
4 state governmental entities, academia, the business  
5 community, and other constituencies regarding science  
6 and technology issues.

7 3. The council shall initially consist of eleven  
8 senior-level decision makers, who are voting members,  
9 and five ex officio, nonvoting members. With the  
10 exception of the member designated in paragraph "f",  
11 the eleven senior-level decision makers shall be  
12 appointed by the governor. The eleven senior-level  
13 decision makers include all of the following:

14 a. One representative from each of the industry  
15 leadership councils identified by the council pursuant  
16 to section 15E.67.

17 b. Three additional representatives of the  
18 business community. Representation under this  
19 paragraph shall be from various size companies and  
20 from different geographic areas of the state.

21 c. One representative of the university of Iowa,  
22 the university of northern Iowa, or Iowa state  
23 university of science and technology designated by the  
24 state board of regents on a rotating basis.

25 d. One representative from the community college  
26 system.

27 e. One representative of a labor union.

28 f. The director of the department of economic  
29 development.

30 g. The science and technology advisor appointed  
31 pursuant to subsection 2.

32 4. The ex officio members of the council shall  
33 include all of the following:

34 a. One representative of the primary and secondary  
35 educational system appointed by the governor.

36 b. The president of the senate, or a member of the  
37 senate appointed by the president.

38 c. The minority leader of the senate, or a member  
39 of the senate appointed by the minority leader.

40 d. The speaker of the house of representatives, or  
41 a member of the house of representatives appointed by  
42 the speaker.

43 e. The minority leader of the house of  
44 representatives, or a member of the house of  
45 representatives appointed by the minority leader.

46 5. Appointees to the council shall be senior-level  
47 decision makers within their organizations. Any  
48 designee serving on the council shall also be a  
49 senior-level decision maker who has the ability to  
50 make a decision on behalf of the appointee. The

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1 appointee or designee shall not designate a substitute  
2 to participate in council meetings and activities.

3 6. The administration of the council shall be  
4 coordinated by the science and technology advisor  
5 appointed pursuant to subsection 2.

6 7. The initial appointments to the council made  
7 pursuant to subsection 3, paragraph "a", shall be made  
8 after the Iowa leadership councils are established  
9 pursuant to section 15E.67.

10 8. The Iowa new economy council shall annually  
11 elect a chairperson from among its members.

12 9. If more than three industry leadership councils  
13 are established pursuant to section 15E.67, the voting  
14 membership of the council shall be expanded to allow  
15 one representative of each industry leadership council  
16 to serve on the council.

17 10. The council shall be subject to the open  
18 meetings law in chapter 21 and all meetings of the  
19 council shall be conducted in the presence of a  
20 representative of the department.

21 Sec. \_\_\_\_ . NEW SECTION. 15E.66 STRATEGIC FOCUS  
22 AND ACTIVITIES.

23 1. The strategic focus of the Iowa new economy  
24 council shall be to support and strengthen the  
25 competitiveness of Iowa businesses within each of the  
26 industry clusters. At a minimum, the council shall  
27 perform all of the following duties:

28 a. Develop collaborative industry-led projects in  
29 the industry clusters.

30 b. Lead efforts to improve Iowa's competitive  
31 position in the industry cluster areas.

32 c. Facilitate activities designed to strengthen  
33 relationships and advocate collaboration among Iowa  
34 research institutions and Iowa's technology intensive  
35 businesses.

36 d. Develop a three-year strategic plan with an  
37 annual operating plan to share with the board for  
38 consideration in developing the department-wide  
39 strategic plan.

40 2. The Iowa new economy council shall develop and  
41 implement activities addressing all of the following  
42 economic foundation issues of the new economy:

43 a. Skilled and adaptable human resources.

44 b. Access to technologies on which new products  
45 and processes are based.

46 c. Availability of financial capital to support  
47 new ventures, expansion of existing companies, and  
48 reinvestment in transition industries.

49 d. Support of advanced physical infrastructure for  
50 transportation, communications, energy and water, and

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1 waste handling.

2 e. A review of the regulatory and taxation  
3 environment and business climate resulting in  
4 recommendations to balance competitiveness.

5 3. The council shall focus on nondiscriminatory  
6 market expansion and shall foster a competitive and  
7 open environment. The council shall not be a  
8 mechanism to allocate markets, fix prices, or stifle  
9 competition.

10 Sec. \_\_\_\_ . NEW SECTION. 15E.67 INDUSTRY  
11 LEADERSHIP COUNCILS.

12 In conjunction with the creation of the Iowa new  
13 economy council, leadership councils shall be  
14 established in the advanced manufacturing, information  
15 solutions, and life science industry clusters as well  
16 as other industry clusters identified by the Iowa new  
17 economy council. The leadership councils shall be  
18 comprised of representatives of business and industry,  
19 academia, government, and other representatives  
20 identified by the Iowa new economy council. The  
21 leadership councils shall be established to address  
22 issues specific to the industry clusters. The ongoing  
23 structure, membership, and operational objectives of  
24 the industry leadership councils shall be determined  
25 by the Iowa new economy council.

26 Sec. \_\_\_\_ . NEW SECTION. 15E.68 FUNDING.

27 The Iowa new economy council and the industry  
28 leadership councils shall not receive a direct  
29 appropriation from the state. The department may  
30 allocate to the council moneys that have been  
31 appropriated to the department for purposes identified  
32 by the council to support council activities. Public  
33 resources allocated for the operation of the Iowa new  
34 economy council and the industry leadership councils  
35 or for specific projects sponsored by the Iowa new  
36 economy council and the industry leadership councils  
37 shall be received through appropriate performance  
38 agreements administered by the department or other  
39 appropriate public entities. Private moneys secured  
40 through contributions, contracts, or other means would  
41 be administered and accounted for as determined by the  
42 Iowa new economy council.

43 Sec. \_\_\_\_ . NEW SECTION. 15E.69 REPORTS.

44 The Iowa new economy council shall annually submit  
45 a report to the governor and the general assembly  
46 concerning the use of resources and the results  
47 derived from investments in the activities sponsored  
48 by the council. Copies of status reports provided  
49 under any performance agreement with the department or  
50 other public entity shall be provided to the governor

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1 and the general assembly.

2 Sec. \_\_\_\_ . NEW SECTION. 15E.70 COUNCIL

3 COORDINATION.

4 The council shall work with the board and state  
5 board of regents to review, evaluate, and monitor  
6 business outreach and assistance programs, including  
7 university technology transfer programs on an ongoing  
8 basis. In reviewing, evaluating, and monitoring  
9 programs and activities, the council shall seek input  
10 from business, academia, government, and other  
11 constituencies. The council shall make  
12 recommendations to the board and state board of  
13 regents with respect to each of the following:

14 1. Strengthening collaboration among business and  
15 industry and Iowa's research institutions.

16 2. Coordinating activities to facilitate the  
17 growth of the industry clusters."

18 3. Title page, line 1, by inserting after the  
19 word "Act" the following: "relating to economic  
20 development programs by creating an Iowa new economy  
21 council and".

22 4. By renumbering as necessary.

**By** JENKINS of Black Hawk

**H-1989** FILED MAY 3, 2001

**HOUSE FILE 751****H-1980**

1 Amend House File 751 as follows:  
 2 1. Page 1, by inserting before line 1, the  
 3 following:  
 4 "Section 1. Section 15.329, subsection 2,  
 5 paragraph b, Code 2001, is amended to read as follows:  
 6 b. Produce or manufacture high value-added goods  
 7 or services or be in one of the following ~~industries~~  
 8 cluster groups:  
 9 (1) ~~Value-added agricultural products~~ Life  
 10 sciences.  
 11 (2) ~~Insurance and financial services~~ Information  
 12 solutions.  
 13 (3) ~~Plastics~~ Advanced manufacturing.  
 14 ~~(4) Metals.~~  
 15 ~~(5) Printing paper or packaging products.~~  
 16 ~~(6) Drugs and pharmaceuticals.~~  
 17 ~~(7) Software development.~~  
 18 ~~(8) Instruments and measuring devices and medical~~  
 19 ~~instruments.~~  
 20 ~~(9) Recycling and waste management.~~  
 21 ~~(10) Telecommunications.~~  
 22 Retail business shall not be eligible for benefits  
 23 under this part."  
 24 2. Title page, line 1, by inserting after the  
 25 word "Act" the following: "relating to economic  
 26 development programs by providing cluster groups under  
 27 the new jobs and income program and".  
 28 3. By renumbering as necessary.  
 By DOTZLER of Black Hawk HATCH of Polk  
 WINCKLER of Scott JOCHUM of Dubuque

**H-1980** FILED MAY 3, 2001**HOUSE FILE 751****H-1986**

1 Amend House File 751 as follows:  
 2 1. Page 2, by inserting after line 32 the  
 3 following:  
 4 "g. The business produces or manufactures goods or  
 5 services in one of the following cluster groups:  
 6 (1) Life sciences.  
 7 (2) Information solutions.  
 8 (3) Advanced manufacturing."  
 By DOTZLER of Black Hawk HATCH of Polk  
 WINCKLER of Scott JOCHUM of Dubuque

**H-1986** FILED MAY 3, 2001

**HOUSE FILE 751  
FISCAL NOTE**

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A fiscal note for **House File 751** 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.

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House File 751 creates an Investment Tax Credit Program. The Bill allows individuals to receive tax credits for investment in qualified Iowa businesses. The tax credits can be used to reduce tax liability for persons owing individual or corporate income tax, financial institution franchise tax, or insurance premium tax.

The tax credits are limited to a total of \$25.0 million across all investments. An individual investor is limited to \$100,000 in tax credits in any tax year. The tax credits can be sold once, and the proceeds from the sale must be invested in the qualified business.

Whether retained by the original investor or sold to another entity, the tax credits cannot be utilized to reduce State taxes due until a tax year beginning on or after January 1, 2005. If the tax credits are not fully utilized in the first year, the taxpayer may apply the credits for the following five years or until depleted, whichever is sooner.

The tax credit program would be administered by the Departments of Economic Development and Revenue and Finance.

**ASSUMPTIONS**

1. The \$25.0 million in allowed tax credits will be fully distributed.
2. The taxpayers possessing the tax credits on January 1, 2005, will be able to fully redeem the credits over the allowed six-year period.

**FISCAL IMPACT**

House File 751 will reduce General Fund tax revenues by a total of \$25.0 million. The impact will be spread over the FY 2005 through FY 2011 period. It is likely the majority of credits will be redeemed in FY 2005 and FY 2006 because the tax credits do not gain value over time. Therefore, when the redemption period arrives, the credits will be owned by persons and entities with sufficient tax liability to utilize the credits in the shortest time frame.

The Bill will also create administrative costs for the Departments of Economic Development and Revenue and Finance. The majority of the administrative costs will be in FY 2002 and FY 2003 as the program is initiated and in FY 2005 and FY 2006 when the credits are redeemed. The Bill does not provide financing for the administrative costs.

SOURCE

Legislative Fiscal Bureau analysis

(LSB 3714yh, JWR)

FILED MAY 3, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR