

MAR 4 2003  
Place On Calendar

HOUSE FILE 391  
BY COMMITTEE ON COMMERCE,  
REGULATION AND LABOR

(SUCCESSOR TO HF 199)

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

**A BILL FOR**

1 An Act establishing a pilot program for the development of  
2 cogeneration facilities, providing for the development of  
3 ratemaking principles and rates for pilot program facilities,  
4 and providing for a future repeal.

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

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HF-391

1 Section 1. NEW SECTION. 15.269 COGENERATION PILOT  
2 PROGRAM.

3 1. DEFINITIONS. For purposes of this section, unless the  
4 context otherwise requires:

5 a. "Cogeneration pilot project facility" means either a  
6 utility-owned cogeneration pilot project facility or a  
7 qualified cogeneration pilot project facility. Both a  
8 utility-owned cogeneration pilot project facility and a  
9 qualified cogeneration pilot project facility must be approved  
10 by the department of economic development for participation in  
11 the cogeneration pilot program established pursuant to  
12 subsection 2.

13 b. "Energy sales agreement" means a negotiated agreement  
14 for the sale of the electric output from the cogeneration  
15 pilot project, between a qualified cogeneration pilot project  
16 facility and an electric utility.

17 c. "Qualified cogeneration pilot project facility" means a  
18 qualifying facility as defined in the federal Public Utility  
19 Regulation Policies Act of 1978, 16 U.S.C. § 2601 et seq., and  
20 related federal regulations.

21 d. "Utility-owned cogeneration pilot project facility"  
22 means a cogeneration facility owned, in whole or in part, by a  
23 rate-regulated electric utility that produces electric energy  
24 and thermal energy for commercial purposes and is not a  
25 qualifying facility as defined in the federal Public Utility  
26 Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and  
27 related federal regulations.

28 2. PILOT PROGRAM ESTABLISHED.

29 a. It is the policy of this state to foster both the  
30 development of cogeneration in Iowa and related economic  
31 development associated with cogeneration projects.

32 It is the policy of this state that cogeneration projects  
33 operate to the mutual benefit of businesses, industry, and  
34 electric utilities in Iowa, financially and otherwise.

35 b. A cogeneration pilot program is established within the

1 department of economic development to obtain reliable energy  
2 and economic benefits associated with successful development  
3 of new, Iowa-based, electric power cogeneration strategies.  
4 The department shall develop and administer the cogeneration  
5 pilot program, according to the following:

6 (1) The department may choose up to three projects for  
7 participation in the cogeneration pilot program:

8 (a) Each cogeneration pilot project facility must involve  
9 two hundred megawatts or less of electricity, in combination  
10 with one or more other cogeneration pilot project facilities.

11 (b) Each cogeneration pilot project facility must be  
12 constructed in Iowa.

13 (c) Each project chosen for participation in the  
14 cogeneration pilot program must also have the approval and  
15 support of the department for economic development purposes.

16 (2) The department may adopt specific application  
17 guidelines and deadlines by rule pursuant to chapter 17A, or  
18 follow established departmental procedures and guidelines, if  
19 applicable.

20 (3) The department shall assist in the implementation of  
21 the cogeneration pilot program, and monitor the progress of  
22 the participants. The department shall file its initial  
23 report assessing the results of the pilot program with the  
24 general assembly by December 1, 2004, and shall also file  
25 yearly pilot program progress updates with the general  
26 assembly through December 1, 2008.

27 3. FUTURE REPEAL. This section is repealed July 1, 2008.  
28 However, any utilities board proceeding that involves a  
29 cogeneration pilot project facility that is pending on July 1,  
30 2008, and that is being conducted pursuant to section 476.53  
31 shall be completed notwithstanding the repeal of this section.

32 Sec. 2. Section 476.53, Code 2003, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 2A. For purposes of this section, unless  
35 the context otherwise requires, the terms "cogeneration pilot

1 project facility", "energy sales agreement", "qualified  
2 cogeneration pilot project facility", and "utility-owned  
3 cogeneration pilot project facility" mean the same as defined  
4 in section 15.269.

5 Sec. 3. Section 476.53, subsections 3 and 4, Code 2003,  
6 are amended to read as follows:

7 3. a. ~~If-a-rate-regulated-public-utility-files~~ The board  
8 shall specify in advance, by order issued after a contested  
9 case proceeding, the ratemaking principles that will apply  
10 when the costs of the electric power generating facility or  
11 energy sales agreement are included in regulated electric  
12 rates whenever a rate-regulated public utility does any of the  
13 following:

14 (1) Files an application pursuant to section 476A.3 to  
15 construct in Iowa a baseload electric power generating  
16 facility with a nameplate generating capacity equal to or  
17 greater than three hundred megawatts or a combined-cycle  
18 electric power generating facility, or an alternate energy  
19 production facility as defined in section 476.42~~7-or-if-a~~  
20 ~~rate-regulated-public-utility-leases.~~

21 (2) Leases or owns in Iowa, in whole or in part, a new  
22 baseload electric power generating facility with a nameplate  
23 generating capacity equal to or greater than three hundred  
24 megawatts or a combined-cycle electric power generating  
25 facility, or a new alternate energy production facility as  
26 defined in section 476.42~~7-the-board-shall-specify-in-advance,~~  
27 ~~by-order-issued-after-a-contested-case-proceeding,~~  
28 ~~ratemaking-principles-that-will-apply-when-the-costs-of-the~~  
29 ~~facility-are-included-in-regulated-electric-rates.~~

30 (3) Enters into an agreement for the purchase of the  
31 electric power output of a qualified cogeneration pilot  
32 project facility or constructs a utility-owned cogeneration  
33 pilot project facility pursuant to section 15.269.

34 b. In determining the applicable ratemaking principles,  
35 the board shall not be limited to traditional ratemaking

1 principles or traditional cost recovery mechanisms.

2 c. In determining the applicable ratemaking principles,  
3 the board shall make the following findings:

4 (1) The rate-regulated public utility has in effect a  
5 board-approved energy efficiency plan as required under  
6 section 476.6, subsection 19.

7 (2) The rate-regulated public utility has demonstrated to  
8 the board that the public utility has considered other sources  
9 for long-term electric supply and that the facility, or lease,  
10 or cogeneration pilot project facility is reasonable when  
11 compared to other feasible alternative sources of supply. The  
12 rate-regulated public utility may satisfy the requirements of  
13 this subparagraph through a competitive bidding process, under  
14 rules adopted by the board, that demonstrate the facility,  
15 energy sales agreement, or lease is a reasonable alternative  
16 to meet its electric supply needs.

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

21 e. The order setting forth the applicable ratemaking  
22 principles shall be issued prior to the commencement of  
23 construction or lease of the facility, or execution of an  
24 energy sales agreement related to the cogeneration pilot  
25 project facility.

26 f. Following issuance of the order, the rate-regulated  
27 public utility shall have the option of proceeding with  
28 construction or lease of the facility in Iowa, or withdrawing  
29 its application for a certificate under chapter 476A.

30 g. Notwithstanding any provision of this chapter to the  
31 contrary, the ratemaking principles established by the order  
32 issued pursuant to paragraph "e" shall be binding with regard  
33 to the specific electric power generating facility or  
34 cogeneration pilot project facility in any subsequent rate  
35 proceeding.

1 4. The utilities board and the consumer advocate may  
2 employ additional temporary staff, or may contract for  
3 professional services with persons who are not state  
4 employees, as the board and the consumer advocate deem  
5 necessary to perform required functions as provided in this  
6 section, including but not limited to review of power purchase  
7 contracts, review of emission plans and budgets, and review of  
8 ratemaking principles proposed for construction or lease of a  
9 new generating facility or a cogeneration pilot project  
10 facility. Beginning July 1, 2002, there is appropriated out  
11 of any funds in the state treasury not otherwise appropriated,  
12 such sums as may be necessary to enable the board and the  
13 consumer advocate to hire additional staff and contract for  
14 services under this section. The costs of the additional  
15 staff and services shall be assessed to the utilities pursuant  
16 to the procedure in section 476.10 and section 475A.6.

17 Sec. 4. Section 476.53, Code 2003, is amended by adding  
18 the following new subsection:

19 NEW SUBSECTION. 5. DETERMINATION OF AVOIDED COST FOR  
20 COGENERATION PROJECTS.

21 a. A qualified cogeneration pilot project facility may  
22 file a petition with the board for a determination of the  
23 avoided cost of an electric utility as provided in the federal  
24 Public Utility Regulatory Policies Act of 1978 and related  
25 federal regulations, if such a determination has not been made  
26 within the last twenty-four months, and if there is no reason  
27 to believe the avoided cost has changed.

28 b. The board shall issue its determination of the electric  
29 utility's avoided cost within one hundred twenty days after  
30 the petition is filed.

31 c. The board, for good cause shown, may extend the  
32 deadline for issuing the decision for an additional period not  
33 to exceed one hundred twenty days.

34 d. The board shall not issue a decision under this  
35 subsection without providing notice and an opportunity for

1 hearing.

2 e. The utilities board and the consumer advocate may  
3 employ additional temporary staff, or may contract for  
4 professional services with persons who are not state  
5 employees, as the board and the consumer advocate deem  
6 necessary to perform required functions as provided in this  
7 subsection. There is appropriated out of any funds in the  
8 state treasury not otherwise appropriated, such sums as may be  
9 necessary to enable the board and the consumer advocate to  
10 hire additional staff and contract for services under this  
11 section. The costs of the additional staff and services shall  
12 be assessed to the electric utility pursuant to the procedure  
13 in sections 476.10 and 475A.6.

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#### EXPLANATION

15 This bill relates to energy and economic development.

16 The bill enacts new Code section 15.269, relating to a  
17 pilot program for new electric power cogeneration facilities  
18 constructed in Iowa. A pilot program for cogeneration  
19 projects is established in the department of economic  
20 development. The department is authorized to choose up to  
21 three cogeneration projects in Iowa which are geographically  
22 diverse, are 200 megawatts or less in total size, and have the  
23 general approval of the department. The department shall  
24 produce an initial report for the general assembly by December  
25 1, 2004, with yearly updates until 2008 when the pilot program  
26 is repealed. The new section is repealed effective July 1,  
27 2008.

28 The bill extends to qualified cogeneration pilot program  
29 facilities meeting certain federal standards for energy  
30 production the ratemaking procedure currently available in  
31 Code section 476.53 for other new electric generating and  
32 transmission facilities: baseload electric power generating  
33 facilities, combined-cycle electric power generating  
34 facilities, and alternate energy production facilities. As  
35 part of the overall policy statement, the general assembly

1 indicates a state policy that cogeneration projects produce  
2 mutual financial benefits for project participants.

## HOUSE FILE 391

## H-1039

1 Amend House File 391 as follows:

2 1. Page 2, line 19, by inserting after the word  
3 "applicable." the following: "The guidelines, rules,  
4 and procedures shall not require participation in a  
5 cogeneration pilot project or program by any rate-  
6 regulated public utility providing retail electric  
7 service to more than five hundred twenty thousand  
8 customers in the state as of January 1, 2003, but any  
9 such utility shall have the option to participate."

10 2. Page 3, line 10, by striking the word  
11 "facility" and inserting the following: "facility,  
12 alternate energy production facility, cogeneration  
13 pilot project facility,".

14 3. Page 4, by striking lines 27 through 29 and  
15 inserting the following: "public utility shall have  
16 the option of proceeding ~~with construction or lease of~~  
17 ~~the facility in Iowa or withdrawing according to~~  
18 either of the following:

19 (1) Withdrawing its application for a ratemaking  
20 principles determination pursuant to this section and  
21 its application for a certificate ~~under~~ pursuant to  
22 chapter 476A.

23 (2) Proceeding with the construction or lease of  
24 the facility or implementation of an energy sales  
25 agreement related to a cogeneration pilot project  
26 facility."

27 4. Page 5, line 26, by striking the words  
28 "months, and" and inserting the following: "months  
29 or".

30 5. By renumbering, relettering, redesignating,  
31 and correcting internal references as necessary.

By WISE of Lee

JENKINS of Black Hawk

H-1039 FILED MARCH 10, 2003

Withdrawn 3/18/03



HOUSE FILE 391

H-1045

- 1 Amend House File 391 as follows:  
2 1. Page 2, line 19, by inserting after the word  
3 "applicable." the following: "The guidelines, rules,  
4 and procedures shall not require participation in a  
5 cogeneration pilot project or program by any rate-  
6 regulated public utility providing retail electric  
8 customers in the state as of January 1, 2003, but any  
9 such utility shall have the option to participate."  
10 2. Page 3, line 10, by striking the word  
11 "facility" and inserting the following: "facility,  
12 alternate energy production facility, cogeneration  
13 pilot project facility,".  
14 3. Page 4, by striking lines 27 through 29 and  
15 inserting the following: "public utility shall have  
16 the option of proceeding ~~with construction or lease of~~  
17 ~~the facility in Iowa or withdrawing~~ according to  
18 either of the following:  
19 (1) Withdrawing its application for a ratemaking  
20 principles determination pursuant to this section and  
21 its application for a certificate ~~under~~ pursuant to  
22 chapter 476A.  
23 (2) Proceeding with the construction or lease of  
24 the facility or implementation of an energy sales  
25 agreement related to a cogeneration pilot project  
26 facility."  
27 4. Page 5, line 26, by striking the words  
28 "months, and if there is no" and inserting the  
29 following: "months or if there is".  
30 5. By renumbering, relettering, redesignating, and  
31 correcting internal references as necessary.

By WISE of Lee  
JENKINS of Black Hawk

H-1045 FILED MARCH 11, 2003

Withdrawn 3/18/03

HOUSE FILE 391

H-1064

1 Amend House File 391 as follows:

2 1. Page 2, line 19, by inserting after the word  
3 "applicable." the following: "The guidelines, rules,  
4 and procedures shall not require participation in a  
5 cogeneration pilot project or program by any rate-  
6 regulated public utility providing retail electric  
7 service to more than five hundred twenty thousand  
8 customers in the state as of January 1, 2003, but any  
9 such utility shall have the option to participate."

10 2. Page 3, line 10, by striking the word  
11 "facility" and inserting the following: "facility,  
12 alternate energy production facility, cogeneration  
13 pilot project facility,".

14 3. Page 4, by striking lines 27 through 29 and  
15 inserting the following: "public utility shall have  
16 the option of proceeding ~~with construction or lease of~~  
17 ~~the facility in Iowa or withdrawing~~ according to  
18 either of the following:

19 (1) Withdrawing its application for a certificate  
20 under pursuant to chapter 476A.

21 (2) Proceeding with the construction or lease of  
22 the facility or implementation of an energy sales  
23 agreement related to a cogeneration pilot project  
24 facility."

25 4. Page 5, line 26, by striking the words  
26 "months, and if there is no" and inserting the  
27 following: "months or if there is".

28 5. By renumbering, relettering, redesignating, and  
29 correcting internal references as necessary.

By WISE of Lee  
JENKINS of Black Hawk

H-1064 FILED MARCH 17, 2003

Adopted 3/18/03

### **Description**

House File 391 allows the Department of Economic Development to establish up to three pilot programs for new electric power cogeneration facilities constructed in Iowa, and specifies the requirements for the pilot programs. The Department of Economic Development is required to provide an initial report on program activities to the General Assembly by December 1, 2004, with updates provided each year thereafter until the program sunsets July 1, 2008. The proposed legislation extends ratemaking procedures currently available for other new electric generating and transmission facilities to cogeneration pilot program facilities meeting certain federal standards for energy production. House File 391 allows the utilities board and the consumer advocate to employ additional temporary staff or to contract for professional services with persons who are not State employees, as the board and the consumer advocate deem necessary to perform required functions of the proposed legislation. The proposed legislation appropriates funds in the State treasury not otherwise appropriated, as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services. The Bill further specifies the costs of the additional staff and services are to be assessed to the electric utility.

### **Assumptions**

1. The Department of Economic Development would require no additional staff nor additional resources to establish and report on the pilot programs.
2. The Iowa Utilities Board would contract for assistance with review of cogeneration pilot programs. Each contract would cost approximately \$25,000 per year.
3. A maximum of three contracts would be required per year to assist with review of cogeneration pilot project facilities.
4. The Iowa Utilities Board would contract to help determine avoided costs associated with cogeneration pilot project facilities. Each contract would cost approximately \$13,000.
5. A maximum of two contracts would be required each year to assist in determining the avoided costs.
6. The maximum General Fund cost incurred in a given year would be approximately \$100,000.
7. The Iowa Utilities Board would pay for the cost associated with these pilot programs. The electric utility would then be billed for these costs, and the Iowa Utilities Board would deposit the revenue collected in the General Fund. The net effect to the General Fund would be zero.

### **Fiscal Impact**

The net effect of HF 391 would result in no impact to the General Fund. House File 391 would increase General Fund expenditures by up to \$100,000 annually. This cost will be assessed to the utility proposing the cogeneration facility and will be deposited in the General Fund.

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### **Sources**

Iowa Department of Economic Development  
Iowa Utilities Board

/s/ Dennis C Prouty

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March 17, 2003

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HOUSE FILE 391  
BY COMMITTEE ON COMMERCE,  
REGULATION AND LABOR

(SUCCESSOR TO HF 199)

(As Amended and Passed by the House March 18, 2003)

Passed House, Date Passed 3/18/03 <sup>4/21/03</sup> Passed Senate, Date Passed 4/14/03  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 5/30/03

A BILL FOR

1 An Act establishing a pilot program for the development of  
2 cogeneration facilities, providing for the development of  
3 ratemaking principles and rates for pilot program facilities,  
4 and providing for a future repeal.

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

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House Amendments \_\_\_\_\_

HF 391

1 Section 1. NEW SECTION. 15.269 COGENERATION PILOT  
2 PROGRAM.

3 1. DEFINITIONS. For purposes of this section, unless the  
4 context otherwise requires:

5 a. "Cogeneration pilot project facility" means either a  
6 utility-owned cogeneration pilot project facility or a  
7 qualified cogeneration pilot project facility. Both a  
8 utility-owned cogeneration pilot project facility and a  
9 qualified cogeneration pilot project facility must be approved  
10 by the department of economic development for participation in  
11 the cogeneration pilot program established pursuant to  
12 subsection 2.

13 b. "Energy sales agreement" means a negotiated agreement  
14 for the sale of the electric output from the cogeneration  
15 pilot project, between a qualified cogeneration pilot project  
16 facility and an electric utility.

17 c. "Qualified cogeneration pilot project facility" means a  
18 qualifying facility as defined in the federal Public Utility  
19 Regulation Policies Act of 1978, 16 U.S.C. § 2601 et seq., and  
20 related federal regulations.

21 d. "Utility-owned cogeneration pilot project facility"  
22 means a cogeneration facility owned, in whole or in part, by a  
23 rate-regulated electric utility that produces electric energy  
24 and thermal energy for commercial purposes and is not a  
25 qualifying facility as defined in the federal Public Utility  
26 Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and  
27 related federal regulations.

28 2. PILOT PROGRAM ESTABLISHED.

29 a. It is the policy of this state to foster both the  
30 development of cogeneration in Iowa and related economic  
31 development associated with cogeneration projects.

32 It is the policy of this state that cogeneration projects  
33 operate to the mutual benefit of businesses, industry, and  
34 electric utilities in Iowa, financially and otherwise.

35 b. A cogeneration pilot program is established within the

1 department of economic development to obtain reliable energy  
2 and economic benefits associated with successful development  
3 of new, Iowa-based, electric power cogeneration strategies.  
4 The department shall develop and administer the cogeneration  
5 pilot program, according to the following:

6 (1) The department may choose up to three projects for  
7 participation in the cogeneration pilot program:

8 (a) Each cogeneration pilot project facility must involve  
9 two hundred megawatts or less of electricity, in combination  
10 with one or more other cogeneration pilot project facilities.

11 (b) Each cogeneration pilot project facility must be  
12 constructed in Iowa.

13 (c) Each project chosen for participation in the  
14 cogeneration pilot program must also have the approval and  
15 support of the department for economic development purposes.

16 (2) The department may adopt specific application  
17 guidelines and deadlines by rule pursuant to chapter 17A, or  
18 follow established departmental procedures and guidelines, if  
19 applicable. The guidelines, rules, and procedures shall not  
20 require participation in a cogeneration pilot project or  
21 program by any rate-regulated public utility providing retail  
22 electric service to more than five hundred twenty thousand  
23 customers in the state as of January 1, 2003, but any such  
24 utility shall have the option to participate.

25 (3) The department shall assist in the implementation of  
26 the cogeneration pilot program, and monitor the progress of  
27 the participants. The department shall file its initial  
28 report assessing the results of the pilot program with the  
29 general assembly by December 1, 2004, and shall also file  
30 yearly pilot program progress updates with the general  
31 assembly through December 1, 2008.

32 3. FUTURE REPEAL. This section is repealed July 1, 2008.  
33 However, any utilities board proceeding that involves a  
34 cogeneration pilot project facility that is pending on July 1,  
35 2008, and that is being conducted pursuant to section 476.53

1 shall be completed notwithstanding the repeal of this section.

2 Sec. 2. Section 476.53, Code 2003, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 2A. For purposes of this section, unless  
5 the context otherwise requires, the terms "cogeneration pilot  
6 project facility", "energy sales agreement", "qualified  
7 cogeneration pilot project facility", and "utility-owned  
8 cogeneration pilot project facility" mean the same as defined  
9 in section 15.269.

10 Sec. 3. Section 476.53, subsections 3 and 4, Code 2003,  
11 are amended to read as follows:

12 3. a. ~~If a rate-regulated public utility files~~ The board  
13 shall specify in advance, by order issued after a contested  
14 case proceeding, the ratemaking principles that will apply  
15 when the costs of the electric power generating facility,  
16 alternate energy production facility, cogeneration pilot  
17 project facility, or energy sales agreement are included in  
18 regulated electric rates whenever a rate-regulated public  
19 utility does any of the following:

20 (1) Files an application pursuant to section 476A.3 to  
21 construct in Iowa a baseload electric power generating  
22 facility with a nameplate generating capacity equal to or  
23 greater than three hundred megawatts or a combined-cycle  
24 electric power generating facility, or an alternate energy  
25 production facility as defined in section 476.42~~7~~ ~~or if a~~  
26 ~~rate-regulated public utility leases.~~

27 (2) Leases or owns in Iowa, in whole or in part, a new  
28 baseload electric power generating facility with a nameplate  
29 generating capacity equal to or greater than three hundred  
30 megawatts or a combined-cycle electric power generating  
31 facility, or a new alternate energy production facility as  
32 defined in section 476.42~~7~~ ~~the board shall specify in advance,~~  
33 ~~by order issued after a contested case proceeding,~~ ~~the~~  
34 ~~ratemaking principles that will apply when the costs of the~~  
35 ~~facility are included in regulated electric rates.~~

1     (3) Enters into an agreement for the purchase of the  
2 electric power output of a qualified cogeneration pilot  
3 project facility or constructs a utility-owned cogeneration  
4 pilot project facility pursuant to section 15.269.

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

8     c. In determining the applicable ratemaking principles,  
9 the board shall make the following findings:

10    (1) The rate-regulated public utility has in effect a  
11 board-approved energy efficiency plan as required under  
12 section 476.6, subsection 19.

13    (2) The rate-regulated public utility has demonstrated to  
14 the board that the public utility has considered other sources  
15 for long-term electric supply and that the facility, ~~or lease,~~  
16 or cogeneration pilot project facility is reasonable when  
17 compared to other feasible alternative sources of supply. The  
18 rate-regulated public utility may satisfy the requirements of  
19 this subparagraph through a competitive bidding process, under  
20 rules adopted by the board, that demonstrate the facility,  
21 energy sales agreement, or lease is a reasonable alternative  
22 to meet its electric supply needs.

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

27    e. The order setting forth the applicable ratemaking  
28 principles shall be issued prior to the commencement of  
29 construction or lease of the facility, or execution of an  
30 energy sales agreement related to the cogeneration pilot  
31 project facility.

32    f. Following issuance of the order, the rate-regulated  
33 public utility shall have the option of proceeding with  
34 construction-or-lease-of-the-facility-in-Iowa-or-withdrawing  
35 according to either of the following:



1 (1) Withdrawing its application for a certificate under  
2 pursuant to chapter 476A.

3 (2) Proceeding with the construction or lease of the  
4 facility or implementation of an energy sales agreement  
5 related to a cogeneration pilot project facility.

6 g. Notwithstanding any provision of this chapter to the  
7 contrary, the ratemaking principles established by the order  
8 issued pursuant to paragraph "e" shall be binding with regard  
9 to the specific electric power generating facility or  
10 cogeneration pilot project facility in any subsequent rate  
11 proceeding.

12 4. The utilities board and the consumer advocate may  
13 employ additional temporary staff, or may contract for  
14 professional services with persons who are not state  
15 employees, as the board and the consumer advocate deem  
16 necessary to perform required functions as provided in this  
17 section, including but not limited to review of power purchase  
18 contracts, review of emission plans and budgets, and review of  
19 ratemaking principles proposed for construction or lease of a  
20 new generating facility or a cogeneration pilot project  
21 facility. Beginning July 1, 2002, there is appropriated out  
22 of any funds in the state treasury not otherwise appropriated,  
23 such sums as may be necessary to enable the board and the  
24 consumer advocate to hire additional staff and contract for  
25 services under this section. The costs of the additional  
26 staff and services shall be assessed to the utilities pursuant  
27 to the procedure in section 476.10 and section 475A.6.

28 Sec. 4. Section 476.53, Code 2003, is amended by adding  
29 the following new subsection:

30 NEW SUBSECTION. 5. DETERMINATION OF AVOIDED COST FOR  
31 COGENERATION PROJECTS.

32 a. A qualified cogeneration pilot project facility may  
33 file a petition with the board for a determination of the  
34 avoided cost of an electric utility as provided in the federal  
35 Public Utility Regulatory Policies Act of 1978 and related

1 federal regulations, if such a determination has not been made  
2 within the last twenty-four months or if there is reason to  
3 believe the avoided cost has changed.

4 b. The board shall issue its determination of the electric  
5 utility's avoided cost within one hundred twenty days after  
6 the petition is filed.

7 c. The board, for good cause shown, may extend the  
8 deadline for issuing the decision for an additional period not  
9 to exceed one hundred twenty days.

10 d. The board shall not issue a decision under this  
11 subsection without providing notice and an opportunity for  
12 hearing.

13 e. The utilities board and the consumer advocate may  
14 employ additional temporary staff, or may contract for  
15 professional services with persons who are not state  
16 employees, as the board and the consumer advocate deem  
17 necessary to perform required functions as provided in this  
18 subsection. There is appropriated out of any funds in the  
19 state treasury not otherwise appropriated, such sums as may be  
20 necessary to enable the board and the consumer advocate to  
21 hire additional staff and contract for services under this  
22 section. The costs of the additional staff and services shall  
23 be assessed to the electric utility pursuant to the procedure  
24 in sections 476.10 and 475A.6.

25 **HOUSE FILE 391**

26 **S-3139**

- 27 1 Amend House File 391, as amended, passed, and
- 28 2 reprinted by the House, as follows:
- 29 3 1. Page 2, line 6, by striking the word "three"
- 30 4 and inserting the following: "two".
- 31 5 2. Page 2, line 10, by striking the word "pilot".
- 32 6 3. Page 2, line 31, by striking the figure "2008"
- 33 7 and inserting the following: "2007".
- 34 8 4. Page 2, line 32, by striking the figure "2008"
- 35 9 and inserting the following: "2007".
- 10 5. Page 2, line 35, by striking the figure "2008"
- 11 and inserting the following: "2007".
- 12 6. By correcting internal references as
- 13 necessary.

By COMMITTEE ON COMMERCE  
JEFF ANGELO, CHAIRPERSON

*Adopted 4/14/03*

HOUSE FILE 391

S-3179

1 Amend House File 391, as amended, passed,  
2 reprinted by the House, as follows:  
3 1. Page 2, by inserting after line 31 the  
4 following:

5 "c. The selection of a cogeneration project under  
6 this program does not authorize an electric utility to  
7 furnish or offer to furnish electric services to the  
8 public outside its assigned area of service  
9 established under sections 476.22 through 476.26."

10 2. By renumbering, redesignating, and correcting  
11 internal references as necessary.

By STEVE KETTERING  
DAVID JOHNSON  
NANCY BOETTGER

S-3179 FILED APRIL 9, 2003

*Adopted 4/14/03*

SENATE AMENDMENT TO  
HOUSE FILE 391

H-1335

1 Amend House File 391, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, line 6, by striking the word "three"  
4 and inserting the following: "two".  
5 2. Page 2, line 10, by striking the word "pilot".  
6 3. Page 2, line 31, by striking the figure "2008"  
7 and inserting the following: "2007".  
8 4. Page 2, by inserting after line 31 the  
9 following:  
10 "c. The selection of a cogeneration project under  
11 this program does not authorize an electric utility to  
12 furnish or offer to furnish electric services to the  
13 public outside its assigned area of service  
14 established under sections 476.22 through 476.26."  
15 5. Page 2, line 32, by striking the figure "2008"  
16 and inserting the following: "2007".  
17 6. Page 2, line 35, by striking the figure "2008"  
18 and inserting the following: "2007".  
19 7. By renumbering, relettering, or redesignating  
20 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1335 FILED APRIL 14, 2003

*House concurred 4/21/03*

HOUSE FILE 391

AN ACT

ESTABLISHING A PILOT PROGRAM FOR THE DEVELOPMENT OF COGENERATION FACILITIES, PROVIDING FOR THE DEVELOPMENT OF RATEMAKING PRINCIPLES AND RATES FOR PILOT PROGRAM FACILITIES, AND PROVIDING FOR A FUTURE REPEAL.

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

Section 1. NEW SECTION. 15.269 COGENERATION PILOT PROGRAM.

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Cogeneration pilot project facility" means either a utility-owned cogeneration pilot project facility or a qualified cogeneration pilot project facility. Both a utility-owned cogeneration pilot project facility and a qualified cogeneration pilot project facility must be approved by the department of economic development for participation in the cogeneration pilot program established pursuant to subsection 2.

b. "Energy sales agreement" means a negotiated agreement for the sale of the electric output from the cogeneration pilot project, between a qualified cogeneration pilot project facility and an electric utility.

c. "Qualified cogeneration pilot project facility" means a qualifying facility as defined in the federal Public Utility Regulation Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

d. "Utility-owned cogeneration pilot project facility" means a cogeneration facility owned, in whole or in part, by a rate-regulated electric utility that produces electric energy

and thermal energy for commercial purposes and is not a qualifying facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

2. PILOT PROGRAM ESTABLISHED.

a. It is the policy of this state to foster both the development of cogeneration in Iowa and related economic development associated with cogeneration projects.

It is the policy of this state that cogeneration projects operate to the mutual benefit of businesses, industry, and electric utilities in Iowa, financially and otherwise.

b. A cogeneration pilot program is established within the department of economic development to obtain reliable energy and economic benefits associated with successful development of new, Iowa-based, electric power cogeneration strategies. The department shall develop and administer the cogeneration pilot program, according to the following:

(1) The department may choose up to two projects for participation in the cogeneration pilot program:

(a) Each cogeneration pilot project facility must involve two hundred megawatts or less of electricity, in combination with one or more other cogeneration project facilities.

(b) Each cogeneration pilot project facility must be constructed in Iowa.

(c) Each project chosen for participation in the cogeneration pilot program must also have the approval and support of the department for economic development purposes.

(2) The department may adopt specific application guidelines and deadlines by rule pursuant to chapter 17A, or follow established departmental procedures and guidelines, if applicable. The guidelines, rules, and procedures shall not require participation in a cogeneration pilot project or program by any rate-regulated public utility providing retail electric service to more than five hundred twenty thousand customers in the state as of January 1, 2003, but any such utility shall have the option to participate.

(3) The department shall assist in the implementation of the cogeneration pilot program, and monitor the progress of the participants. The department shall file its initial report assessing the results of the pilot program with the general assembly by December 1, 2004, and shall also file yearly pilot program progress updates with the general assembly through December 1, 2007.

c. The selection of a cogeneration project under this program does not authorize an electric utility to furnish or offer to furnish electric services to the public outside its assigned area of service established under sections 476.22 through 476.26.

3. FUTURE REPEAL. This section is repealed July 1, 2007. However, any utilities board proceeding that involves a cogeneration pilot project facility that is pending on July 1, 2007, and that is being conducted pursuant to section 476.53 shall be completed notwithstanding the repeal of this section.

Sec. 2. Section 476.53, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For purposes of this section, unless the context otherwise requires, the terms "cogeneration pilot project facility", "energy sales agreement", "qualified cogeneration pilot project facility", and "utility-owned cogeneration pilot project facility" mean the same as defined in section 15.269.

Sec. 3. Section 476.53, subsections 3 and 4, Code 2003, are amended to read as follows:

3. a. if a rate-regulated public utility files 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 electric power generating facility, alternate energy production facility, cogeneration pilot project facility, or energy sales agreement are included in regulated electric rates whenever a rate-regulated public utility does any of the following:

(1) 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 476.427-or-if-a rate-regulated-public-utility-leases.

(2) 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 476.427-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.

(3) Enters into an agreement for the purchase of the electric power output of a qualified cogeneration pilot project facility or constructs a utility-owned cogeneration pilot project facility pursuant to section 15.269.

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, or cogeneration pilot project facility 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, energy sales agreement, 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, or execution of an energy sales agreement related to the cogeneration pilot project 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 according to either of the following:

(1) Withdrawing its application for a certificate under pursuant to chapter 476A.

(2) Proceeding with the construction or lease of the facility or implementation of an energy sales agreement related to a cogeneration pilot project facility.

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 or cogeneration pilot project facility in any subsequent rate proceeding.

4. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required functions as provided in this section, including but not limited to review of power purchase contracts, review of emission plans and budgets, and review of ratemaking principles proposed for construction or lease of a

new generating facility or a cogeneration pilot project facility. Beginning July 1, 2002, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services under this section. The costs of the additional staff and services shall be assessed to the utilities pursuant to the procedure in section 476.10 and section 475A.6.

Sec. 4. Section 476.53, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 5. DETERMINATION OF AVOIDED COST FOR COGENERATION PROJECTS.

a. A qualified cogeneration pilot project facility may file a petition with the board for a determination of the avoided cost of an electric utility as provided in the federal Public Utility Regulatory Policies Act of 1978 and related federal regulations, if such a determination has not been made within the last twenty-four months or if there is reason to believe the avoided cost has changed.

b. The board shall issue its determination of the electric utility's avoided cost within one hundred twenty days after the petition is filed.

c. The board, for good cause shown, may extend the deadline for issuing the decision for an additional period not to exceed one hundred twenty days.

d. The board shall not issue a decision under this subsection without providing notice and an opportunity for hearing.

e. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required functions as provided in this subsection. There is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be

necessary to enable the board and the consumer advocate to hire additional staff and contract for services under this section. The costs of the additional staff and services shall be assessed to the electric utility pursuant to the procedure in sections 476.10 and 475A.6.

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CHRISTOPHER C. RANTS  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 391, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2003

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THOMAS J. VILSACK  
Governor