

## ENERGY DEVELOPMENT AND CONSERVATION

### Footnotes

This chapter not enacted as a part of this title;  
transferred from chapter 93 in Code 1993

#### 473.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Commission*" means the environmental protection commission of the department.
2. "*Department*" means the department of natural resources created under section 455A.2.
3. "*Director*" means the director of the department or a designee.
4. "*Energy*" or "*energy sources*" means gasoline, fuel oil, natural gas, propane, coal, special fuels and electricity.
5. "*Supplier*" means any person engaged in the business of selling, importing, storing or generating energy sources in Iowa.

[C75, 77, 79, 81, § 93.1]

86 Acts, ch 1245, § 18171819

C93, § 473.1

#### 473.2 Findings.

The general assembly finds that the health, welfare, and prosperity of all Iowans require the provision of adequate, efficient, reliable, environmentally safe, and least-cost energy at prices which accurately reflect the long-term cost of using such energy resources and which are equitable to all Iowans. The goals and objectives of this policy are to ensure the following:

1. *Efficiency*. The provision of reliable energy at the least possible cost to Iowans in such manner that:
  - a. Physical, human, and financial resources are allocated efficiently.
  - b. All supply and demand options are considered and evaluated using comparable terms and methods in order to determine how best to meet consumers' demands for energy at the least cost.
2. *Environmental quality*. The protection of the environment from the adverse external costs of an energy resource utilization so that:
  - a. Environmental costs of proposed actions having a significant impact on the environment and the environmental impact of the alternatives are identified, documented, and considered in the resource development.
  - b. The prudently and reasonably incurred costs of environmental controls are recovered.

88 Acts, ch 1179, § 1

C89, § 93.2

C93, § 473.2

### **Footnotes**

See also chapter 470 for life cycle cost analysis provisions

### **473.3 Energy efficiency goal.**

The goal of this state is to more efficiently utilize energy resources, especially those that are nonrenewable or that have negative environmental impacts, in order to enhance the economy of the state and to decrease the state's dependence on energy resources from outside the state by reducing the amount of energy used. This goal is to be implemented through the development of programs that promote energy efficiency and energy conservation by all Iowans, through the development and enhancement of an energy efficiency industry, through the development of indigenous energy resources that are economically and environmentally viable, and through the development and implementation of effective public information and education programs.

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

90 Acts, ch 1252, §6

C91, § 93.3

C93, § 473.3

**473.4 through 473.6** Reserved.

### **473.7 Duties of the department.**

The department shall:

1. Deliver to the general assembly by January 15, 1990, a plan for the development, management, and efficient utilization of all energy resources in the state. The plan shall evaluate existing energy utilization with regard to energy efficiency and shall evaluate the future energy needs of the state. The plan shall include but is not limited to the following elements:

- a.* The historical use and distribution of energy in Iowa.
- b.* The growth rate of energy consumption in Iowa.
- c.* A projection of Iowa's energy needs at a minimum of ten years into the future.
- d.* The impact of meeting Iowa's energy needs on the economy of the state.
- e.* The impact of meeting Iowa's energy needs on the environment of the state.
- f.* An evaluation of alternative sources and uses of energy.
- g.* Legislative recommendations that may be necessary as a basis for a state policy for the development and efficient utilization of energy resources.

*h.* An evaluation of the ability of existing laws and regulations surrounding the utilization of energy resources.

The department shall develop the plan with the assistance of, and in consultation with, representatives of the energy industry, economic interests, the public, and other interested parties. The department shall submit a report to the general assembly concerning the status and implementation of the plan on a biennial basis. The biennial update shall contain an evaluation of all state energy programs including expected versus actual benefits and forecasts of future energy demand in Iowa.

2. Identify a state facility in the state to be used as a marketing tool to promote energy conservation by providing a showcase for the department to demonstrate energy efficiency.
3. The department shall exchange information with other states on energy and especially on the allocation of fuel and shall request all information necessary to determine the reasonableness of any reduction of Iowa's fuel allocation.
4. Establish a central depository within the state for energy data. The central depository shall be located at or accessible through a library which is a member of an interlibrary loan program to facilitate access to the data and information contained in the central depository. The department shall collect data necessary to forecast future energy demands in the state. The department may require a supplier to provide information pertaining to the supply, storage, distribution and sale of energy sources in this state. The information shall be furnished on a periodic basis, shall be of a nature which directly relates to the supply, storage, distribution and sale of energy sources, and shall not include any records, documents, books or other data which relate to the financial position of the supplier. Provided the department, prior to requiring any supplier to furnish it with such information, shall make every reasonable effort to determine if the same is available from any other governmental source. If it finds such information is available, the department shall not require submission of the same from a supplier. Notwithstanding the provisions of chapter 22, information and reports obtained under this section shall be confidential except when used for statistical purposes without identifying a specific supplier and when release of the information will not give an advantage to competitors and serves a public purpose. The department shall use this data to conduct energy forecasts which shall be included in the biennial update required by this section.

The department may subpoena witnesses, administer oaths and require the production of records, books, and documents for examination in order to obtain information required to be submitted under this section. In case of failure or refusal on the part of any person to comply with a subpoena issued by the department, or in case of the refusal of any witness to testify as to any matter regarding which the witness may be interrogated under this chapter, the district court, upon the application of the department, may order the person to show cause why the person should not be held in contempt for failure to testify or comply with a subpoena, and may order the person to produce the records, books, and documents for examination, and to give testimony. The courts may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify.

5. Develop, recommend, and implement with appropriate agencies public and professional education and communication programs in energy efficiency, energy conservation, and conversion to alternative sources of energy.
6. When necessary to carry out its duties under this chapter, enter into contracts with state agencies and other qualified contractors.
7. Receive and accept grants made available for programs relating to duties of the department under this chapter.
8. Promulgate rules necessary to carry out the provisions of this chapter, subject to review in accordance with

chapter 17A. Rules promulgated by the governor pursuant to a proclamation issued under the provisions of section 473.8 shall not be subject to review or a public hearing as required in chapter 17A; however, agency rules for implementation of the governor's proclamation are subject to the requirements of chapter 17A.

9. Examine and determine whether additional state regulatory authority is necessary to protect the public interest and to promote the effective development, utilization and conservation of energy resources. If the department finds that additional regulatory authority is necessary, the department shall submit recommendations to the general assembly concerning the nature and extent of such regulatory authority and which state agency should be assigned such regulatory responsibilities.

10. Develop and assist in the implementation of public education and communications programs in energy development, use and conservation, in co-operation with the department of education, the state university extension services and other public or private agencies and organizations as deemed appropriate by the department.

11. Develop a program to annually give public recognition to innovative methods of energy conservation.

12. Administer and coordinate federal funds for energy conservation programs including, but not limited to, the institutional conservation program, state energy conservation program, and energy extension service program, and related programs which provide energy management and conservation assistance to schools, hospitals, health-care facilities, communities, and the general public.

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

14. Perform monthly fuel surveys which establish a statistical average of motor fuel prices for various motor fuels provided throughout the state. Additionally, the department shall perform monthly fuel surveys in cities with populations of over fifty thousand which establish a statistical average of motor fuel prices for various motor fuels provided in those individual cities. The survey results shall be publicized in a monthly press release issued by the department.

15. Conduct a study on activities related to energy production and use which contribute to global climate change and the depletion of the stratospheric ozone layer. The study shall identify the types and relative contributions of these activities in Iowa. The department shall develop a strategy to reduce emissions from activities identified as having an adverse impact on the global climate and the stratospheric ozone layer. The department shall submit a report containing its findings and recommendations to the governor and general assembly by January 1, 1992.

[C75, 77, 79, 81, § 93.7; 82 Acts, ch 1081, § 1, 2, ch 1199, § 92, 96]

86 Acts, ch 1245, § 18201822; 88 Acts, ch 1179, § 2; 88 Acts, ch 1281, § 7; 89 Acts, ch 152, § 1; 89 Acts, ch 297, § 2; 90 Acts, ch 1252, § 710

C93, § 473.7

### **473.8 Emergency powers.**

If the department by resolution determines the health, safety, or welfare of the people of this state is threatened by an actual or impending acute shortage of usable energy, it shall transmit the resolution to the governor together with its recommendation on the declaration of an emergency by the governor and recommended actions, if any, to be undertaken. Within thirty days of the date of the resolution, the governor may issue a proclamation of emergency which shall be filed with the secretary of state. The proclamation shall state the facts relied upon and the reasons for the proclamation.

Pursuant to the proclamation of an emergency or in response to a declaration of an energy emergency by the president of the United States under the federal Emergency Energy Conservation Act of 1979, Pub. L. No. 96-102, the governor by executive order may:

1. Regulate the operating hours of energy consuming instrumentalities of state government, political subdivisions, private institutions and business facilities to the extent the regulation is not hazardous or detrimental to the health, safety, or welfare of the people of this state. However, the governor shall have no authority to suspend, amend or nullify any service being provided by a public utility pursuant to an order or rule of a federal agency which has jurisdiction over the public utility.
2. Establish a system for the distribution and supply of energy. The system shall not include a coupon rationing program, unless the program is federally mandated.
3. Curtail public and private transportation utilizing energy sources. Curtailment may include measures designed to promote the use of car pools and mass transit systems.
4. Delegate any administrative authority vested in the governor to the department or the director.
5. Provide for the temporary transfer of directors, personnel, or functions of state departments and agencies, for the purpose of performing or facilitating emergency measures pursuant to subsections 1 and 2.
6. Accept the delegation of other mandatory measures as allowed by the federal Emergency Energy Conservation Act of 1979, Pub. L. No. 96-102.

If the general assembly is in session, it may revoke by concurrent resolution any proclamation of emergency issued by the governor. If the general assembly is not in session, the proclamation of emergency by the governor may be revoked by a majority vote of the standing membership of the legislative council. Such revocation shall be effective upon receipt of notice of the revocation by the secretary of state and any functions being performed pursuant to the governor's proclamation shall cease immediately.

A violation of an executive order of the governor issued pursuant to this section is a scheduled violation as provided in section 805.8C, subsection 1. If the violation is continuous and stationary in its nature and subsequent compliance can easily be ascertained, an officer may issue a memorandum of warning in lieu of a citation providing a reasonable amount of time not exceeding fourteen days to correct the violation and to comply with the requirements of the executive order.

[C75, 77, 79, 81, § 93.8]

86 Acts, ch 1245, § 1822

C93, § 473.8

2001 Acts, ch 137, §5

#### **473.9 Set-aside definitions.**

As used in section 473.10 unless the context otherwise requires:

1. "*Hardship*" means a situation involving or potentially involving substantial discomfort or danger or economic dislocation caused by a shortage or distribution imbalance of a liquid fossil fuel.
2. "*Liquid fossil fuel*" means heating oils, diesel oil, motor gasoline, propane, residual fuel oils, kerosene, and aviation fuels.

3. *"Prime supplier"* means an individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity that makes the first sale of a liquid fossil fuel into the state distribution system for consumption within the state.

[81 Acts, ch 32, § 3]

C83, § 93.9

C93, § 473.9

#### **473.10 Reserve required.**

1. If the department or the governor finds that an impending or actual shortage or distribution imbalance of liquid fossil fuels may cause hardship or pose a threat to the health and economic well-being of the people of the state or a significant segment of the state's population, the department or the governor may authorize the director to operate a liquid fossil fuel set-aside program as provided in subsection 2.

2. Upon authorization by the department or the governor the director may require a prime supplier to reserve a specified fraction of the prime supplier's projected total monthly release of liquid fossil fuel in Iowa. The director may release any or all of the fuel required to be reserved by a prime supplier to end-users or to distributors for release through normal retail distribution channels to retail customers. However, the specified fraction required to be reserved shall not exceed three percent for propane, aviation fuel and residual oil, and five percent for motor gasoline, heating oil, and diesel oil.

3. The department shall periodically review and may terminate the operation of a set-aside program authorized by the department under subsection 1 when the department finds that the conditions that prompted the authorization no longer exist. The governor shall periodically review and may terminate the operation of a set-aside program authorized by the governor under subsection 1 when the governor finds that the conditions that prompted the authorization no longer exist.

4. The director shall adopt rules to implement this section.

[81 Acts, ch 32, § 4]

C83, § 93.10

86 Acts, ch 1245, § 1822

C93, § 473.10

#### **473.11 Energy conservation trust established receipts and disbursements.**

1. *a.* The energy conservation trust is created within the state treasury. This state, on behalf of itself, its citizens, and its political subdivisions accepts any moneys awarded or allocated to the state, its citizens, and its political subdivisions as a result of the federal court decisions and United States department of energy settlements resulting from alleged violations of federal petroleum pricing regulations and deposits the moneys in the energy conservation trust.

*b.* The energy conservation trust is established to provide for an orderly, efficient, and effective mechanism to make maximum use of moneys available to the state, in order to increase energy conservation efforts and thereby to save the citizens of this state energy expenditures. The moneys in the funds in the trust shall be expended only upon appropriation by the general assembly and only for programs which will benefit citizens who may have suffered economic penalties resulting from the alleged petroleum overcharges.

*c.* The moneys awarded or allocated from each court decision or settlement shall be placed in a separate fund in the energy conservation trust. Notwithstanding section 12C.7, interest and earnings on investments from moneys in the trust shall be credited proportionately to the funds in the trust.

*d.* Unless prohibited by the conditions applying to a settlement, the petroleum overcharge moneys in the energy conservation trust may be used for the payment of attorney fees and expenses incurred by the state to obtain the moneys and shall be paid by the director of the department of administrative services from the available moneys in the trust subject to the approval of the attorney general.

*e.* However, petroleum overcharge moneys received pursuant to claims filed on behalf of the state, its institutions, departments, agencies, or political subdivisions shall be deposited in the general fund of the state to be disbursed directly to the appropriate claimants in accordance with federal guidelines and subject to the approval of the attorney general.

*f.* The moneys deposited under section 473.16 in the general fund of the state shall be used for research and development of selected projects to improve Iowa's energy independence by developing improved methods of energy efficiency, or by increased development and use of Iowa's renewable nonresource-depleting energy resources. The moneys credited to the general fund of the state under section 556.18, subsection 3, shall be used for energy conservation and alternative energy resource projects. The projects shall be selected by the director and administered by the department. Selection criteria for funded projects shall include consideration of indirect restitution to those persons in the state in the utility customer classes and the utility service territories affected by unclaimed utility refunds or deposits.

Moneys deposited into the general fund of the state under sections 473.16, 476.51, and 556.18, subsection 3, are subject to the requirements of section 8.60.

2. The treasurer of state shall be the custodian of the energy conservation trust and shall invest the moneys in the trust, in consultation with the energy fund disbursement council established in subsection 3 and the investment board of the Iowa public employees' retirement system, in accordance with the following guidelines:

*a.* To maximize the rate of return on moneys in the trust while providing sufficient liquidity to make fund disbursements, including contingency disbursements.

*b.* To absolutely insure the trust against loss.

*c.* To use such investment tools as are necessary to achieve these purposes.

3. An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, a designee of the director of the department of natural resources who is knowledgeable in the field of energy conservation, and a designee of the director of transportation who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and two members of the house of representatives appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by the department of natural resources. The attorney general shall provide legal assistance to the council.

The council shall do all of the following:

- a.* Oversee the investment of moneys deposited in the energy conservation trust.
  - b.* Make recommendations to the governor and the general assembly regarding annual appropriations from the energy conservation trust.
  - c.* Work with the department of natural resources in adopting administrative rules necessary to administer expenditures from the trust, encourage applications for grants and loans, review and select proposals for the funding of competitive grants and loans from the energy conservation trust, and evaluate their comparative effectiveness.
  - d.* Monitor expenditures from the trust.
  - e.* Approve any grants or contracts awarded from the energy conservation trust in excess of five thousand dollars.
  - f.* Prepare, in conjunction with the department of natural resources, an annual report to the governor and the general assembly regarding earnings of and expenditures from the energy conservation trust.
4. The director of the department of natural resources or the director's designee shall be the administrator of the energy conservation trust. The administrator shall disburse moneys appropriated by the general assembly from the funds in the trust in accordance with the federal court orders, law and regulation, or settlement conditions applying to the moneys in that fund, and subject to the approval of the energy fund disbursement council if such approval is required. The council, after consultation with the attorney general, shall immediately approve the disbursement of moneys from the funds in the trust for projects which meet the federal court orders, law and regulations, or settlement conditions which apply to that fund.
5. The following funds are established in the energy conservation trust:
- a.* The Warner/Imperial fund.
  - b.* The Exxon fund.
  - c.* The Stripper Well fund.
  - d.* The Diamond Shamrock fund.
  - e.* The office of hearings and appeals second-stage settlement fund.
6. The moneys in the fund in the energy conservation trust distributed to the state as a result of the federal court decisions finding oil companies in violation of federal petroleum pricing regulations shall be expended expeditiously, until all the receipts are depleted and shall be disbursed for projects which meet the strict guidelines of the five existing federal energy conservation programs specified in Pub. L. No. 97-377, § 155, 96 Stat. 1830, 1919 (1982). The council shall approve the disbursement of moneys from the fund in the trust for other projects only if the projects meet one or more of the following conditions:
- a.* The projects meet the guidelines for allowable projects under a modification order entered by the federal court in the case involving Exxon corporation.
  - b.* The projects meet the guidelines for allowable projects under a directive order entered by the federal court in the case involving Exxon corporation.
  - c.* The projects meet the guidelines for allowable projects under the regulations adopted or written clarifications issued by the United States department of energy.

d. The projects meet the guidelines for allowable projects under the petroleum violation settlement agreement expenditure plan approved by the United States department of energy.

7. On June 30, 2003, the energy fund disbursement council established in subsection 3 shall be dissolved. At that time, the department of natural resources shall be responsible for the disbursement of any funds either received or remaining in the energy conservation trust. These disbursements shall be for projects and programs consistent with the allowable uses for the energy conservation trust. Also, at that time, and annually thereafter, the state department of transportation shall report to the department of natural resources on the status of the intermodal revolving loan fund established in the department. In the fiscal year beginning July 1, 2019, the department of natural resources shall assume responsibility for funds remaining in the intermodal revolving loan fund and disburse them for energy conservation projects and programs consistent with the allowable uses for the energy conservation trust.

93 Acts, ch 11, §13; 93 Acts, ch 131, §19; 94 Acts, ch 1107, §76, 77; 98 Acts, ch 1211, §2, 3; 2002 Acts, ch 1162, §6769; 2003 Acts, ch 145, §286

**473.12 Implementation of energy conservation measures state board of regents.** Repealed by 2005 Acts, ch 179, § 160.

**473.13 Implementation of energy conservation measures state department of transportation.**

1. The state department of transportation utilizing the services of the state of Iowa facilities improvement corporation shall cause to be performed comprehensive engineering analyses of facilities under the control of the state department of transportation and shall implement the energy conservation measures identified in the analyses which do not require more than an aggregate period of six years for the recoupment of the cost of construction of the improvements used to secure the implementation of the energy conservation measures. The comprehensive engineering analyses shall be completed no later than December 31, 1988.

2. The department may, pursuant to section 7D.34, reduce the cost of financing for implementation of the energy conservation measures identified, through funds deposited in the state of Iowa facilities improvement corporation established by the department. In order for the state department of transportation to receive financing, the department shall require completion of an energy management plan, including an energy audit and a comprehensive engineering analysis.

88 Acts, ch 1179, § 4

C89, § 93.13

C93, § 473.13

**473.13A Energy conservation measures identified and implemented.**

The state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges shall identify and implement, through energy audits and engineering analyses, all energy conservation measures identified for which financing is made available by the department to the entity. The energy conservation measure financings shall be supported through payments from energy savings.

The department shall not require a school district, community college, area education agency, city, or county to perform an engineering analysis if the school district, community college, area education agency, city, or county demonstrates to the department that the facility which is the subject of the proposed engineering analysis at issue is unlikely to be in use or operation in six years by the governmental entity currently using or occupying the facility.

89 Acts, ch 297, §3

CS89, § 93.13A

90 Acts, ch 1252, § 11; 91 Acts, ch 253, §6

C93, § 473.13A

**473.14** Reserved.

**473.15 Annual report.**

The department shall include in the annual report required under section 455A.4 an assessment of the progress achieved by public agencies in implementing energy life cycle cost analyses.

88 Acts, ch 1179, § 5

C89, § 93.15

C93, § 473.15

**473.16 Additional funds.**

The department may accept funds from state and local sources and shall take steps necessary to obtain federal funds allotted and appropriated for the purpose of the above described energy-related programs. These funds shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Federal funds received under the provisions of this section are appropriated for the purposes set forth in the federal grants.

[C77, 79, 81, § 93.15]

86 Acts, ch 1245, § 1822; 91 Acts, ch 260, § 1204; 92 Acts, ch 1163, § 21

C93, § 473.16

94 Acts, ch 1107, §78

**473.17 Review.**

The first session of the Seventy-second General Assembly meeting in the year 1987 shall review the activities and performance of the department and shall not later than July 1, 1987 make a determination concerning the status and duties of the department.

[C77, 79, 81, § 93.16; 82 Acts, ch 1081, § 3]

C85, § 93.17

86 Acts, ch 1245, § 1822

C93, § 473.17

**473.18** Reserved.

### **473.19 Energy bank program.**

The energy bank program is established by the department. The energy bank program consists of the following forms of assistance for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations:

1. Providing moneys from the petroleum overcharge fund for conducting energy audits for school districts under section 279.44, for conducting comprehensive engineering analyses for school districts and for conducting energy audits and comprehensive engineering analyses for state agencies, and political subdivisions of the state.
2. Providing loans, leases, and other methods of alternative financing from the energy loan fund established in section 473.20 and section 473.20A for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to implement energy conservation measures.
3. Serving as a source of technical support for energy conservation management.
4. Providing assistance for obtaining insurance on the energy savings expected to be realized from the implementation of energy conservation measures.
5. Providing self-liquidating financing for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations pursuant to section 473.20A.

For the purpose of this section, section 473.20, and section 473.20A, "*energy conservation measure*" means construction, rehabilitation, acquisition, or modification of an installation in a facility or vehicle which is intended to reduce energy consumption, or energy costs, or both, or allow the use of an alternative energy source, which may contain integral control and measurement devices. "*Nonprofit organization*" means an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

86 Acts, ch 1167, § 2

C87, § 93.19

87 Acts, ch 209, § 1; 90 Acts, ch 1253, § 120, 121; 91 Acts, ch 253, §7

C93, § 473.19

### **473.20 Energy loan fund.**

An energy loan fund is established in the office of the treasurer of state to be administered by the department.

1. The department may make loans to the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for implementation of energy conservation measures identified in a comprehensive engineering analysis. Loans shall be made for all cost-effective energy management improvements. For the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to receive a loan from the fund, the department shall require completion of an energy management plan including an energy audit and a comprehensive engineering analysis. The department shall approve loans made under this section.
2. Cities and counties shall repay the loans from moneys in their debt service funds. Area education agencies

shall repay the loans from any moneys available to them.

School districts and community colleges may enter into financing arrangements with the department or its duly authorized agents or representatives obligating the school district or community college to make payments on the loans beyond the current budget year of the school district or community college. Chapter 75 shall not be applicable. School districts shall repay the loans from moneys in either their general fund or debt service fund. Community colleges shall repay the loans from their general fund. Other entities receiving loans under this section shall repay the loans from any moneys available to them.

3. The department may accept gifts, federal funds, state appropriations, and other moneys for deposit in the energy loan fund or may fund the energy loan fund in accordance with section 473.20A.

4. For the purpose of this section, "*loans*" means loans, leases, or alternative financing arrangements.

5. The state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges shall design and construct the most energy cost-effective facilities feasible and shall use the financing made available by the department to cover the incremental costs above minimum building code energy efficiency standards of purchasing energy efficient devices and materials unless other lower cost financing is available. As used in this section, "*facility*" means a structure that is heated or cooled by a mechanical or electrical system, or any system of physical operation that consumes energy to carry out a process.

6. The department shall not require the state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges to implement a specific energy conservation measure identified in a comprehensive engineering analysis if the entity which prepared the analysis demonstrates to the department that the facility which is the subject of the energy conservation measure is unlikely to be used or operated for the full period of the expected payback of the energy conservation measure.

86 Acts, ch 1167, § 3

C87, § 93.20

87 Acts, ch 209, § 2; 90 Acts, ch 1252, § 12; 90 Acts, ch 1253, § 120; 91 Acts, ch 253, § 8

C93, § 473.20

94 Acts, ch 1029, §30; 2001 Acts, ch 60, §1

#### **473.20A Self-liquidating financing.**

1. The department of natural resources may enter into financing agreements with the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations in order to provide the financing to pay the costs of furnishing energy conservation measures. The provisions of section 473.20 defining eligible energy conservation measures and the method of repayment of the loans apply to financings under this section.

The financing agreement may contain provisions, including interest, term, and obligations to make payments on the financing agreement beyond the current budget year, as may be agreed upon between the department of natural resources and the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations.

2. For the purpose of funding its obligation to furnish moneys under the financing agreements, or to fund the

energy loan fund created in section 473.20, the treasurer of state, with the assistance of the department of natural resources, or the treasurer of state's duly authorized agents or representatives, may incur indebtedness or enter into master lease agreements or other financing arrangements to borrow to accomplish energy conservation measures, or the department of natural resources may enter into master lease agreements or other financing arrangements to permit the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations to borrow sufficient funds to accomplish the energy conservation measure. The obligations may be in such form, for such term, bearing such interest and containing such provisions as the department of natural resources, with the assistance of the treasurer of state, deems necessary or appropriate. Funds remaining after the payment of all obligations have been redeemed shall be paid into the energy loan fund.

3. The state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations may enter into financing agreements and issue obligations necessary to carry out the provisions of the chapter. Chapter 75 shall not be applicable.

87 Acts, ch 209, §3

CS87, § 93.20A

90 Acts, ch 1253, § 120; 91 Acts, ch 253, §9

C93, § 473.20A

**473.21 through 473.39** Reserved.

**473.40 Statewide building energy efficiency rating system.**

1. The director shall adopt rules, pursuant to chapter 17A, establishing a statewide building energy efficiency rating system. The rating system shall apply to all new and existing public, commercial, industrial, and residential buildings in the state and shall be established subject to the following schedule:

- a. Ratings for new residential buildings by July 1, 1992.
- b. Ratings for existing residential buildings by July 1, 1993.
- c. Ratings for new public buildings by July 1, 1994.
- d. Ratings for existing public buildings by July 1, 1995.
- e. Ratings for new commercial and industrial buildings by July 1, 1995.
- f. Ratings for existing commercial and industrial buildings by July 1, 1995.

The director shall adopt a minimum acceptable energy efficiency standard for each class of new buildings.

2. a. The energy efficiency rating shall be disclosed at the request of the prospective purchaser according to the terms of the offer to purchase.
- b. The energy efficiency rating shall be disclosed to a prospective lessee whose rent does not include energy cost upon request.
- c. The designer of a new residential or commercial building shall state in writing to the department that to the best of the person's knowledge, information, and belief, the new building design is in substantial compliance

with the minimum energy efficiency standards established by rule of the department.

*d.* Concurrent with the disclosure of an energy efficiency rating pursuant to paragraphs "a" through "c", the prospective purchaser or lessee shall be provided with a copy of an information brochure prepared by the department which includes information relevant to that class of building, including, but not limited to:

(1) How to analyze the building's energy efficiency rating.

(2) Comparisons to statewide averages for new and existing construction of that class.

(3) Notice to the prospective purchaser that the seller must disclose a building's energy efficiency rating upon the prospective purchaser's request.

(4) Information concerning methods to improve a building's energy efficiency rating.

(5) A notice for residential buyers that qualifying income for mortgage loan purposes may be affected by the energy efficiency rating.

*e.* A new residential, commercial, or industrial building shall not be hooked up or connected to any provider of electricity, whether a regulated utility, rural electric cooperative, municipal utility, or otherwise; or natural gas, except liquid petroleum, unless the builder states in writing to the utility that to the best of the builder's knowledge, information, and belief, the building was built in accordance with the construction documents.

*f.* Each public building proposed for construction, renovation, or acquisition shall be rated pursuant to the energy efficiency rating system provided in subsection 1 prior to contracting for the construction, renovation, or acquisition. The public body proposing to contract for construction, renovation, or acquisition for a public building shall consider the energy efficiency ratings of alternatives when contracting.

3. The energy efficiency rating system adopted by the department shall provide a means of analyzing and comparing the relative energy efficiency of buildings upon sale or lease of new or existing residential, commercial, or industrial buildings. The system shall provide for rating each public building in existence to assist public officials in decision making with regard to capital improvements and public energy costs.

4. The director shall establish a voluntary working group of persons and interest groups interested in the energy efficiency rating system or energy efficiency, including, but not limited to such persons as electrical engineers, mechanical engineers, architects, and builders. The interest group shall advise the department in the development of the energy efficiency rating system and shall assist the department in implementation of the rating system by coordinating education programs for designers, builders, businesses, and other interested persons to assist compliance and to facilitate incorporation of the rating system into existing practices. The intent of the general assembly is to encourage the consideration of the energy efficiency rating system in the market, so as to provide market rewards for energy efficient buildings and those designing, building, or selling energy efficient buildings.

5. All public buildings shall be analyzed for energy efficiency using this rating system by July 1, 1996. The results of that analysis shall be submitted to the department by August 1, 1996. The department shall submit a report to the governor and general assembly by January 15, 1997, that analyzes the results of this evaluation of public buildings and includes recommendations. The results of the analysis of each building shall be submitted to the public agency or governmental subdivision which owns or operates that building as well.

6. The director shall make available energy efficiency practices information to be used by individuals involved in the design, construction, retrofitting, and maintenance of buildings for state and local governments.

7. For purposes of this section:

*a. "Builder"* means the prime contractor that hires and coordinates building subcontractors or if there is no prime, the contractor that completes more than fifty percent of the total construction work performed on the building. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing, and finishing work.

*b. "Designer"* means the architect, engineer, landscape architect, builder, interior designer or other person who performs the actual design work or under whose direct supervision and responsible charge the construction documents are prepared.

*c. "Public building"* means a building owned or operated by the state, a state agency, or a governmental subdivision, including but not limited to a city, county, or school district.

8. The director may report an architect, professional engineer, or landscape architect to the appropriate examining board if the director believes the person has engaged in fraudulent conduct in connection with an energy efficiency rating for a building. The director may report a builder to the division of labor, bureau of contractor registration, if the director believes the builder has engaged in fraudulent conduct in connection with an energy efficiency rating for a building.

90 Acts, ch 1252, §13

C91, § 93.40

91 Acts, ch 97, §6

C93, § 473.40

**473.41** Reserved.

**473.42 Exit signs standards.**

The department shall adopt rules which require the use of compact fluorescent bulbs in exit signs at the time of replacement, but no later than July 1, 2001. Prior to the adoption of rules, the department shall promote, through educational materials, the use of compact fluorescent bulbs or lighting of greater efficiency in exit signs.

91 Acts, ch 253, §10

CS91, § 93.42

C93, § 473.42

**473.43** Reserved.

**473.44 Plumbing products efficiency standards penalty.**

1. The department shall adopt rules which prescribe water use standards for each product classified as a covered product under this section. The standards adopted shall be designed to achieve the maximum efficiency of water use which the department determines is technologically and economically feasible. The department shall consult with the state building code commissioner, the Iowa department of public health, and the plumbing manufacturers' institute, and shall review all applicable provisions under chapter 103A and chapter 135 in establishing the standards.

2. A person who knowingly violates this section is subject to a civil penalty of not more than one hundred dollars for each violation. Local government subdivisions which enforce the standards adopted under this section may collect and utilize receipts from the penalties imposed for building code inspections and enforcement of this section.

3. For the purposes of this section, "*covered products*" means water closets, urinals, showerheads, lavatory faucets and replacement aerators, and kitchen faucets and replacement aerators.

91 Acts, ch 253, §11

CS91, § 93.44

C93, § 473.44