

H-8495

1 Amend House File 2449 as follows:

2 1. Page 7, after line 27 by inserting:

3 <DIVISION _____
4 ENERGY EFFICIENCY

5 Sec. _____. DEPARTMENT OF ADMINISTRATIVE SERVICES —
6 ENERGY EFFICIENCY EFFORTS.

7 1. The department of administrative services shall
8 require, beginning July 1, 2012, that all passenger
9 cars purchased or leased by the state shall have a
10 United States environmental protection agency estimated
11 highway-mileage rating of at least thirty-five miles
12 per gallon.

13 2. The department of administrative services
14 shall report to the general assembly and governor by
15 November 15, 2012, regarding the feasibility of giving
16 preference to or requiring the purchase or lease of
17 electric and natural-gas powered vehicles with a United
18 States environmental protection agency estimated
19 highway-mileage rating of at least forty-five miles per
20 gallon.

21 3. Funds appropriated to a state agency for utility
22 expenses shall not be transferred or reallocated, and
23 any such unexpended funds at the end of a fiscal year
24 shall not revert to the general fund of the state but
25 shall be allocated to the Iowa energy bank revolving
26 loan fund, to be used exclusively to finance energy
27 improvements to state-owned properties.

28 4. The department of administrative services shall
29 require that the procurement of any product by a state
30 agency conform to energy star specifications current
31 at the time of contract or purchase if the product is
32 subject to energy star labeling.

33 5. The department of administrative services shall
34 provide for least-cost lighting of state buildings
35 and property under its control, and shall work with
36 other state departments and agencies responsible for
37 the energy costs of buildings and property under their
38 control to do the same, based on minimizing energy use
39 and the life-cycle costs of the energy technology.

40 6. The department of administrative services
41 shall establish a program with other state agencies
42 to replace or deploy battery chargers and other smart
43 power technology that turns off the power source to the
44 adapter or battery once the battery is charged or cuts
45 power to unused electrical devices.

46 Sec. _____. EFFECTIVE UPON ENACTMENT. This division
47 of this Act, being deemed of immediate importance,
48 takes effect upon enactment.

49 DIVISION _____
50 PERFORMANCE-BASED EFFICIENCY CONTRACTS

1 Sec. _____. NEW SECTION. **8B.1 Legislative intent.**

2 The general assembly finds that investment in
3 energy conservation measures by public facilities
4 can reduce the amount of energy and other resources
5 consumed by the facilities; reduce ongoing operational
6 costs; improve comfort, reliability, and the indoor
7 environment for employees and citizens; produce a
8 positive environmental impact; enhance revenues
9 generated by governmental units; and create local jobs,
10 producing both immediate and long-term cost savings
11 and other benefits. It is the policy of this state to
12 encourage state agencies, departments, and divisions;
13 public health facilities; public universities and
14 community colleges, school districts, and area
15 education agencies; and counties, municipalities,
16 and other political subdivisions to implement energy
17 conservation and facility improvement measures
18 that reduce energy, water, wastewater, or any other
19 utility or operating costs, and, when economically
20 feasible, build, operate, maintain, or renovate public
21 facilities and systems in a manner that will minimize
22 operational costs and maximize utility savings and
23 other efficiencies. It is additionally the policy of
24 this state to encourage reinvestment of the savings and
25 revenues resulting from energy conservation measures
26 into additional and continued energy conservation
27 efforts through performance-based efficiency contracts
28 and other measures deemed appropriate by a governmental
29 unit.

30 Sec. _____. NEW SECTION. **8B.2 Definitions.**

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

33 1. "*Department*" means the department of
34 administrative services.

35 2. "*Energy conservation measure*" or "*facility*
36 *improvement measure*" means a program, facility
37 alteration, equipment installation, remodeling of a
38 new or existing building, or technology upgrade, which
39 is designed to reduce energy, water, wastewater, or
40 other utility or operating costs, or enhance billable
41 revenue, including but not limited to the following:

42 a. Employee training and occupant behavior
43 modification programs.

44 b. Insulation of building structures and systems
45 within buildings.

46 c. Windows and window systems, roofs and
47 roofing materials, caulking or weather stripping,
48 installation or modification of doors, heat-absorbing
49 or heat-reflecting applications, or other modifications
50 to windows, doors, or the building envelope, that

1 reduce energy and operating costs.
2 *d.* Automated or computerized energy or facility
3 control systems.
4 *e.* Heating, ventilation, and air-conditioning
5 systems, including specialty systems serving food
6 service, laboratory, and other applications.
7 *f.* Lighting systems and fixtures, including
8 daylighting systems.
9 *g.* Energy recovery systems.
10 *h.* Systems that produce steam or forms of energy
11 such as heat in addition to electricity.
12 *i.* Renewable energy systems or other distributed
13 power generation systems.
14 *j.* Water and wastewater fixtures, appliances, and
15 equipment.
16 *k.* Improvements to water distribution, sewer, and
17 wastewater treatment facilities.
18 *l.* Landscaping measures that reduce watering
19 demands and capture and hold applied water and
20 rainfall.
21 *m.* Metering or related equipment or systems
22 that improve the accuracy or efficiency of billable
23 revenue-generating systems.
24 *n.* Automated, electronic, or remotely controlled
25 technologies, systems, or measures that reduce
26 operating costs.
27 *o.* Installation and modification of software-based
28 systems that reduce facility management or other
29 facility operating costs.
30 *p.* Programs to reduce energy costs through rate
31 adjustments, load shifting to reduce peak demand, or
32 use of alternative energy suppliers, including but not
33 limited to demand response programs, changes to more
34 favorable rate schedules, negotiation of lower rates
35 or new suppliers, or auditing of utility billing and
36 metering.
37 *q.* Energy information and control systems that
38 monitor consumption, redirect systems to optimal energy
39 sources, and manage energy-using equipment.
40 *r.* Any measure not otherwise described in this
41 chapter that is designed to produce utility consumption
42 or operational cost savings, revenue enhancements, or
43 similar efficiency gains to a governmental unit.
44 3. "Governmental unit" means any authority,
45 board, bureau, commission, department, agency, or
46 institution of a government agency, including but
47 not limited to any state agency, or any county,
48 city, district, municipal corporation, municipality,
49 municipal authority, political subdivision, school
50 district, educational institution, incorporated town,

1 township, other incorporated district, or other public
2 instrumentality which has the authority to contract for
3 the construction, reconstruction, alteration, or repair
4 of any public building or other public work or public
5 improvement.

6 4. *Performance-based efficiency contract* means a
7 contract between a governmental unit and a qualified
8 provider for the evaluation and recommendation of
9 energy conservation or facility improvement measures
10 and for implementation of one or more such measures.

11 5. *Qualified provider* means a person with a
12 record of documented performance-based efficiency
13 contract projects who is experienced in the design,
14 implementation, and installation of energy conservation
15 or facility-improvement measures; and has the
16 technical capabilities to verify that such measures
17 generate energy and operational cost savings or
18 enhanced revenues. A *qualified provider* provides
19 a governmental unit with the following information
20 and services in connection with a performance-based
21 efficiency contract:

- 22 a. Project design and specifications.
- 23 b. Construction and construction management.
- 24 c. Commissioning.
- 25 d. Ongoing services as required.
- 26 e. Measurement, verification, and guarantee
27 of savings from energy conservation or
28 facility-improvement measures.

29 Sec. ____ . **NEW SECTION. 8B.3 Selection of qualified
30 provider — award of performance-based contract —
31 contracting procedures and provisions — funding.**

32 1. A governmental unit may enter into a
33 performance-based efficiency contract with a
34 qualified provider in accordance with the provisions
35 of this chapter. The department shall issue a
36 request for proposals to screen and prequalify
37 prospective qualified providers wishing to enter
38 into performance-based efficiency contracts with
39 governmental units. The request for proposals shall
40 include but not be limited to qualified provider
41 documentation of provider expertise and credentials,
42 past experience with performance-based efficiency
43 contracts with governmental units, identification
44 of financial partners, if any, associated with
45 the qualified provider, and the ability to provide
46 and fulfill performance guarantees. Based on the
47 request for proposals, the department shall develop
48 and maintain a list of prequalified qualified
49 providers. A governmental unit seeking to enter into a
50 performance-based efficiency contract with a qualified

1 provider shall either select a qualified provider from
2 the list developed by the department, or shall limit
3 the issuance of a request for proposals to qualified
4 providers contained on the list.

5 2. A governmental unit may select a qualified
6 provider under the procedures specified in subsection
7 1 that best meets the needs of the governmental
8 unit in accordance with criteria established by the
9 governmental unit. After reviewing the qualifications
10 of one or more qualified providers, a governmental
11 unit may enter into a performance-based efficiency
12 contract with a qualified provider if it finds that
13 the amount the governmental unit would spend on the
14 energy conservation and facility-improvement measures
15 recommended in the proposal would not exceed the
16 amount of energy and operational cost savings or
17 revenue enhancements derived from the measures within a
18 twenty-year period from the date of installation.

19 3. A qualified provider to whom a performance-based
20 efficiency contract is awarded shall provide a one
21 hundred percent performance bond to the governmental
22 unit to assure the provider's faithful and complete
23 performance of the contract.

24 4. A performance-based efficiency contract
25 shall include a written guarantee by the qualified
26 provider that the savings and efficiency gains, in the
27 aggregate, will meet or exceed the cost of the energy
28 conservation or facility improvement measures to be
29 implemented under the contract. The qualified provider
30 shall be responsible, pursuant to the performance-based
31 efficiency contract, for measuring and verifying the
32 guaranteed savings and efficiency gains provided by the
33 implemented measures by using one of the measurement
34 and verification methodologies set forth in the
35 international performance measurement and verification
36 protocol. If, due to existing data limitations or the
37 nonconformance of specific project characteristics,
38 none of the methods listed in the international
39 performance measurement and verification protocol
40 is sufficient for measuring guaranteed savings and
41 efficiency gains, the qualified provider shall develop
42 and document an alternate method that is compatible
43 with the protocol.

44 5. An improvement that is not essential or causally
45 connected to an energy conservation measure may be
46 included in a performance-based efficiency contract
47 only to the extent that such expenditures do not,
48 in the aggregate, require the governmental unit to
49 contract for the improvements in a manner other than
50 that specified in the contract.

1 6. A facility alteration which includes
2 expenditures that are required to properly implement
3 other energy conservation measures may be included as
4 part of a performance-based efficiency contract. In
5 such a case, notwithstanding any other provision of
6 law, the installation of these additional measures may
7 be supervised by the qualified provider.

8 7. A governmental unit may enter into an
9 installment payment or lease-purchase agreement to
10 finance costs associated with the performance-based
11 efficiency contract. The qualified provider shall
12 either provide financing directly for the installment
13 payment or lease-purchase agreement or arrange
14 third-party financing. A contract shall provide for
15 all costs to be repaid in full within fifteen years
16 following the date the contract was entered into,
17 subject to extensions of up to five additional years
18 if projected savings sufficient to achieve project
19 repayment do not materialize during the fifteen-year
20 period following the date the contract was entered
21 into. The qualified provider or financing entity
22 shall be responsible for any costs not fully recovered
23 after twenty years. A governmental unit shall use
24 only documented energy savings as identified in
25 the performance-based efficiency contract for the
26 purpose of making installment or lease-purchase
27 payments pursuant to the contract, together with
28 energy efficiency rebates supplied or provided by a
29 public utility, if applicable. If energy savings and
30 rebates are insufficient to fully fund installment
31 or lease-purchase payments, the qualified provider
32 or financing entity shall carry forward the excess
33 to future years. A public utility shall provide all
34 necessary support to facilitate a performance-based
35 efficiency contract, including but not limited to
36 energy use and costs to disclosure to a qualified
37 provider selected by the governmental unit and a
38 financing entity, if applicable.

39 8. Any amount of the performance-based efficiency
40 contract or installment payment or lease-purchase
41 agreements costs that is guaranteed by the qualified
42 provider shall be excluded from any limits or
43 requirements imposed by sections 297.36, 331.402, and
44 384.24A.

45 9. A governmental unit entering into a
46 performance-based efficiency contract shall submit
47 a report to the department by January 1, annually,
48 regarding progress pursuant to the contract, results
49 received, and containing any additional information as
50 specified by the department.>

1 2. By renumbering as necessary.

ISENHART of Dubuque