



CHESTER J. CULVER  
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE  
LT. GOVERNOR

May 18, 2009

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

**Senate File 471**, an Act relating to energy efficiency and renewable energy, including allocating appropriated amounts from the Iowa power fund to fund tax credits for innovative renewable energy generation components, transferring authority over specified energy-related measures and programs from the department of natural resources to the office of energy independence, providing transition provisions relating to the transfer of authority, and providing an effective date.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester Culver", with a long horizontal flourish extending to the right.

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





SENATE FILE 471

AN ACT

RELATING TO ENERGY EFFICIENCY AND RENEWABLE ENERGY, INCLUDING ALLOCATING APPROPRIATED AMOUNTS FROM THE IOWA POWER FUND TO FUND TAX CREDITS FOR INNOVATIVE RENEWABLE ENERGY GENERATION COMPONENTS, TRANSFERRING AUTHORITY OVER SPECIFIED ENERGY-RELATED MEASURES AND PROGRAMS FROM THE DEPARTMENT OF NATURAL RESOURCES TO THE OFFICE OF ENERGY INDEPENDENCE, PROVIDING TRANSITION PROVISIONS RELATING TO THE TRANSFER OF AUTHORITY, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 7D.34, subsection 2, paragraphs b and c, Code 2009, are amended to read as follows:

b. Before a state agency seeks approval of the executive council for leasing real or personal properties or facilities for use as or in connection with any energy conservation measure, the state agency shall have a comprehensive engineering analysis done on a building in which it seeks to improve the energy efficiency by an engineering firm approved by the ~~department-of-natural-resources~~ office of energy independence through a competitive selection process and the engineering firm is subject to approval of the executive council. Provisions of this section shall only apply to energy conservation measures identified in the comprehensive engineering analysis.

c. Before the executive council gives its approval for a state agency to lease real and personal properties or facilities for use as or in connection with any energy conservation measure, the executive council shall in conjunction with the ~~department-of-natural-resources~~ office of

energy independence and after review of the engineering analysis submitted by the state agency make a determination that the properties or facilities will result in energy cost savings to the state in an amount that results in the state recovering the cost of the properties or facilities within six years after the initial acquisition of the properties or facilities.

Sec. 2. Section 7D.35, Code 2009, is amended to read as follows:

7D.35 DISPUTE RESOLUTION.

The executive council shall resolve any disputes transmitted to it by the ~~department-of-natural-resources~~ office of energy independence, the state building code commissioner, or both, arising under section 470.7.

Sec. 3. Section 7E.5, subsection 1, paragraph q, Code 2009, is amended to read as follows:

q. The department of natural resources, created in section 455A.2, which has primary responsibility for state parks and forests, protecting the environment, and managing ~~energy~~, fish, wildlife, and land and water resources.

Sec. 4. Section 8A.362, subsection 4, paragraph c, Code 2009, is amended to read as follows:

c. Not later than June 15 of each year, the director shall report compliance with the corporate average fuel economy standards published by the United States secretary of transportation for new motor vehicles, other than motor vehicles purchased by the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other state agency exempted from the requirements of this subsection. The report of compliance shall classify the vehicles purchased for the current vehicle model year using the following categories: passenger automobiles, enforcement automobiles, vans, and light trucks. The director shall deliver a copy of the report to the ~~department-of-natural-resources~~ office of energy independence. As used in this paragraph, "corporate average fuel economy" means the corporate average fuel economy as defined in 49 C.F.R. § 533.5.

Sec. 5. Section 72.5, subsection 2, Code 2009, is amended to read as follows:

2. The director of the ~~department-of-natural-resources~~ office of energy independence in consultation with the department of management, state building code commissioner, and state fire marshal, shall develop standards and methods to evaluate design development documents and construction documents based upon life cycle cost factors to facilitate fair and uniform comparisons between design proposals and informed decision making by public bodies.

Sec. 6. Section 103A.8, subsection 7, Code 2009, is amended to read as follows:

7. Limit the application of thermal efficiency standards for energy conservation to construction of buildings which are heated or cooled. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any construction from any thermal efficiency standard for energy conservation if the commissioner determines that the standard is unreasonable as it would apply to a particular building or class of buildings. No standard adopted by the commissioner for energy conservation in construction shall be interpreted to require the replacement or modification of any existing equipment or feature solely to ensure compliance with requirements for energy conservation in construction. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with the ~~department-of-natural-resources~~ office of energy independence regarding standards for energy conservation prior to the adoption of the standards. However, the standards shall be consistent with section 103A.8A.

Sec. 7. Section 103A.27, subsection 4, Code 2009, is amended to read as follows:

4. The commission shall be formed for the two-year period beginning July 1, 2008, and ending June 30, 2010, and shall submit a report to the governor and the general assembly by January 1, 2011, regarding its activities and recommendations. Administrative support shall be furnished by the department of public safety, with the assistance of the office of energy independence ~~and-the-department-of-natural-resources~~.

Sec. 8. Section 159A.3, subsection 4, Code 2009, is amended to read as follows:

4. The office and state entities, including the department, the committee, the Iowa department of economic development, the state department of transportation, the ~~department-of-natural-resources~~ office of energy independence, and the state board of regents institutions, shall cooperate to implement this section.

Sec. 9. Section 159A.4, subsection 1, paragraph d, Code 2009, is amended to read as follows:

d. The director of the ~~department-of-natural-resources~~ office of energy independence, or a person designated by the director, representing the ~~department-of-natural-resources~~ office of energy independence.

Sec. 10. Section 159A.4, subsection 1, unnumbered paragraph 2, Code 2009, is amended to read as follows:

The governor shall appoint persons who shall be confirmed by the senate, pursuant to section 2.32, to serve as voting members of the committee. However, the secretary of agriculture shall appoint the person representing the department of agriculture and land stewardship, the director of the Iowa department of economic development shall appoint the person representing that department, the director of the state department of transportation shall appoint the person representing that department, and the director of the ~~department-of-natural-resources~~ office of energy independence shall appoint the person representing ~~that-department~~ the office. The governor may make appointments of persons representing organizations listed under paragraphs "g" through "i" from a list of candidates which shall be provided by the organization upon request by the governor.

Sec. 11. Section 159A.6B, unnumbered paragraph 2, Code 2009, is amended to read as follows:

The office may execute contracts in order to provide technical support and outreach services for purposes of assisting and educating interested persons as provided in this section. The office may also contract with a consultant to provide part or all of these services. The office may require that a person receiving assistance pursuant to this section contribute up to fifty percent of the amount required to support the costs of contracting with the consultant to provide assistance to the person. The office shall assist the person in completing any technical information required in

order to receive assistance by the department of economic development pursuant to the value-added agricultural products and processes financial assistance program created pursuant to section 15E.111. The office shall cooperate with the department of economic development, the ~~department-of-natural-resources~~ office of energy independence, and regents institutions or other universities and colleges as provided in section 15E.111, in order to carry out this section.

Sec. 12. Section 266.39C, subsection 2, paragraph a, subparagraph (6), Code 2009, is amended to read as follows:

(6) One representative of the ~~department-of-natural-resources~~ office of energy independence, appointed by the director.

Sec. 13. Section 272C.2, subsection 3, Code 2009, is amended to read as follows:

3. The state board of engineering and land surveyors, the board of architectural examiners, the board of landscape architectural examiners, and the ~~department-of-natural-resources~~ office of energy independence shall cooperate with each other and with persons who typically offer continuing education courses for design professionals to make available energy efficiency related continuing education courses, and to encourage interdisciplinary cooperation and education concerning available energy efficiency strategies for employment in the state's construction industry.

Sec. 14. Section 279.44, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Between July 1, 1986 and June 30, 1991, and on a staggered annual basis each five years thereafter, the board of directors of each school district shall file with the ~~department-of-natural-resources~~ office of energy independence, on forms prescribed by the ~~department-of-natural-resources~~ office, the results of an energy audit of the buildings owned and leased by the school district. The energy audit shall be conducted under rules adopted by the ~~department-of-natural-resources~~ office pursuant to chapter 17A. The ~~department-of-natural-resources~~ office may waive the requirement for the initial and subsequent energy audits for school districts that submit evidence that energy audits were conducted prior to January 1, 1987 and energy consumption for the district is at an adjusted statewide average or below.

Sec. 15. Section 323A.2, subsection 1, paragraph c, Code 2009, is amended to read as follows:

c. The director of the ~~department-of-natural-resources~~ office of energy independence determines that the franchisee has demonstrated that a special hardship exists in the community served by the franchisee relating to the public health, safety, and welfare, as specified under the rules of the ~~department-of-natural-resources~~ office.

Sec. 16. Section 441.21, subsection 8, paragraph c, subparagraph (2), unnumbered paragraph 2, Code 2009, is amended to read as follows:

In assessing and valuing the property for tax purposes, the assessor shall disregard any market value added by a solar energy system to a building. The director of revenue shall adopt rules, after consultation with the ~~department-of-natural-resources~~ office of energy independence, specifying the types of equipment and structural components to be included under the guidelines provided in this subsection.

Sec. 17. Section 455A.2, Code 2009, is amended to read as follows:

455A.2 DEPARTMENT OF NATURAL RESOURCES.

A department of natural resources is created, which has the primary responsibility for state parks and forests, protecting the environment, and managing ~~energy~~, fish, wildlife, and land and water resources in this state.

Sec. 18. Section 469.3, subsection 2, Code 2009, is amended to read as follows:

2. The director shall do all of the following:

- a. Direct the office of energy independence.
- b. Coordinate the administration of the Iowa power fund.
- c. Lead outreach and public education efforts concerning renewable energy, renewable fuels, and energy efficiency.
- d. Pursue new research and investment funds from federal and private sources.
- e. Coordinate and monitor all existing state and federal renewable energy, renewable fuels, and energy efficiency grants, programs, and policy.
- f. Advise the governor and general assembly concerning renewable energy, renewable fuels, and energy efficiency policy and legislation.

g. Establish performance measures for determining effectiveness of renewable energy, renewable fuels, and energy efficiency efforts.

h. Contract for and utilize assistance from the department of economic development regarding administration of grants, loans, and other financial incentives related to section 469.9, subsection 4, paragraph "a", subparagraph (1), the department of natural resources and the utilities board regarding assistance in the administration of grants, loans, and other financial incentives related to section 469.9, subsection 4, paragraph "a", subparagraph (2), and other state agencies as appropriate.

i. Develop an Iowa energy independence plan pursuant to section 469.4.

j. Assist Iowa businesses in creating jobs involving energy efficiency and renewable energy, especially through the use of funds from the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, and other state and federal funds available to the office and the board.

k. Approve engineering firms for performance of comprehensive engineering analyses done on buildings in which a state agency seeks to improve energy efficiency pursuant to section 7D.34.

l. Develop standards and methods to evaluate design development and construction documents based on life cycle cost factors in relation to design proposals submitted pursuant to section 72.5.

m. Coordinate with other state agencies regarding implementation of the office of renewable fuels and coproducts pursuant to section 159A.3, serve on the renewable fuels and coproducts advisory committee, and assist in providing technical assistance to new or existing renewable fuel production facilities.

n. Appoint a representative to serve on the Iowa energy center advisory council established in section 266.39C.

o. Make available energy efficiency related continuing education courses pursuant to section 272C.2.

p. Receive results relating to energy audits from school districts and perform related functions pursuant to section 279.44.

g. Determine whether special hardship criteria has been demonstrated regarding franchise alternative fuel purchases pursuant to section 323A.2.

r. Consult with the state building code commissioner regarding submissions of life cycle cost analyses pursuant to section 470.7.

s. Compile energy-related information, administer and coordinate the state building energy management program, and perform additional responsibilities specified in section 473.7.

t. Transmit by resolution to the governor a determination of actual or impending acute usable energy shortage pursuant to section 473.8.

u. Operate a liquid fossil fuel set-aside program as required in section 473.10.

v. Administer the building energy management program, the building energy management fund, and the energy loan program established in sections 473.19, 473.19A, and 473.20, respectively, and ensure compliance with energy audit and engineering analysis requirements specified in section 473.13A.

w. Coordinate the energy city designation program created in section 473.41.

~~j.~~ x. Submit an annual report to the governor and general assembly by November 1 of each year concerning the activities and programs of the office, Iowa power fund, and other departments related to renewable energy, renewable fuels, and energy efficiency. The report shall include an assessment of needs with respect to renewable energy, renewable fuels, and energy efficiency efforts and policy and fiscal recommendations for renewable energy, renewable fuels, and energy efficiency. In addition, the director shall review issues relating to the transportation of biofuels and explore leading and participating in multistate efforts relating to renewable energy and energy efficiency.

~~k.~~ y. Adopt rules pursuant to chapter 17A concerning the office, the Iowa power fund, and the programs and functions of the office and the fund.

Sec. 19. Section 469.4, subsection 1, Code 2009, is amended to read as follows:

1. The director shall develop an Iowa energy independence plan ~~with the assistance of the department of natural resources as provided in section 473.77, and~~ in association with public and private partners selected by the director including representatives of the energy industry, environmental interests, agricultural interests, business interests, other interested parties, and members of the general public. The plan shall be subject to approval by the board.

Sec. 20. Section 469.9, subsection 4, paragraph b, Code 2009, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) The number and quality of jobs likely to be created.

Sec. 21. Section 469.10, subsection 2, Code 2009, is amended to read as follows:

2. a. Of the moneys appropriated to the office and deposited in the fund, the office shall utilize up to three and five-tenths percent of the amount appropriated from the fund for a fiscal year for administrative costs.

b. From the funds available for administrative costs, the office shall not employ more than four full-time equivalent positions. The director may use federal funds received by the office pursuant to the federal American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, to employ the number of full-time employees necessary to administer the funds received pursuant to the federal Act. The director shall minimize the costs of administering the funds received pursuant to the federal Act, and shall not expend annually more than five percent of the federal funds received for purposes of administering the federal funds, or the permissible limit for administrative cost expenditures specified in the federal Act if such limit is less than five percent. If federal funding pursuant to the Act is eliminated, the federally funded positions shall be eliminated according to the provisions of section 8A.413, unless another source of federal funding is available. The director may use federal funds received other than pursuant to the federal Act to employ personnel necessary to administer any other program or funds assigned to the office.

Sec. 22. Section 469.10, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Of the moneys appropriated to the office and deposited in the fund, notwithstanding section 469.9, subsection 4, and notwithstanding the limitation on the amount of tax credits under section 15.335, the board may allocate up to one million dollars annually to the department of economic development for the purpose of funding the research activities credit relating to innovative renewable energy generation components pursuant to section 15.335.

Sec. 23. Section 470.1, Code 2009, is amended to read as follows:

470.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Commissioner" means the state building code commissioner.

~~2. "Department" means the department of natural resources.~~

~~3. 2. "Director" means the director of the department of natural resources office of energy independence.~~

~~4. 3. "Economic life" means the projected or anticipated useful life of a facility as expressed by a term of years.~~

~~5. 4. "Energy system" includes but is not limited to the following equipment or measures:~~

~~a. Equipment used to heat or cool the facility.~~

~~b. Equipment used to heat water in the facility.~~

~~c. On-site equipment used to generate electricity for the major facility.~~

~~d. On-site equipment that uses the sun, wind, oil, natural gas, coal or electricity as a power source.~~

~~e. Energy conservation measures in the facility design and construction that decrease the energy requirements of the facility.~~

~~6. 5. "Facility" means a building having twenty thousand square feet or more of usable floor space that is heated or cooled by a mechanical or electrical system or any building, system, or physical operation which consumes more than forty thousand British thermal units (BTUs) per square foot per year.~~

~~7. 6. "Initial cost" means the moneys required for the capital construction or renovation of a facility.~~

~~8. 7. "Life cycle cost analysis" means an analytical technique that considers certain costs of owning, using and~~

operating a facility over its economic life including but not limited to the following:

- a. Initial costs.
- b. System repair and replacement costs.
- c. Maintenance costs.
- d. Operating costs, including energy costs.
- e. Salvage value.

8. "Office" means the office of energy independence established in section 469.2.

9. "Public agency" means a state agency, political subdivision of the state, school district, area education agency, or community college.

10. "Renovation" means a project where additions or alterations exceed fifty percent of the value of a facility and will affect an energy system.

Sec. 24. Section 470.3, subsection 2, Code 2009, is amended to read as follows:

2. A public agency or a person preparing a life cycle cost analysis for a public agency shall consider the methods and analytical models provided by the department office and available through the commissioner, which are suited to the purpose for which the project is intended. Within sixty days of final selection of a design architect or engineer, a public agency, which is also a state agency under section 7D.34, shall notify the commissioner and the department office of the methodology to be used to perform the life cycle cost analysis, on forms provided by the department office.

Sec. 25. Section 470.7, Code 2009, is amended to read as follows:

470.7 LIFE CYCLE COST ANALYSIS -- APPROVAL.

1. The public agency responsible for the new construction or renovation of a public facility shall submit a copy of the life cycle cost analysis for review by the commissioner who shall consult with the department office. If the public agency is also a state agency under section 7D.34, comments by the department office or the commissioner, including any recommendation for changes in the analysis, shall, within thirty days of receipt of the analysis, be forwarded in writing to the public agency. If either the department office or the commissioner disagrees with any aspects of the life cycle cost analysis, the public agency affected shall timely

respond in writing to the commissioner and the department office. The response shall indicate whether the agency intends to implement the recommendations and, if the agency does not intend to implement them, the public agency shall present its reasons. The reasons may include, but are not limited to, a description of the purpose of the facility or renovation, preservation of historical architectural features, architectural and site considerations, and health and safety concerns.

2. Within thirty days of receipt of the response of the public agency affected, the department office, the commissioner, or both, shall notify in writing the public agency affected of the department's office's, the commissioner's, or both's agreement or disagreement with the response. In the event of a disagreement, the department office, the commissioner, or both, shall at the same time transmit the notification of disagreement with response and related papers to the executive council for resolution pursuant to section 7D.34. The life cycle cost analysis process, including submittal and approval, and implementation exemption requests pursuant to section 470.8, shall be completed prior to the letting of contracts for the construction or renovation of a facility.

Sec. 26. Section 473.1, Code 2009, is amended to read as follows:

473.1 DEFINITIONS.

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

1. "Alternative and renewable energy" means the same as in section 469.31.

2. "Commission" means the environmental protection commission of the department of natural resources.

~~3.--"Department"--means--the--department--of--natural--resources--created--under--section--455A.2--~~

~~4.~~ 3. "Director" means the director of the department office or a designee.

~~5.~~ 4. "Energy" or "energy sources" means gasoline, fuel oil, natural gas, propane, coal, special fuels and electricity.

5. "Office" means the office of energy independence established in section 469.2.

6. "Renewable fuel" means the same as in section 469.31.

7. "Supplier" means any person engaged in the business of selling, importing, storing, or generating energy sources, alternative and renewable energy, or renewable fuel in Iowa.

Sec. 27. Section 473.7, Code 2009, is amended to read as follows:

473.7 DUTIES OF THE DEPARTMENT OFFICE.

The department office shall:

1. ~~Assist the director of the office of energy independence with preparation of the Iowa energy independence plan as provided in section 469.4. In addition to assistance requested by the director, the department shall supply~~ Supply and annually update the following information:

a. The historical use and distribution of energy in Iowa.

b. The growth rate of energy consumption in Iowa, including rates of growth for each energy source.

c. A projection of Iowa's energy needs at a minimum through the year 2025.

d. The impact of meeting Iowa's energy needs on the economy of the state, including the impact of energy efficiency and renewable energy on employment and economic development.

e. The impact of meeting Iowa's energy needs on the environment of the state, including the impact of energy production and use on greenhouse gas emissions.

f. An evaluation of renewable energy sources, including the current and future technological potential for such sources.

2. ~~a.~~ The department office shall collect and analyze data to use in forecasting future energy demand and supply for the state. A supplier is required to provide information pertaining to the supply, storage, distribution, and sale of energy sources in this state when requested by the department office. The information 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. The department office, prior to requiring any supplier to furnish it with such information, shall make every reasonable effort to determine if such information is available from any other governmental source. If it finds

such information is available, the department office shall not require submission of the information 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 office shall use this data to conduct energy forecasts.

~~b.--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.~~

3. Develop, recommend, and implement with appropriate agencies public and professional education and communication programs in energy efficiency, energy conservation, and conversion to alternative and renewable energy.

4. When necessary to carry out its duties under this chapter, enter into contracts with state agencies and other qualified contractors.

5. Receive and accept grants made available for programs relating to duties of the department office under this chapter.

6. 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 office rules for implementation of the governor's proclamation are subject to the requirements of chapter 17A.

~~7. -- 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.~~

8. 7. Develop and assist Assist in the implementation of public education and communications programs in energy development, use and conservation, in cooperation with the department of education, the state university extension services and other public or private agencies and organizations as deemed appropriate by the department office.

9. 8. Develop ~~in coordination with the office of energy independence~~, a program to annually give public recognition to innovative methods of energy conservation, energy management, and alternative and renewable energy production.

~~10.~~ 9. Administer and coordinate ~~in coordination with the office of energy independence~~, federal funds for energy conservation, energy management, and alternative and renewable energy programs.

~~11.~~ 10. Administer and coordinate the state building energy management program including projects funded through private financing.

~~12.~~ 11. Provide information from monthly fuel surveys which establish a statistical average of motor fuel prices for various motor fuels provided throughout the state. Additionally, the department office shall provide statewide monthly fuel survey information which establishes a statistical average of motor fuel prices for various motor fuels provided in both metropolitan and rural areas of the state. The survey results shall be publicized in a monthly press release issued by the department office.

~~13.~~ 12. 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, in conjunction with institutions under the control of the state board of regents. ~~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 study shall take the form of a climate change impacts review, to include the following:

a. Performance of an initial review of available climate change impacts studies relevant to this state.

b. Preparation of a summary of available data on recent changes in relevant climate conditions.

c. Identification of climate change impacts issues which require further research and an estimate of their cost.

d. Identification of important public policy issues relevant to climate change impacts.

In the course of the review, the institutions shall meet at least twice with the Iowa climate change advisory council established in section 455B.851. The department office shall submit a report, based upon input from the institutions, containing its findings and recommendations to the governor and general assembly by January 1, 1992 2011.

Sec. 28. Section 473.8, unnumbered paragraph 1, Code 2009, is amended to read as follows:

If the department office 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.

Sec. 29. Section 473.8, subsection 4, Code 2009, is amended to read as follows:

4. Delegate any administrative authority vested in the governor to the department office or the director.

Sec. 30. Section 473.10, Code 2009, is amended to read as follows:

473.10 RESERVE REQUIRED.

1. If the department office 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 office 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 office 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 office shall periodically review and may terminate the operation of a set-aside program authorized by the department office under subsection 1 when the department office 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.

Sec. 31. Section 473.13A, Code 2009, is amended to read as follows:

473.13A ENERGY CONSERVATION-MEASURES MANAGEMENT IMPROVEMENTS 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 management improvements identified for which financing is made-available facilitated by the department-to office for the entity. The energy conservation measure management improvement 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.~~

Sec. 32. Section 473.15, Code 2009, is amended to read as follows:

473.15 ANNUAL REPORT.

The department office shall complete an annual report to assess the progress of state agencies in implementing energy management improvements, alternative and renewable energy systems, and life cycle cost analyses under chapter 470, and on the use of renewable fuels. The department office shall work with state agencies and with any entity, agency, or organization with which they are associated or involved in such implementation, to use available information to minimize the cost of preparing the report. The department office shall also provide an assessment of the economic and environmental impact of the progress made by state agencies related to energy management and alternative and renewable energy, along with recommendations on technological opportunities and policies necessary for continued improvement in these areas.

Sec. 33. Section 473.19, Code 2009, is amended to read as follows:

473.19 ENERGY-BANK BUILDING ENERGY MANAGEMENT PROGRAM.

1. The building energy bank management program is established by the department office. The building energy bank management 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:

a. Promoting program availability.

b. Developing or identifying guidelines and model energy techniques for the completion of energy analyses for state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations.

c. Providing technical assistance for conducting or evaluating energy analyses for state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations.

d. Providing or facilitating loans, leases, and other methods of alternative financing under the energy loan program for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to implement energy management improvements or energy analyses.

e. Providing assistance for obtaining insurance on the energy savings expected to be realized from the implementation of energy management improvements.

f. Facilitating 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.

g. Assisting the treasurer of state with financing agreements entered into by the treasurer of state on behalf of state agencies to finance energy management improvements pursuant to section 12.28.

2. For the purpose of this section, section 473.20, and section 473.20A, "energy management improvement" 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 alternative and renewable energy. "Energy management improvement" may include control and measurement devices. "Nonprofit organization" means an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

3. The department office shall submit a report by January 1 annually to the governor and the general assembly detailing services provided and assistance rendered pursuant to the building energy bank management program and pursuant to sections 473.20 and 473.20A, and receipts and disbursements in relation to the building energy bank management fund created in section 473.19A.

4. Moneys awarded or allocated to the state, its citizens, or 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 attributable to or contained within the Stripper Well fund shall be allocated to and remain under the control of the department office for utilization for energy program-related staff support purposes.

Sec. 34. Section 473.19A, Code 2009, is amended to read as follows:

473.19A BUILDING ENERGY BANK MANAGEMENT FUND.

1. The building energy bank management fund is created within the state treasury under the control of the department, in-collaboration-with-the-office-of-energy-independence established-in-section-469-2 office. The fund shall be used for the operational expenses and administrative costs incurred by the department office in facilitating and administering the building energy bank management program established in section 473.19.

2. The building energy bank management fund shall consist of amounts deposited into the fund or allocated from the following sources:

a. Any moneys awarded or allocated to the state, its citizens, or 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 attributable to or contained within the Exxon fund. Amounts remaining in the oil overcharge account established in section 455E.11, subsection 2, paragraph "e", Code 2007, and the energy conservation trust established in section 473.11, Code 2007, as of June 30, 2008, shall be deposited into the building energy bank management fund pursuant to this paragraph, notwithstanding section 8.60, subsection 15, Code 2007.

b. (1) Moneys received in the form of fees imposed upon the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for services performed or assistance rendered pursuant to the building energy bank management program. Fees imposed pursuant to this paragraph shall be established by the department office in an amount corresponding to the operational expenses or administrative costs incurred by the department office in performing services or providing assistance authorized pursuant to the building energy bank management program, as follows:

(a) For a building of up to twenty-five thousand square feet, two thousand five hundred dollars.

(b) For a building in excess of twenty-five thousand square feet, an additional eight cents per square foot.

(c) A building that houses more energy intensive functions may be subject to a higher fee than the fees specified in subparagraphs (a) and (b) as determined by the department office.

(2) Any fees imposed shall be retained by the department office and are appropriated to the department office for purposes of providing services or assistance under the program.

c. Moneys appropriated by the general assembly and any other moneys, including grants and gifts from government and nonprofit organizations, available to and obtained or accepted by the department office for placement in the fund.

d. Moneys contained in the intermodal revolving loan fund administered by the department of transportation for the fiscal year beginning July 1, 2019, and succeeding fiscal years.

e. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

3. The building energy bank management fund shall be limited to a maximum of one million dollars. Amounts in excess of this maximum limitation shall be transferred to and deposited in the rebuild Iowa infrastructure fund created in section 8.57, subsection 6.

Sec. 35. Section 473.20, Code 2009, is amended to read as follows:

473.20 ENERGY LOAN PROGRAM.

1. An energy loan program is established and shall be administered by the department office.

2. The department office may facilitate the loan process for political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for implementation of energy management improvements identified in an energy analysis. Loans shall be facilitated for all cost-effective energy management improvements. For political subdivisions of the state, school districts, area education agencies, community colleges, and

nonprofit organizations to receive loan assistance under the program, the department office shall require completion of an energy management plan including an energy analysis. The department office shall approve loans facilitated under this section.

3. a. 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.

b. School districts and community colleges may enter into financing arrangements with the department office 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.

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

5. 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 may use financing facilitated by the department office 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 office 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 management improvement identified in an energy analysis if the entity which prepared the analysis demonstrates to the department office that the facility which is the subject of the energy management improvement is unlikely to be used or operated for the full period of the expected savings payback of all costs associated

with implementing the energy management improvement, including without limitation, any fees or charges of the department office, engineering firms, financial advisors, attorneys, and other third parties, and all financing costs including interest, if financed.

Sec. 36. Section 473.20A, subsection 1, Code 2009, is amended to read as follows:

1. a. The ~~department-of-natural-resources~~ office may facilitate financing agreements that may be entered into with political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations to finance the costs of energy management improvements on a self-liquidating basis. The provisions of section 473.20 defining eligible energy management improvements apply to financings under this section.

b. 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 acceptable to political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations.

c. The department office shall assist the treasurer of state with financing agreements entered into by the treasurer of state on behalf of state agencies pursuant to section 12.28 to finance energy management improvements being implemented by state agencies.

Sec. 37. Section 473.41, Code 2009, is amended to read as follows:

473.41 ENERGY CITY DESIGNATION PROGRAM.

1. The department office shall establish an energy city designation program, with the objective of encouraging cities to develop and implement innovative energy efficiency programs. To qualify for designation as an energy city, a city shall submit an application on forms prescribed by the department office by rule, indicating the following:

a. Submission of community-based plans for energy reduction projects, energy-efficient building construction and rehabilitation, and alternative or renewable energy production.

b. Efforts to secure local funding for community-based plans, and documentation of any state or federal grant or loan funding being pursued in connection therewith.

c. Involvement of local schools, civic organizations, chambers of commerce, and private groups in a community-based plan.

d. Existing or proposed ordinances encouraging energy efficiency and conservation, recycling efforts, and energy-efficient building code provisions and enforcement.

e. Organization of an energy day observance and proclamation with a commemorating event and awards ceremony for leading energy-efficient community businesses, groups, schools, or individuals.

2. The department office shall establish by rule criteria for awarding energy city designations. If more than one designation is awarded annually, the criteria shall include a requirement that the department office award the designations to cities of varying populations. Rules shall also be established identifying and publicizing state grant and loan programs relating to energy efficiency, and the development of a procedure whereby the department office shall coordinate with other state agencies preferences given in the awarding of grants or making of loans to energy city designated applicants.

Sec. 38. Section 476.6, subsection 16, paragraph b, Code 2009, is amended to read as follows:

b. A gas and electric utility required to be rate-regulated under this chapter shall assess potential energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility shall submit the assessment to the board. Upon receipt of the assessment, the board shall consult with the ~~department-of-natural-resources~~ office of energy independence to develop specific capacity and energy savings performance standards for each utility. The utility shall submit an energy efficiency plan which shall include economically achievable programs designed to attain these energy and capacity performance standards. The board shall periodically report the energy efficiency results including energy savings of each utility to the general assembly.

Sec. 39. Section 476.63, Code 2009, is amended to read as follows:

476.63 ENERGY EFFICIENCY PROGRAMS.

The division shall consult with the ~~department-of-natural resources~~ office of energy independence in the development and implementation of public utility energy efficiency programs.

Sec. 40. TRANSITION PROVISIONS -- RULEMAKING.

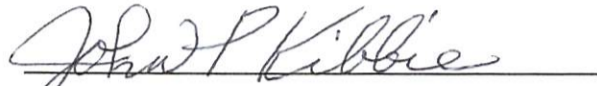
1. Any moneys retained in any account or fund under the control of the department of natural resources relative to the provisions of this Act shall be transferred to a comparable fund or account under the control of the office of energy independence for such purposes.

2. Any license, permit, or contract issued or entered into by the department of natural resources relative to the provisions of this Act in effect on the effective date of this Act shall continue in full force and effect pending transfer of such licenses, permits, or contracts to the office of energy independence.

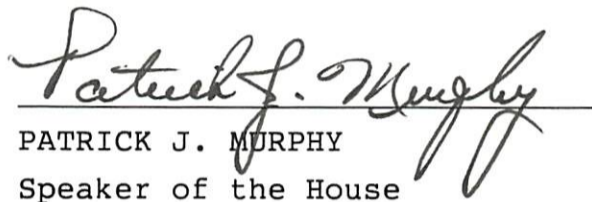
3. Not later than August 1, 2009, the office of energy independence shall adopt administrative rules previously adopted by the department of natural resources relative to the provisions of this Act in existence on the effective date of this Act by emergency rulemaking pursuant to section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b". The rules shall become effective immediately upon filing or on a later effective date specified in the rules. Any rules adopted in accordance with the provisions of this section shall also be published as a notice of intended action as provided in section 17A.4. Any rule, regulation, form, order, or directive promulgated by the department relative to the provisions of this Act in effect on the effective date of this Act shall continue in full force and effect until such emergency rules are adopted.

4. The provisions of section 469.10, subsection 2, relating to utilization by the director of the office of energy independence of federal funds received other than pursuant to the federal American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 to employ personnel necessary to administer any program assigned to the office, shall be applicable to the transfer from the department of natural resources to the office of energy independence of individuals currently employed by the department in capacities relating to the programs or provisions transferred from the department to the office pursuant to this Act.

Sec. 41. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.



JOHN P. KIBBIE  
President of the Senate



PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 471, Eighty-third General Assembly.



MICHAEL E. MARSHALL  
Secretary of the Senate

Approved May 18<sup>th</sup>, 2009



CHESTER J. CULVER  
Governor