

State of Iowa

2003

ACTS AND JOINT RESOLUTIONS
(Session Laws)

Enacted at the

2003 REGULAR SESSION

and the

**2003 FIRST
EXTRAORDINARY SESSION**

of the

Eightieth General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED FIFTY-SEVENTH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE THIRTEENTH DAY OF JANUARY
AND ENDED ON THE FIRST DAY OF MAY, A.D. 2003

FIRST EXTRAORDINARY SESSION BEGUN ON THE TWENTY-NINTH DAY OF MAY
AND ENDED ON THE FOURTH DAY OF JUNE, A.D. 2003



Published under the authority of Iowa Code section 2B.10
by the
Legislative Services Agency
GENERAL ASSEMBLY OF IOWA
Des Moines



PREFACE

CERTIFICATION

We, Dennis C. Prouty, Director, Legislative Services Agency, Richard L. Johnson, Legal Services Division Director, Leslie E. W. Hickey, Iowa Code Editor, and Joanne R. Page, Deputy Iowa Code Editor, certify that, to the best of our knowledge, the Acts and Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the statutes of this state; and constitute the Acts and Resolutions of the 2003 Regular Session and the 2003 First Extraordinary Session of the Eightieth General Assembly of the State of Iowa.

STATUTES AS EVIDENCE

Iowa Code section 622.59 is as follows:

622.59 Printed copies of statutes. Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.

EXPLANATORY NOTES

Temporary Code numbers. CODE NUMBERS ASSIGNED TO NEW SECTIONS AND SUBSECTIONS IN THE ACTS ARE TEMPORARY AND MAY BE CHANGED WHEN THE 2003 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2003 Iowa Code Supplement.

Typographic style. The Acts and Resolutions in this volume are printed as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlined type indicates new material added to existing statutes; strike-through type indicates deleted material. Italics within an Act indicate material that the Governor has item vetoed. Item vetoed text is also indicated by asterisks at the beginning and ending of the vetoed material. Superscript numbers indicate explanatory footnotes.

Effective and enactment dates. The Acts of the 2003 Regular Session took effect on July 1, 2003, unless otherwise provided. The Acts of the 2003 First Extraordinary Session took effect on September 2, 2003, unless otherwise provided. See Iowa Code section 3.7. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

State mandates. Iowa Code section 25B.5 requires that for each enacted bill or joint resolution containing a state mandate (defined in section 25B.3), an estimate of additional local revenue expenditures required by the mandate must be filed with the Secretary of State. Section 2B.10(6) states that a notation of the filing of the estimate must be included in the Iowa Acts with the text of the bill or resolution. A dagger is placed at the beginning of the enacting clause and a footnote included for each enrolled Act or Resolution which requires the mandate.

Resolutions. Concurrent resolutions and Senate and House resolutions are generally not included. See bound Senate and House Journals for adopted resolutions.

Orders for legal publications should be addressed to the Legislative Services Agency, State Capitol, Third Floor, Des Moines, Iowa 50319. Telephone (515) 281-3568





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ELECTIVE OFFICERS

Name and Office	County from which originally chosen
GOVERNOR	
THOMAS J. VILSACK	Henry
Steve Gleason, Chief of Staff	Polk
LIEUTENANT GOVERNOR	
SALLY J. PEDERSON	Polk
Dawn Wilson, Senior Advisor to Lieutenant Governor	Polk
Judy Fox, Lieutenant Governor's Scheduler	Polk
SECRETARY OF STATE	
CHESTER J. CULVER	Polk
Joni Klaassen, Deputy of Administration	Polk
Steve Mandernach, Director of Business Services	Polk
AUDITOR OF STATE	
DAVID A. VAUDT	Polk
Warren G. Jenkins, Chief Deputy Auditor of State	Polk
Judith A. Vander Linden, Deputy, Administration Division	Polk
Tamera S. Kusian, Acting Deputy, Performance Investigation Division	Polk
Andrew E. Nielsen, Deputy, Financial Audit Division	Polk
TREASURER OF STATE	
MICHAEL L. FITZGERALD	Polk
Stefanie G. Devin, Deputy Treasurer	Polk
Karen Sinclair, Deputy Treasurer	Polk
SECRETARY OF AGRICULTURE	
PATTY JUDGE	Monroe
Brent Halling, Deputy Secretary	Dallas
Mary Jane Olney, Director, Market Development and Administrative Services Division	Polk
Ronald Rowland, Director, Consumer Protection and Animal Health Division	Polk
William Ehm, Director, Soil Conservation Division	Polk
John Whipple, Director, Plant Management and Technology Division	Warren
ATTORNEY GENERAL	
THOMAS J. MILLER	Polk
Tam Ormiston, Deputy Attorney General	Polk
Gordon Allen, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk
Douglas Marek, Deputy Attorney General	Story
Eric Tabor, Chief of Staff	Jackson

GENERAL ASSEMBLY

“X” means First Extraordinary Session; “XX” means Second Extraordinary Session
 Italicized county in District column denotes home county

SENATORS

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Angelo, Jeff Creston	Media Consultant	48th—Adams, Clarke, ... Decatur, Montgomery, Ringgold, Taylor, <i>Union</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Beall, Daryl Fort Dodge	Journalist	25th—Calhoun, Greene, <i>Webster</i>	None
Behn, Jerry Boone	Farmer/Agribusiness ...	24th—Boone, Dallas	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Black, Dennis H. Grinnell	Conservationist	21st— <i>Jasper</i> , Polk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Boettger, Nancy Harlan	Farmer/Former Educator	29th—Adair, Audubon, Cass, Guthrie, Pottawattamie, <i>Shelby</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Bolkcom, Joe Iowa City	.....	39th— <i>Johnson</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Brunkhorst, Bob Waverly	Computer Analyst	9th—Black Hawk, <i>Bremer</i> , Butler, Fayette	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Connolly, Mike Dubuque	Legislator	14th— <i>Dubuque</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Courtney, Thomas G. ... Burlington	Retired	44th— <i>Des Moines</i> , Louisa, Muscatine	None
Dearden, Dick L. Des Moines	Retired/Job Developer 5th Judicial District	34th— <i>Polk</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Dotzler, William A., Jr. Waterloo	Machine Operator/Labor Representative	11th— <i>Black Hawk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Drake, Richard F. Muscatine	General Farming	40th—Cedar, Johnson, .. <i>Muscatine</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Dvorsky, Robert E. Coralville	Job Developer—6th District, Department of Correctional Services	15th— <i>Johnson, Linn</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Fraise, Gene Fort Madison	Farmer	46th— <i>Henry, Lee</i>	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Gaskill, E. Thurman Corwith	Farmer	6th— <i>Cerro Gordo,</i> <i>Franklin, Hancock, ...</i> <i>Winnebago, Worth</i>	77(2nd), 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Gronstal, Michael E. Council Bluffs	.....	50th— <i>Pottawattamie</i>	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hatch, Jack Des Moines	Real Estate Developer	33rd— <i>Polk</i>	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Holveck, Jack Des Moines	Attorney	32nd— <i>Polk</i>	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Horn, Wally E. Cedar Rapids	Legislator	17th— <i>Linn</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hosch, Julie M. Cascade	Farmer	16th— <i>Delaware,</i> <i>Dubuque, Jones</i>	None
Houser, Hubert M. Carson	Farmer	49th— <i>Fremont, Mills, ...</i> <i>Page, Pottawattamie</i>	75, 76, 77, 78, 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Iverson, Stewart E., Jr. ... Dows	Farmer	5th— <i>Franklin, Hamilton,</i> <i>Story, Webster,</i> <i>Wright</i>	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Johnson, David Ocheyedan	.....	3rd— <i>Clay, Dickinson, ...</i> <i>O'Brien, Osceola,</i> <i>Sioux</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
¹ Kettering, Steve Lake View	Community Banker	26th— <i>Buena Vista,</i> <i>Carroll, Crawford, Sac</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Kibbie, John P. (Jack) ... Emmetsburg	Farmer	4th— <i>Emmet, Humboldt, .</i> <i>Kossuth, Palo Alto, ...</i> <i>Pocahontas, Webster</i>	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

¹ Elected in Special Election January 14, 2003; Senator Steve King resigned December 3, 2002

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Kramer, Mary Clive		30th—Polk	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Kreiman, Keith A. Bloomfield	Attorney	47th—Appanoose, Davis, Wapello, Wayne	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Lamberti, Jeff Ankeny	Attorney	35th—Polk	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Larson, Charles W., Jr. Cedar Rapids	Attorney	19th—Linn	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Lundby, Mary Marion		18th—Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
McCoy, Matt Des Moines	Vice President of Industry Relations	31st—Polk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
McKibben, Larry Marshalltown	Lawyer	22nd—Hardin, Marshall	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
McKinley, Paul Chariton	Businessman	36th—Jasper, Lucas, .. Mahaska, Marion, .. Monroe	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Miller, David Fairfield	Attorney/Farmer	45th—Jefferson, Johnson, Van Buren, Wapello, Washington	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Putney, John Gladbrook	Executive Director, Iowa State Fair Blue Ribbon Foundation	20th—Benton, Grundy, Iowa, Tama	None
Quirnbach, Herman C. Ames	Associate Professor .. Economics—Iowa .. State University	23rd—Boone, Story	None
Ragan, Amanda Mason City	Executive Director of .. Community Kitchen/ Executive Director of Meals on Wheels	7th—Cerro Gordo, .. Floyd, Howard, .. Mitchell	79(2nd), 79(2nd)X, 79(2nd)XX
Redfern, Donald B. Cedar Falls	Attorney	10th—Black Hawk	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Rehberg, Kitty Rowley	Farmer	12th—Black Hawk, .. Buchanan, Clayton, .. Delaware, Fayette	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Schuerer, Neal Amana	Restaurateur	38th—Iowa, Keokuk, .. Mahaska, Poweshiek, Tama	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Seng, Joe M. Davenport	Veterinarian	43rd—Scott	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Seymour, James A. Woodbine	Hospital Administrator/ CEO	28th—Crawford, Harrison, Ida, Monona, Pottawattamie, Woodbury	None
Shull, Doug	Retired/Community Service	37th—Dallas, Madison, Warren	68, 69, 69X, 69XX
Sievers, Bryan J. New Liberty	Farmer	42nd—Clinton, Scott	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Stewart, Roger	Banker/Farmer	13th—Clinton, Dubuque, Jackson	None
Tinsman, Maggie	Social Worker/Legislator	41st—Scott	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Veenstra, Ken	Insurance Agent	2nd—Lyon, Plymouth, .. Sioux	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Warnstadt, Steve	Legislator/National	1st—Woodbury	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Wieck, Ron	Insurance Agent	27th—Cherokee, Plymouth, Woodbury	None
Zieman, Mark	Farmer/Trucking Owner	8th—Allamakee, Chickasaw, Howard, Winnesiek	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

REPRESENTATIVES

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Alons, Dwayne A. Hull	Farmer	4th—Lyon, Sioux	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Arnold, Richard D. Russell	Farmer	72nd—Lucas, Mahaska, Marion, Monroe	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Baudler, Clel Greenfield	Retired State Trooper/ Farmer	58th—Adair, Audubon, Cass, Guthrie	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Bell, Paul A. Newton	Lieutenant—Newton . . . Police Department	41st—Jasper	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Berry, Deborah L. Waterloo	Education Site Coordinator	22nd—Black Hawk	None
Boal, Carmine Ankeny	Legislator	70th—Polk	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Boddicker, Daniel J. Tipton	Electrical Engineer	79th—Cedar, Johnson, Muscatine	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Bogges, Effie Lee Clarinda	Retired Farmer	97th—Fremont, Mills, . . . Page	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Bukta, Polly Clinton	Retired Educator	26th—Clinton	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Carroll, Danny Grinnell	. . . . .	75th—Mahaska, Poweshiek	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Chambers, Royd E. Sheldon	Educator	5th—Clay, O'Brien, Osceola, Sioux	None
¹ Chiodo, Frank John Des Moines	Small Business Manager	67th—Polk	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Cohoon, Dennis M. Burlington	Special Education Teacher	88th—Des Moines	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

¹ Resigned January 14, 2003

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Connors, John H. Des Moines	Retired Fire Fighter	68th—Polk	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Dandekar, Swati A. Marion	Community Volunteer ..	36th—Linn	None
Davitt, Mark	Photographer	74th—Warren	None
De Boef, Betty R. What Cheer	Farmer/Small Business Owner	76th—Iowa, Keokuk, Poweshiek, Tama	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Dennis, Ervin A. Cedar Falls	Professor Emeritus, University of Northern Iowa	19th—Black Hawk	None
Dix, Bill	Farmer	17th—Bremer, Butler ...	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Dolecheck, Cecil	Farmer	96th—Adams,	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Drake, Jack	Farmer	57th—Cass,	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Eichhorn, George S. Stratford	Attorney	9th—Hamilton, Webster, Wright	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Elgin, Jeffrey C. Cedar Rapids	Business Owner/Investor	37th—Linn	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Fallon, Ed	Nonprofit Executive	66th—Polk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Foegen, Ro	Retired Social Worker ..	29th—Johnson, Linn	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Ford, Wayne	Executive Director	65th—Polk	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Freeman, Mary Lou .....	.....	52nd—Buena Vista, Sac	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Frevert, Marcella R. Emmetsburg	Legislator/Farmer/ Retired Teacher	7th—Emmet, Kossuth, .. <i>Palo Alto</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Gaskill, Mary Ottumwa	Retired County Auditor	93rd—Wapello	None
Gipp, Chuck Decorah	Farmer	16th—Allamakee, <i>Winneshiek</i>	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Granzow, Polly A. Eldora	Farmer	44th—Hardin, Marshall	None
Greimann, Jane L. Ames	Retired Public School .. Educator	45th—Story	78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Greiner, Sandra H. Keota	Farmer	89th—Jefferson, <i>Johnson, Washington</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hahn, James F. Muscatine	.....	80th—Muscatine	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hansen, Brad Carter Lake	.....	100th—Pottawattamie ...	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hanson, Dell Vinton	Self-Employed Implement Dealer	39th—Benton, Iowa	None
Heaton, Dave Mount Pleasant	Restaurant Owner	91st—Henry, Lee	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Heddens, Lisa K. Ames	.....	46th—Boone, Story	None
Hoffman, Clarence C. Charter Oak	Insurance	55th—Crawford, Ida, Monona, Woodbury	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hogg, Robert M. Cedar Rapids	Attorney	38th—Linn	None
Horbach, Lance J. Tama	Insurance Industry	40th—Grundy, Tama	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
² Hunter, Bruce Des Moines	Customer Service Manager	62nd—Polk	None
Huseman, Daniel Adair Aurelia	Farmer	53rd—Cherokee, Plymouth, Woodbury	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

² Elected in Special Election February 11, 2003

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Huser, Geri D. Altoona	.....	42nd—Jasper, Polk	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Hutter, Joseph I. Bettendorf	Retired Police Officer ..	82nd—Scott	None
Jacobs, Elizabeth (Libby) S. West Des Moines	Assistant Director— Corporate Relations	60th—Polk	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Jenkins, G. Willard	Engineer	20th—Black Hawk	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Jochum, Pam .....	.....	27th—Dubuque	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Jones, Gerald D. Silver City	Property Management	98th—Mills,	79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Klemme, Ralph F. Le Mars	Farmer	3rd—Plymouth, Sioux ...	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Kramer, Kent A. Johnston	Financial Planner	69th—Polk	None
Kuhn, Mark A. Charles City	Farmer	14th—Cerro Gordo,	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Kurtenbach, James M. ... Nevada	Associate Professor	10th—Hamilton, Story ..	None
Lalk, David	Farmer/Retired John ... Deere Employee	18th—Black Hawk,	None
Lensing, Vicki	Funeral Home Owner ..	78th—Johnson	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Lukan, Steven F. New Vienna	Tire Technician	32nd—Deleware,	None
Lykam, Jim	Public Relations—All ... Pro Glass Company	85th—Scott	73
Maddox, Gene	Lawyer	59th—Polk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Manternach, Gene A. ... Cascade	Livestock and Grain Farmer	31st—Dubuque, Jones ...	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Mascher, Mary Iowa City	Teacher	77th— <i>Johnson</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
McCarthy, Kevin M. Des Moines	Attorney	67th— <i>Polk</i>	None
Mertz, Dolores M. Ottosen	.....	8th— <i>Humboldt, Kossuth</i>	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Miller, Helen	Attorney/Arts Educator	49th— <i>Webster</i>	None
Murphy, Pat	Self-Employed/Adjunct Faculty, Northeast ... Iowa Community ... College	28th— <i>Dubuque</i>	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Myers, Richard E. Iowa City	Business Owner	30th— <i>Johnson</i>	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Oldson, Jo	Attorney	61st— <i>Polk</i>	None
Olson, Donovan	Distance Educ. Prog. ... Coordinator—Iowa ... State University	48th— <i>Boone, Dallas</i>	None
Olson, Steven N. Grand Mound	Farmer/Seedstock Director, Iowa Cattlemen's Association	83rd— <i>Clinton, Scott</i>	None
Osterhaus, Robert J. Maquoketa	Pharmacist	25th— <i>Clinton, Dubuque, Jackson</i>	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Paulsen, Kraig .....	.....	35th— <i>Linn</i>	None
Petersen, Janet	Communications Consultant	64th— <i>Polk</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Quirk, Brian J. New Hampton	Electrical Contractor ...	15th— <i>Chickasaw, Howard, Winneshiek</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Raecker, J. Scott	Executive Director— ... Institute for Character Development	63rd— <i>Polk</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Rants, Christopher C. ... Sioux City	.....	54th— <i>Woodbury</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Rasmussen, Daniel J. . . . Independence	Land Improvement Contractor	23rd—Black Hawk, <i>Buchanan</i>	None
Rayhons, Henry V. Garner	Farmer	11th— <i>Hancock</i> , Winnebago, <i>Wright</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Reasoner, Michael J. Creston	Business Owner	95th—Clarke, Decatur, <i>Union</i>	None
Roberts, Rod Carroll	Church Development . .	51st— <i>Carroll</i> , Crawford, Sac	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Sands, Thomas R. Columbus Junction	Real Estate Appraiser/ . . Banker/Farm Owner	87th—Des Moines, <i>Louisa</i> , Muscatine	None
Schickel, Bill Mason City	Radio Station General . . Manager	13th— <i>Cerro Gordo</i>	None
Shultz, Don Waterloo	Retired Public School . . Teacher	21st— <i>Black Hawk</i>	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Smith, Mark Marshalltown	Licensed Independent . . Social Worker	43rd— <i>Marshall</i>	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Stevens, Greg Milford	Teacher	6th—Clay, <i>Dickinson</i>	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Struyk, Douglas L. Council Bluffs	Small Business Owner/ Attorney	99th— <i>Pottawattamie</i>	None
Swaim, Kurt Bloomfield	Attorney	94th—Appanoose, <i>Davis</i> , Wayne	None
Taylor, Dick Cedar Rapids	Electrician/Project Manager	33rd— <i>Linn</i>	78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Taylor, Todd Cedar Rapids	Union Representative . .	34th— <i>Linn</i>	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Thomas, Roger Elkader	Farmer/Paramedic	24th— <i>Clayton</i> , Delaware, Fayette	77, 78
Tjepkes, David A. Gowrie	Retired State Trooper . .	50th—Calhoun, Greene, <i>Webster</i>	None
Tymeson, Jodi S. Winterset	National Guard Colonel/ Former Teacher	73rd—Dallas, <i>Madison</i> , Warren	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Upmeyer, Linda L. Garner	Nurse Practitioner	12th—Cerro Gordo, Franklin, <i>Hancock</i>	None

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Van Engelenhoven, James L. Pella	Farmer	71st—Jasper, Marion	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Van Fossen, Jamie Davenport	Economic Development Analyst— MidAmerican Energy	81st—Scott	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Van Fossen, James R. Davenport	Retired Police Captain	84th—Scott	None
Watts, Ralph C. Prospect	Construction Engineer	47th—Boone, Dallas	None
Wendt, Roger F. Sioux City	Retired School Administrator	2nd—Woodbury	None
Whitaker, John R. Hillsboro	Family Farmer	90th—Jefferson, Van Buren, Wapello	None
Whitead, Wesley Edward Sioux City	.....	1st—Woodbury	77, 78
Wilderdyke, Paul A. Woodbine	Telephone Community Relation Manager ...	56th—Harrison, Monona, Pottawattamie	79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Winckler, Cindy Lou Davenport	.....	86th—Scott	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX
Wise, Philip Keokuk	Teacher	92nd—Lee	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Louis A. Lavorato, C.J.	Des Moines	December 31, 2004
Jerry L. Larson	Harlan	December 31, 2004
James H. Carter	Cedar Rapids	December 31, 2008
Linda K. Neuman	Davenport	December 31, 2004
Marsha K. Ternus	Des Moines	December 31, 2010
Mark S. Cady	Fort Dodge	December 31, 2008
Michael J. Streit	Chariton	December 31, 2010

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Rosemary Shaw Sackett, C.J.	Spencer	December 31, 2008
Terry L. Huitink	Ireton	December 31, 2008
Gayle Nelson Vogel	Knoxville	December 31, 2004
Robert E. Mahan	Ames	December 31, 2004
Van D. Zimmer	Vinton	December 31, 2006
John C. Miller	Burlington	December 31, 2006
Daryl L. Hecht	Sioux City	December 31, 2006
Anu Vaitheswaran	Des Moines	December 31, 2006
Larry J. Eisenhauer	Des Moines	December 31, 2008

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Davenport, Iowa 52803
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110 Federal Building
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(712) 252-1550

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350 West 6th Street
Dubuque, Iowa 52001
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Des Moines, Iowa 50309
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210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701
(319) 232-6657

206 Federal Building
101 First Street, SE
Cedar Rapids, Iowa 52401
(319) 363-6832

103 Federal Courthouse Building
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Sioux City, Iowa 51101
(712) 233-1860

131 West 3rd Street, Suite 180
Davenport, Iowa 52801
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307 Federal Building
8 South 6th Street
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UNITED STATES REPRESENTATIVES

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CONDITION OF STATE TREASURY

June 30, 2002

	Balance July 1, 2001	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2002
General Fund	\$ 255,156,416	\$ 9,065,527,761	\$ 9,320,684,177	\$ 9,011,181,196	\$ 309,502,981
Special Revenue Fund	628,946,921	3,813,833,085	4,442,780,006	3,186,805,523	1,255,974,483
Capitol Projects Fund	114,216,208	103,794,166	218,010,374	184,731,575	33,278,799
Debt Service Fund	9,736,834	11,185,184	20,922,018	11,164,247	9,757,771
Enterprise Fund	25,850,061	362,780,541	388,630,602	365,053,334	23,577,268
Internal Service Fund	32,263,713	294,231,739	326,495,452	280,265,540	46,229,912
Expendable Trust Fund ...	24,997,584	435,330,911	460,328,495	435,077,954	25,250,541
Nonexpendable Trust Fund	8,220,772	37,116	8,257,888	0	8,257,888
Pension Fund	14,922,590,830	618,069,254	15,540,660,084	800,621,030	14,740,039,054
Trust and Agency Fund ...	146,787,818	3,527,035,382	3,673,823,200	3,507,463,758	166,359,442
Totals	<u>\$16,168,767,157</u>	<u>\$18,231,825,139</u>	<u>\$34,400,592,296</u>	<u>\$17,782,364,157</u>	<u>\$ 16,618,228,139</u>

Balance July 1, 2001	\$16,168,767,157
Receipts and Transfers	18,231,825,139
Total Available	34,400,592,296
Disbursements and Transfers	17,782,364,157
Balance June 30, 2002	\$16,618,228,139

DEPARTMENT OF REVENUE AND FINANCE

June 9, 2003



ANALYSIS BY CHAPTERS

2003 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2003 Acts, Regular Session, see page 746

CH.	FILE	TITLE
1	SF 211	School finance — allowable growth
2	HF 66	Motor vehicle traffic regulation — stationary utility or municipal maintenance vehicles
3	SF 127	Breast cancer awareness motor vehicle license plates — fees — appropriation
4	HF 215	State banks — disclosure of officer, director, and shareholder list
5	HF 311	County recorders — duties and records
6	HF 343	Motor vehicle traffic regulation — appearance bond and liability coverage — overtaking and passing vehicles
7	HF 290	Special vehicle registration plates — motor trucks
8	SF 97	Transportation and transportation-related regulation
9	SF 357	City hospital or health care facility trustees — residency — vacancies
10	SF 376	Dishonored checks, drafts, or orders — surcharge
11	SF 424	Urban renewal indebtedness reporting
12	HF 504	Fraudulent use of credit cards and payment card scanning devices or reencoders
13	HF 175	School finance — use of physical plant and equipment levy moneys
14	HF 216	Dissemination of intelligence data and intelligence assessments
15	HF 240	Iowa egg council — composition
16	HF 249	Flunitrazepam — penalty for manufacture, delivery, or possession with intent or conspiracy to manufacture or deliver
17	HF 254	Reversion of state conservation fund revenues — exemption
18	HF 289	Electronic financial transactions and governmental entities
19	HF 341	Community college personnel
20	HF 342	Iowa department of public safety peace officers' retirement, accident, and disability system — temporary incapacity for duty — sick leave
21	HF 479	Medical assistance program managed care or prepaid services contracts — approved health care services providers — advanced registered nurse practitioners
22	HF 503	Podiatrists — administration of anesthesia
23	HF 615	Legalizing Act — Urbandale City Council approval of partial property tax exemption
24	SF 134	Treasurers — funds, records, and other responsibilities — miscellaneous provisions
25	SF 224	Child in need of assistance proceedings and terminations of parental rights — appeals
26	SF 401	Regulation of tobacco retailers
27	HF 180	Elementary and secondary education — character education and service learning
28	HF 339	Snowmobile franchises — termination — franchisee payment rights
29	HF 659	Electric utilities regulation — alternate energy production or small hydro facilities
30	SF 237	Water quality protection fund — private water supply systems — deposit and use of permit fees
31	HF 85	Tip-up fishing — Missouri and Big Sioux rivers and backwaters
32	HF 381	Anatomical gifts — state employee leaves — grants

CH.	FILE	TITLE
33	HF 396	Disaster preparedness
34	HF 612	New jobs and income program — agricultural land ownership by nonresident aliens
35	HF 636	Legislative branch functions — services, staff, sales, and publications
36	SF 272	County, city, and school contracts — prohibited interest exceptions
37	HF 411	Licensing of hunting, fishing, and related activities — military personnel — residency status
38	HF 412	Sport fishing licenses — mussels and shells
39	HF 456	Electronic transactions — computer information agreements — choice of law
40	HF 601	Campaign finance — miscellaneous provisions
41	HF 623	Driver's license or nonoperator's identification card applications or renewals — selective service registration
42	SF 3	Termination of pregnancy reports — induced termination methods
43	SF 119	Certified real estate appraisers
44	SF 155	Substantive Code corrections
45	SF 201	Education practitioner licensing examination — statistical information
46	SF 236	Insurance company demutualization or reorganization — unclaimed property
47	SF 303	Child abuse assessment reporting
48	SF 395	Department of agriculture and land stewardship — third-party receipt of funds and documents
49	HF 170	Identity theft
50	HF 344	Motor fuel tax refunds — benefited fire districts
51	HF 349	Indigent defense
52	HF 380	Manure storage indemnity fund — fees and charges
53	HF 389	Controlled and precursor substances — miscellaneous changes
54	HF 395	Consumer credit transactions — extensions of credit
55	HF 446	Equipment dealership agreements
56	HF 502	Motor vehicle damage disclosure statements
57	HF 604	State government annual reports — financial information
58	HF 616	Cemetery or funeral merchandise and funeral services — cancellation of purchase agreements
59	HF 634	Regulation of cooperative associations
60	HF 65	Operating while intoxicated revisions
61	HF 397	Community development block grants — administrative expenses
62	HF 489	Human services programs and services — miscellaneous provisions
63	HF 509	Deer and elk chronic wasting disease
64	SF 180	Abandoned property and property presumed abandoned
65	SF 221	Sexual exploitation of a minor
66	SF 340	Business entities — miscellaneous provisions
67	SF 352	Certified law enforcement officer training — applicants
68	SF 361	Civil commitment — emergency procedures
69	SF 394	Regulation of agricultural products — grain dealer and bargaining agents — warehouses
70	HF 204	Massage therapy — modalities — licensing exemption
71	HF 390	Small business assistance programs
72	HF 392	Economic growth — strategic planning
73	HF 480	Shelter assistance fund — purposes
74	HF 493	Department of agriculture and land stewardship — administrative duties
75	HF 505	Unauthorized computer access — rural water district or municipal utility data
76	HF 545	Newspapers designated for official publications

CH.	FILE	TITLE
77	HF 603	Gambling in public places — nonprofit organizations conducting bingo occasions
78	HF 641	Public health regulation — miscellaneous provisions
79	SF 172	Public charter schools — pilot project
80	SF 230	City councils — reductions in membership
81	SF 351	Child care — miscellaneous provisions
82	SF 379	Agricultural liens
83	SF 386	School health insurance — study
84	SF 392	Animal feeding operations — construction standards
85	SF 397	Deer hunting
86	HF 547	Commercial pesticide applicators — financial responsibility
87	HF 548	Certified law enforcement officers — training — tribal government police
88	HF 551	Inmates of correctional institutions — fees — transport for medical or dental care
89	HF 557	Volunteer health care provider program participants — liability
90	HF 617	Swine dealers — financial responsibility
91	HF 647	Insurance — miscellaneous provisions
92	HF 648	State archives and records
93	HF 628	Regulation of physician assistant services
94	SF 102	Iowa public employees' retirement system — chief executive officer
95	SF 366	Estates, gifts, trusts, and related property transfers
96	SF 372	Uniform money services Act
97	SF 375	Tobacco products regulation — miscellaneous provisions — appropriations
98	SF 416	Dependent adult abuse — facilities, services, and information
99	SF 438	Office of grants enterprise management
100	HF 319	Uniform commercial code — dishonored checks — written demand for payment
101	HF 387	Mental health and developmental disabilities — facilities — programs — commission
102	HF 454	Newborn and infant hearing screening
103	HF 541	Birth certificates — fees
104	HF 600	Organic agricultural products
105	HF 656	Fire fighter motor vehicle registration plates — fees
106	SF 275	Property tax and taxation of utilities
107	SF 353	Child protection assistance teams
108	HF 171	Nonsubstantive Code corrections
109	HF 404	Criminal sentencing — no-contact orders
110	HF 516	Petroleum storage tank regulation
111	HF 529	Mental health and developmental disabilities services system review
112	HF 619	Regulation of health care — pharmaceuticals — medical assistance program
113	HF 650	Criminal offenses and offenders — county and municipal fees and jurisdiction
114	SF 94	Veterans' military service information — county records — confidentiality
115	SF 341	Regulation of farming and beef and pork production
116	SF 405	Electric energy transmission — investments by cities operating electric utilities
117	HF 457	Child welfare services — assessment and plan for transition to adulthood
118	HF 560	Medical assistance — home and community-based services waivers
119	HF 599	Property insurance access regulation

CH.	FILE	TITLE
120	HF 680	Bait dealer licenses
121	SF 444	Open prairie or wildlife habitat restoration property tax credits — inspection and certification
122	SF 459	Iowa agricultural industry finance loans — assignment
123	HF 558	Disclosure of information to subjects of child or dependent adult abuse reports
124	HF 565	Healthy and well kids in Iowa program
125	HF 677	New capital investment program
126	SF 368	Telecommunications services and public utility regulation
127	HF 304	Agricultural land tax credits
128	HF 492	Soil and water conservation districts
129	HF 576	Enterprise zone program — miscellaneous provisions
130	HF 665	Taxation of state-owned property — lease to nonexempt entity
131	HF 676	Veterans trust fund
132	SF 402	Sexual abuse and assault — evidence — penalty for assault
133	SF 441	Enterprise zone and property rehabilitation tax credits — certificates — transfer
134	HF 455	Burn injury reports by treatment providers
135	HF 543	Insurance — mammography exam coverage
136	HF 671	Taxation of personal property — recycling property
137	SF 393	Agricultural development authority
138	SF 396	Animal feeding operations animal unit capacity — turkeys and chickens
139	SF 442	Internal Revenue Code references and income tax revisions — decoupling of state and federal bonus depreciation allowances
140	HF 225	Workers' compensation — miscellaneous changes
141	HF 386	Policy and services for the elderly
142	HF 674	Military service and military personnel — education, employment, benefits, and taxation
143	HF 682	Wine and beer manufacturing, sale, and distribution
144	SF 451	Jurisdiction and funding of streets and roads
145	HF 534	Department of administrative services — establishment and authority
146	HF 577	Whole-grade sharing agreements between public school districts — deadlines — exception
147	HF 594	Regulation of electrical and mechanical amusement devices
148	HF 595	Voluntary and involuntary annexations by cities
149	HF 624	Regulation of farm deer
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166	HF 675	Regulation of elder family homes, elder group homes, and assisted living programs — fire and safety standards
167	HF 689	Ethanol blended gasoline tax credits
168	SF 36	Miscellaneous supplemental and other appropriations
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175	HF 667	Appropriations — health and human services
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180	HF 549	Education — administration, regulation, and other related matters
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182	HF 662	Appropriations — education
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2003 FIRST EXTRAORDINARY SESSION

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2003 Regular Session
of the
Eightieth General Assembly
of the
State of Iowa

CHAPTER 1
SCHOOL FINANCE — ALLOWABLE GROWTH
S.F. 211

AN ACT providing for the establishment of the state percent of growth for purposes of the state school foundation program and providing an applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 257.8, subsection 1, Code 2003, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 2002, is one percent.~~ The state percent of growth for the budget year beginning July 1, 2003, is two percent. The state percent of growth for the budget year beginning July 1, 2004, is two percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. APPLICABILITY. This Act is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 2004.

Approved March 3, 2003

CHAPTER 2**MOTOR VEHICLE TRAFFIC REGULATION —
STATIONARY UTILITY OR MUNICIPAL MAINTENANCE VEHICLES***H.F. 66*

AN ACT requiring motor vehicle operators to take certain precautions when passing stationary utility maintenance or municipal maintenance vehicles and making a penalty applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.323A, subsection 2, Code 2003, is amended to read as follows:

2. The operator of a motor vehicle approaching a stationary towing or recovery vehicle, a stationary utility maintenance vehicle, a stationary municipal maintenance vehicle, or a stationary highway maintenance vehicle, that is displaying flashing yellow, amber, or red lights, shall approach the vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

a. Make a lane change into a lane not adjacent to the towing, recovery, utility maintenance, municipal maintenance, or highway maintenance vehicle if possible in the existing safety and traffic conditions.

b. If a lane change under paragraph “a” would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

Approved March 5, 2003

CHAPTER 3**BREAST CANCER AWARENESS MOTOR VEHICLE
LICENSE PLATES — FEES — APPROPRIATION***S.F. 127*

AN ACT establishing a special breast cancer awareness motor vehicle registration plate and appropriating fees from such plates for breast cancer screening.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.34, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 23. BREAST CANCER AWARENESS PLATES.

a. Upon application and payment of the proper fees, the director may issue breast cancer awareness plates to an owner of a motor vehicle referred to in subsection 12.

b. Breast cancer awareness plates shall contain an image of a pink ribbon and shall be designed by the department in consultation with the Susan G. Komen foundation.

c. The special fee for letter number designated breast cancer awareness plates is thirty-five dollars. The fee for personalized breast cancer awareness plates is twenty-five dollars, which shall be paid in addition to the special breast cancer awareness fee of thirty-five dollars. The

fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the Iowa department of public health the amount of the special fees collected in the previous month for the breast cancer awareness plates and such funds are appropriated to the Iowa department of public health. The Iowa department of public health shall distribute one hundred percent of the funds received monthly in the form of grants to support breast cancer screenings for both men and women who meet eligibility requirements like those established by the Susan G. Komen foundation. In the awarding of grants, the Iowa department of public health shall give first consideration to affiliates of the Susan G. Komen foundation and similar nonprofit organizations providing for breast cancer screenings at no cost in Iowa. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.

d. Upon receipt of the special registration plates, the applicant shall surrender the current registration receipt and plates to the county treasurer. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section. The annual special breast cancer awareness fee for letter number designated plates is ten dollars, which shall be paid in addition to the regular annual registration fee. The annual special fee for personalized breast cancer awareness plates is five dollars, which shall be paid in addition to the annual special breast cancer awareness fee and the regular annual registration fee. The annual special breast cancer awareness fee shall be credited and transferred as provided under paragraph "c".

Approved March 12, 2003

CHAPTER 4

STATE BANKS — DISCLOSURE OF OFFICER, DIRECTOR, AND SHAREHOLDER LIST

H.F. 215

AN ACT eliminating certain public disclosure requirements by state banks.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 524.541, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Every state bank shall cause to be kept a full and correct list of the names and addresses of the officers, directors, and shareholders of the state bank, and the number of shares held by each. ~~The list shall be subject to public inspection during usual business hours.~~ If an affiliate, as defined in subsection 4 of section 524.1101 is a shareholder in a state bank, such list shall include the names, addresses, and percentage of ownership or interest in the affiliate of the shareholders, members or other individuals possessing a beneficial interest in said affiliate.

Approved March 12, 2003

CHAPTER 5

COUNTY RECORDERS — DUTIES AND RECORDS

H.F. 311

AN ACT modifying the duties of county recorders.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.602, subsection 33, Code 2003, is amended by striking the subsection.

Sec. 2. Section 331.607, subsection 6, Code 2003, is amended to read as follows:

6. A ~~register~~ record of the names and descriptions of farms as provided in section 557.22.

Sec. 3. Section 557.22, Code 2003, is amended to read as follows:

557.22 AUTHORIZATION — CERTIFICATE.

Any owner of a farm in the state may have the name of that farm, together with a description of the owner's lands to which ~~said~~ the name applies, recorded in a ~~register kept for that purpose~~ in the office of the county recorder of the county in which ~~said~~ the farm is located.

~~Such recorder shall furnish to such landowner a proper certificate setting forth said name and a description of such lands.~~

Sec. 4. Section 607A.9, Code 2003, is amended to read as follows:

607A.9 EX OFFICIO COMMISSIONS.

In counties utilizing a jury commission for the drawing of jurors, the clerk of the district court, ~~and~~ the county auditor, ~~and the county recorder~~ shall ex officio constitute the jury commission but shall receive no extra compensation for acting as jury commissioners. If any of the above offices have been consolidated, the chief judge of the judicial district shall select another elected county officer to serve as a jury commissioner.

Approved March 24, 2003

CHAPTER 6MOTOR VEHICLE TRAFFIC REGULATION —
APPEARANCE BOND AND LIABILITY COVERAGE —
OVERTAKING AND PASSING VEHICLES

H.F. 343

AN ACT relating to enforcement of motor vehicle law provisions and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.1, subsection 30, Code 2003, is amended to read as follows:

30. "Guaranteed arrest bond certificate" means any printed, unexpired certificate issued by an automobile club or association to any of its members, or any printed, unexpired certificate issued by an insurance company authorized to write automobile liability insurance within this

state, which said certificate is signed by such member or insured and contains a printed statement that such automobile club, association, or insurance company and a surety company which is doing business in this state under the provisions of section 515.48, subsection 2, guarantee the appearance of the person whose signature appears on the certificate and that they will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed ~~two hundred~~ one thousand dollars. If such insurance company is itself qualified under the provisions of section 515.48, subsection 2, ~~then it~~ the insurance company may be its own surety. Bail in this form shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as provided by law.

Sec. 2. Section 321.302, Code 2003, is amended to read as follows:

321.302 OVERTAKING ~~ON THE RIGHT AND OTHERWISE.~~

1. ~~The~~ Unless otherwise prohibited by law, the driver of a vehicle on a roadway with unobstructed pavement of sufficient width for two or more lines of traffic moving in the same direction as the vehicle being passed may overtake and pass upon the right of another vehicle which is making or about to make a left turn when such movement can be made in safety.

2. ~~The~~ Unless otherwise prohibited by law, the driver of a vehicle may overtake and, allowing sufficient clearance, pass another vehicle proceeding in the same direction either upon the left or upon the right on a roadway with unobstructed pavement of sufficient width for four or more lines of moving traffic when such movement can be made in safety.

3. ~~No person~~ The driver of a vehicle shall not drive off the pavement or upon the shoulder of the roadway or upon the apron or roadway of an intersecting roadway in overtaking or passing on the right or the left.

~~3.~~ 4. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 6, paragraph "d".

Sec. 3. Section 321.486, subsection 1, Code 2003, is amended to read as follows:

1. A current guaranteed arrest bond certificate as defined in section 321.1, subsection 30 shall be considered sufficient surety if the defendant is charged with an offense where the penalty does not exceed ~~two hundred~~ one thousand dollars.

Sec. 4. Section 321K.1, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 3. A law enforcement agency conducting a roadblock in accordance with this section may require the driver to provide proof of financial liability coverage required under section 321.20B.

Sec. 5. Section 805.6, subsection 1, paragraph c, subparagraph (3), Code 2003, is amended by striking the subparagraph.

Approved March 24, 2003

CHAPTER 7

SPECIAL VEHICLE REGISTRATION PLATES — MOTOR TRUCKS

H.F. 290

AN ACT authorizing the issuance of special registration plates to owners of motor trucks.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.34, subsection 3, Code 2003, is amended to read as follows:

3. RADIO OPERATORS PLATES. The owner of an automobile, ~~light delivery truck, panel delivery truck,~~ motorcycle, trailer, or pickup motor truck who holds an amateur radio license issued by the federal communications commission may, upon written application to the county treasurer accompanied by a fee of five dollars, order special registration plates bearing the call letters authorized the radio station covered by the person's amateur radio license. When received by the county treasurer, such special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. Not more than one set of special registration plates may be issued to an applicant. Said fee shall be in addition to and not in lieu of the fee for regular registration plates. Special registration plates must be surrendered upon expiration of the owner's amateur radio license and the owner shall thereupon be entitled to the owner's regular registration plates. The county treasurer shall validate special plates in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

Sec. 2. Section 321.34, subsection 8, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck,~~ motorcycle, trailer, or pickup motor truck who has been awarded the congressional medal of honor may, upon written application to the department, order special registration plates which shall be red, white, and blue in color and shall bear an emblem of the congressional medal of honor and an identifying number. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The special plates are subject to an annual registration fee of fifteen dollars. The department shall validate the special plates in the same manner as regular registration plates are validated under this section. The department shall not issue special registration plates until service organizations in the state have furnished the department either the special dies or the cost of the special dies necessary for the manufacture of the special registration plate.

Sec. 3. Section 321.34, subsection 8A, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck,~~ motorcycle, trailer, or pickup motor truck who was a prisoner of war during the Second World War at any time between December 7, 1941, and December 31, 1946, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, or the Vietnam Conflict at any time between August 5, 1964, and June 30, 1973, all dates inclusive, may, upon written application to the department, order only one set of special registration plates with an ex-prisoner of war processed emblem. The emblem shall be designed by the department in cooperation with the adjutant general and shall signify that the owner was a prisoner of war as described in this subsection. The application is subject to approval by the department, in consultation with the adjutant general. The special plates shall be issued at no charge and are subject to an annual registration fee of fifteen dollars. The county treasurer shall validate the special plates in the same manner as regular registration plates are validated under this section.

Sec. 4. Section 321.34, subsections 10 and 10A, Code 2003, are amended to read as follows:

10. FIRE FIGHTER PLATES. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, pickup, motor truck,~~ motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer who is a current or former member of a paid or volunteer fire department, may upon written application to the department, order special registration plates, designed by the department in cooperation with representatives designated by the Iowa fire fighters' associations, which plates signify that the applicant is a current or former member of a paid or volunteer fire department. The application shall be approved by the department, in consultation with representatives designated by the Iowa fire fighters' associations, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be twenty-five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

10A. EMERGENCY MEDICAL SERVICES PLATES. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, pickup, motor truck,~~ motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer who is a current member of a paid or volunteer emergency medical services agency may, upon written application to the department, order special registration plates, designed by the department in cooperation with representatives designated by the Iowa emergency medical services association, which plates signify that the applicant is a current member of a paid or volunteer emergency medical services agency. The application shall be approved by the department, in consultation with representatives designated by the Iowa emergency medical services association, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be twenty-five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

Sec. 5. Section 321.34, subsection 11, paragraph a, Code 2003, is amended to read as follows:

a. Upon application and payment of the proper fees, the director may issue natural resources plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, pickup, motor truck,~~ motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer.

Sec. 6. Section 321.34, subsection 11A, paragraph a, Code 2003, is amended to read as follows:

a. Upon application and payment of the proper fees, the director may issue "love our kids" plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, pickup, motor truck,~~ motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer.

Sec. 7. Section 321.34, subsection 11B, paragraph a, Code 2003, is amended to read as follows:

a. Upon application and payment of the proper fees, the director may issue "motorcycle rider education" plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, pickup, motor truck,~~ motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer.

Sec. 8. Section 321.34, subsection 12, paragraph a, Code 2003, is amended to read as follows:

a. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, pickup, motor truck,~~ motor home, multipur-

pose vehicle, motorcycle, trailer, or travel trailer may, upon written application to the department, order special registration plates with a distinguishing processed emblem as authorized by this section or as approved by the department. The fee for the issuance of special registration plates is twenty-five dollars for each vehicle, unless otherwise provided by this section, which fee is in addition to the regular annual registration fee. The county treasurer shall validate special registration plates with a distinguishing processed emblem in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

Sec. 9. Section 321.34, subsection 15, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck,~~ motorcycle, trailer, or ~~pickup~~ motor truck, who has been awarded the legion of merit may, upon written application to the department and presentation of satisfactory proof of the award of the legion of merit as established by the Congress of the United States, order special registration plates with a legion of merit processed emblem. The emblem shall be designed by the department in cooperation with the adjutant general and shall signify that the owner was awarded the legion of merit. The application is subject to approval by the department, in consultation with the adjutant general. The special plates shall be issued at no charge and are subject to an annual registration fee of fifteen dollars. The county treasurer shall validate the special plates in the same manner as regular registration plates are validated under this section.

Approved March 25, 2003

CHAPTER 8

TRANSPORTATION AND TRANSPORTATION-RELATED REGULATION

S.F. 97

AN ACT relating to highway, aviation, motor vehicle transportation and public transit, including regulation of junkyards along highways and placement of political signs, elimination of the aviation hangar revolving loan fund, applications for certificates of title by motor vehicle dealers, fees charged for driver's licenses and nonoperator's identification cards and making an appropriation, security interests in motor vehicles, charges financed in a motor vehicle retail installment transaction, confidentiality of motor vehicle accident reports, requirements for motor carrier safety rules, exemptions for certain motor vehicle operators from motor carrier safety rules and hazardous materials transportation regulations, load limits for vehicles transporting construction machinery, urban public transit funding, and tariffs charged by motor carriers of household goods, and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I HIGHWAYS

Section 1. Section 306C.1, subsection 5, Code 2003, is amended by striking the subsection.

Sec. 2. Section 306C.2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person shall not establish, operate, or maintain a junkyard, any portion of which is within one thousand feet of the nearest edge of the right of way of any interstate ~~or primary~~ highway, except:

Sec. 3. Section 306C.3, Code 2003, is amended to read as follows:

306C.3 JUNKYARDS LAWFULLY IN EXISTENCE.

Any junkyard located outside a zoned or unzoned industrial area lawfully in existence on July 1, 1972, which is within one thousand feet of the nearest edge of the right of way and visible from the main-traveled portion of any highway on the interstate ~~or primary~~ system shall be screened, if feasible, by the department, ~~or~~ by the owner under rules and direction of the department, at locations on the highway right of way or in areas acquired for such purposes outside the right of way in order to obscure the junkyard from the main-traveled way of such highways.

Sec. 4. Section 306C.8, Code 2003, is amended to read as follows:

306C.8 AGREEMENTS WITH THE UNITED STATES AUTHORIZED.

The department may enter into agreements with the United States secretary of transportation as provided by Title 23, United States Code, relating to control of junkyards in areas adjacent to the interstate ~~and primary systems~~ system, and take action in the name of the state to comply with the terms of such agreements.

Sec. 5. Section 306C.10, subsection 13, Code 2003, is amended by striking the subsection.

Sec. 6. Section 306C.22, Code 2003, is repealed.

DIVISION II AVIATION

Sec. 7. Section 330.2, Code 2003, is repealed.

Sec. 8. LOAN REPAYMENTS. Moneys repaid on loans made from the aviation hangar revolving loan fund shall be credited to the state department of transportation and made available to support general aviation airports.

DIVISION III MOTOR VEHICLES

Sec. 9. Section 321.24, subsection 3, Code 2003, is amended to read as follows:

3. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the title number assigned to the owner or owners of the vehicle, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of ~~notation~~ delivery, and name and address of the secured party.

Sec. 10. Section 321.45, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. The perfection of a lien or security interest ~~by notation on the certificate of title~~ as provided in section 321.50, or

Sec. 11. Section 321.48, subsection 2, Code 2003, is amended to read as follows:

2. A foreign registered vehicle purchased or otherwise acquired by a dealer for the purpose

of resale shall be issued a certificate of title for the vehicle by the county treasurer of the dealer's residence upon proper application as provided in this chapter and upon payment of a fee of five dollars and the dealer is exempt from the payment of any and all registration fees for the vehicle. The application for certificate of title shall be made within ~~fifteen~~ thirty days after the vehicle comes within the border of the state. However, a dealer acquiring a vehicle registered in another state which permits Iowa dealers to reassign that state's certificates of title shall not be required to obtain a new registration or a new certificate of title and upon transferring title or interest to another person shall execute an assignment upon the certificate of title for the vehicle to the person to whom the transfer is made and deliver the assigned certificate of title to the person.

Sec. 12. Section 321.50, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home or manufactured home, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued, of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and payment of a fee of five dollars for each security interest shown. Upon delivery of the application and payment of the fee, the county treasurer shall note the date of delivery on the application. The date of delivery shall be the date of perfection of the security interest in the vehicle, regardless of the date the security interest is noted on the certificate of title. Up to three security interests may be perfected against a vehicle and shown on an Iowa certificate of title. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time ~~in order to perfect the security interest~~. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9303. Delivery as provided in this subsection ~~is an indication constitutes perfection~~ of a security interest on a certificate of title for purposes of ~~this chapter and~~ chapter 554.

2. Upon receipt of the application and the required fee, ~~if the certificate of title was not delivered to the county treasurer along with the application,~~ the county treasurer shall notify the holder of the certificate of title to deliver to the county treasurer, within five days from the receipt of notice, the certificate of title to permit notation of the security interest. If the holder of the certificate of title ~~shall fail~~ fails to deliver it within ~~the said~~ five days, the holder shall be liable to anyone harmed by the holder's failure.

3. Upon receipt of the application, the certificate of title, if any, and the required fee, the county treasurer shall note ~~such the~~ security interest, and the date ~~thereof~~ of perfection of the security interest, on the certificate over the signature of ~~such the~~ officer or deputy and the seal of office. The county treasurer shall also note ~~such the~~ security interest and the date ~~thereof~~ of perfection of the security interest in the county records system. Upon receipt of a certificate of title issued by a foreign jurisdiction, on which a security interest has been noted, the county treasurer shall note the security interest and the date the security interest was noted on the foreign certificate of title, if available, or if not, the date of issuance of the foreign certificate of title, on the face of the new certificate of title over the signature of the officer or deputy and the seal of office. The county treasurer shall also note the security interest and the date that was noted on the certificate of title in the county records system. The county treasurer shall then mail the certificate of title to the first secured party as shown thereon.

Sec. 13. Section 321.50, subsection 6, Code 2003, is amended to read as follows:

6. Any person obtaining possession of a certificate of title for a vehicle not already subject to a perfected security interest, except new or used vehicles held by a dealer or manufacturer as inventory for sale, who purports to have a security interest in such vehicle shall, within ~~thirty~~

~~three hundred sixty-five~~ days from the receipt of the certificate of title, deliver such certificate of title to the county treasurer of the county where it was issued to note such security interest and, if such person fails to do so, the person's purported security interest in the vehicle shall be void and unenforceable and such person shall forthwith deliver the certificate of title to the county treasurer of the county where it was issued. If no security interest has been filed for notation on the certificate of title, the certificate shall be mailed by the treasurer to the owner of the vehicle. For purposes of determining the commencement date of the ~~thirty-day~~ three-hundred-sixty-five-day period provided by this subsection, it shall be presumed that the purported security interest holder received the certificate of title on the date of the creation of the holder's purported security interest in the vehicle or the date of the issuance of the certificate of title, whichever is the latter. Any person collecting a fee from the owner of the vehicle for the purpose of perfecting a security interest in such vehicle who does not cause such security interest to be noted on the certificate of title by the county treasurer shall remit such fee to the department of revenue and finance of this state.

This subsection is repealed effective July 1, 2004.

Sec. 14. Section 321.191, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 10. ONE-TIME SURCHARGE — APPROPRIATION.

a. Notwithstanding any other provisions of this section, during the period beginning July 1, 2003, and ending June 30, 2008, a person applying for a new driver's license or for renewal of a driver's license subject to a fee under subsection 2, 3, or 4 shall be charged a one-time surcharge of three dollars in addition to the license fee. A person shall not be required to pay the surcharge more than once during the five-year period.

b. Moneys collected from the one-time surcharge under paragraph "a" are appropriated to the state department of transportation to be used for costs associated with the rewrite of the driver's license issuance and records system. Moneys in excess of the amount needed to fund the rewrite of the system shall be deposited in the road use tax fund.

Sec. 15. NEW SECTION. 321.192 WAIVERS OR REFUNDS OF FEES.

1. Notwithstanding the fee requirements for issuance of a driver's license or nonoperator's identification card pursuant to section 321.190 or 321.191, the department may waive or refund fees pursuant to rules adopted by the department. The department may waive payment of, or refund to an applicant, all or a portion of the fees for renewal of a license or identification card or for a duplicate license or identification card if the department determines that the service standard for timely issuance has not been met or an error on the license or identification card requires the applicant to return to the driver's license station. The decision of the department not to waive or refund a fee is final agency action and not subject to review under chapter 17A.

2. Subsection 1 does not apply to licenses or identification cards issued by a county pursuant to chapter 321M.

Sec. 16. Section 321.271, Code 2003, is amended to read as follows:

321.271 REPORTS CONFIDENTIAL — WITHOUT PREJUDICE — EXCEPTIONS.

1. All accident reports filed by a driver of a vehicle involved in an accident as required under section 321.266 shall be in writing. The report shall be without prejudice to the individual so reporting and shall be for the confidential use of the department, except that upon the request of any person involved in the accident, the person's insurance company or its agent, or the attorney for such person, the department shall disclose the identity and address of other persons involved in the accident and may disclose the name of the insurance companies with whom the other persons have liability insurance. The department, upon written request of the person making the report, shall provide the person with a copy of that person's report. The written report filed with the department shall not be admissible in or used in evidence in any civil or criminal case arising out of the facts on which the report is based.

2. All written reports filed by a law enforcement officer as required under section 321.266

shall be made available to any party to an accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request and the payment of a fee. However, the attorney general and the federal motor carrier safety administration shall not be required by the department or the law enforcement agency to pay a fee for a copy of a report filed by a law enforcement or investigating officer.

3. Notwithstanding subsections 1 and 2, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.

Sec. 17. Section 321.449, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person shall not operate a commercial vehicle on the highways of this state except in compliance with rules adopted by the department under chapter 17A. The rules shall be consistent with the federal motor carrier safety regulations promulgated under United States Code, Title 49, and found in 49 C.F.R. § ~~pts. 385~~, 390-399 and adopted under chapter 17A.

Sec. 18. Section 321.449, subsections 4 and 8, Code 2003, are amended to read as follows:

4. Notwithstanding other provisions of this section, rules adopted under this section for drivers of commercial vehicles shall not apply to a driver of a commercial vehicle who is engaged exclusively in intrastate commerce, when the commercial vehicle's gross vehicle weight rating is twenty-six thousand pounds or less, unless the vehicle is used to transport hazardous materials requiring a placard or if the vehicle is designed to transport more than fifteen passengers, including the driver. For the purpose of complying with the hours of service recordkeeping requirements under 49 C.F.R. § 395.1(e)(5), a driver's report of daily beginning and ending on-duty time submitted to the motor carrier at the end of each work week shall be considered acceptable motor carrier time records. In addition, rules adopted under this section shall not apply to a driver operating intrastate for a farm operation as defined in section 352.2, or for an agricultural interest when the commercial vehicle is operated between the farm as defined in section 352.2 and another farm, between the farm and a market for farm products, or between the farm and an agribusiness location. A driver or a driver-salesperson for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce, may drive twelve hours, be on duty sixteen hours in a twenty-four hour period and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. For-hire drivers who are engaged exclusively in intrastate commerce and who operate trucks and tractors exclusively for the movement of construction materials and equipment to and from construction projects may also drive twelve hours, be on duty sixteen hours in a twenty-four-hour period, and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. A driver-salesperson means as defined in 49 C.F.R. § 395.2, as adopted by the department by rule.

8. Rules adopted under this section shall not apply to vehicles engaged in intrastate commerce and used in combination, provided the gross vehicle weight rating of the towing unit is ten thousand pounds or less and the gross combination weight rating is twenty-six thousand pounds or less.

Sec. 19. Section 321.450, subsection 4, Code 2003, is amended to read as follows:

4. Notwithstanding other provisions of this section, rules adopted under this section shall not apply to a farmer or employees of a farmer when transporting an agricultural hazardous

material, ~~except class 2 material~~, between the sites in the farmer's agricultural operations unless the material is being transported on the interstate highway system. As used in this subsection, "farmer" means a person engaged in the production or raising of crops, poultry, or livestock; "farmer" does not include a person who is a commercial applicator of agricultural chemicals or fertilizers.

Sec. 20. Section 321E.7, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 1A. The gross weight on any one axle of any vehicle or combination of vehicles traveling under a permit issued in accordance with this chapter shall not exceed the maximum axle load prescribed in section 321.463; except that any one axle on a vehicle or combination of vehicles transporting construction machinery shall be allowed a one thousand pound weight tolerance, provided the total gross weight of the vehicle or combination of vehicles does not exceed the gross weight allowed by the permit.

Sec. 21. Section 321M.9, subsection 1, Code 2003, is amended to read as follows:

1. FEES TO COUNTIES. Notwithstanding any other provision in the Code to the contrary, the county treasurer of any county authorized to issue driver's licenses under this chapter shall retain for deposit in the county general fund ~~three~~ five dollars and ~~seventy-five cents~~ of fees received for each issuance or renewal of driver's licenses and nonoperator identification cards, but shall not retain any moneys for the issuance of any persons with disabilities identification devices. The county treasurer shall remit the balance of fees to the department.

Sec. 22. Section 322.19, unnumbered paragraph 5, Code 2003, is amended to read as follows:

~~Amount financed shall be~~ For purposes of this chapter, "amount financed" means as defined in section 537.1301. However, notwithstanding section 322.33, subsection 3, the amount financed may also include additional charges for the following, which shall not be included in the finance charge:

1. A motor vehicle service contract as defined in section 516E.1.
2. Voluntary debt cancellation coverage, whether insurance or debt waiver, which may be excluded from the finance charge under the federal Truth in Lending Act as defined in section 537.1302.

Sec. 23. NEW SECTION. 324A.7 URBAN PUBLIC TRANSIT SYSTEMS — INTENT.

An urban public transit system shall, to the extent practicable, utilize private-sector operators in the planning and provision of transit services.

Sec. 24. NEW SECTION. 325A.7A TARIFFS — APPROVAL BY DEPARTMENT.

1. TRANSPORTATION PROHIBITED. A motor carrier of household goods shall not undertake to perform any service for, engage in, or participate in the transportation of personal effects or property between points within this state until the motor carrier's tariff has been filed, posted, and approved by the department.

2. CHANGE IN TARIFF. Unless the department orders otherwise, a motor carrier of household goods shall give thirty days' notice to the department and to the public, as provided by rules adopted by the department, prior to making a change in a tariff.

3. CHANGES WITHOUT NOTICE. The department, for good cause shown, may allow changes in a tariff without the thirty days' notice required in subsection 2 by issuing an order specifying the changes to be made and the time they shall take effect.

4. POWER TO REVISE TARIFF. Any time a tariff is filed with the department, the department may hold a hearing for the purpose of determining that the tariff is just, reasonable, and nondiscriminating. The hearing shall be conducted by the director or the director's designee.

5. SUSPENSION OF TARIFF. Pending the hearing and the decision of the department, the tariff shall not be put into effect; however, this period of suspension of the tariff shall not exceed one hundred twenty days beyond the time the tariff would otherwise have been effective after filing and thirty days' notice.

6. DECISION. Following the hearing, the department shall establish the tariff changes proposed by the motor carrier in whole or in part, or establish other changes the department determines to be just, reasonable, and nondiscriminating.

Sec. 25. NEW SECTION. 325A.7B AGENCY TARIFFS.

1. AUTHORIZATION. Sections 325A.2 and 325A.7 shall not be construed to prohibit the making of rates by two or more motor carriers of household goods.

2. AGENCY TARIFFS. The names of the several motor carriers that are parties to an agency tariff shall be specified in the tariff. Unless otherwise required by the department, the agency tariff may be filed by only one of the parties to the agency tariff, or by a tariff filing agent, under a power of attorney granted by each of the parties to the agency tariff not doing the filing and filed with the department on forms prescribed by the department.

Sec. 26. Section 321.191, subsection 10, as enacted in this Act, is repealed effective July 1, 2008.

Sec. 27. The section in this Act amending section 321M.9 is repealed effective July 1, 2005.

Sec. 28. The state department of transportation, in consultation with the Iowa county treasurers association, shall conduct a study of the county driver's license issuance program, including the financial effect the program has had on counties. The department shall report its findings and recommendations to the general assembly no later than December 31, 2003.

Sec. 29. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this Act amending section 321E.7, being deemed of immediate importance, takes effect upon enactment.

2. The sections of this Act enacting sections 325A.7A and 325A.7B, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2002.

3. The sections of this Act amending section 321.24, subsection 3, section 321.45, subsection 2, paragraph "a", and section 321.50, subsections 1, 2, and 3, take effect July 1, 2004.

Approved March 28, 2003

CHAPTER 9

CITY HOSPITAL OR HEALTH CARE FACILITY TRUSTEES — RESIDENCY — VACANCIES

S.F. 357

AN ACT relating to election or appointment of trustees of a city hospital or health care facility.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 392.6, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If a hospital or health care facility is established by a city, the city shall by ordinance provide for the election, at a general, city, or special election, of three trustees, whose terms of office shall be four years. However, at the first election, three shall be elected and hold their office,

one for four years and two for two years, and they shall by lot determine their respective terms. A candidate for hospital or health care facility trustee must be a resident of the hospital or health care facility service area within the boundaries of the state at the time of the election at which the person's name appears on the ballot. A board of trustees elected pursuant to this section shall serve as the sole and only board of trustees for any and all institutions established by a city as provided for in this section.

Sec. 2. Section 392.6, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Terms of office of trustees elected pursuant to general or city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees appointed to fill a vacancy or elected pursuant to special elections shall begin at noon on the tenth day after appointment or the special election which is not a Sunday or legal holiday. The trustees shall begin their terms of office by taking the oath of office, and organize as a board by the election of one of their number as chairperson and one as secretary, but no bond shall be required of them. Terms of office of trustees shall extend to noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified. Vacancies on the board of trustees may, until the next general or regular city election, be filled by appointment by the remaining members of the board of trustees, unless within fourteen days after the appointment is made, there is filed with the city clerk a petition which requests a special election to fill the vacancy. Trustees who are appointed to fill a vacancy or who are elected at special elections shall serve the unexpired terms of office or until their successors are elected and qualified.

Approved March 28, 2003

CHAPTER 10

DISHONORED CHECKS, DRAFTS, OR ORDERS — SURCHARGE

S.F. 376

AN ACT relating to the surcharge for certain dishonored negotiable instruments.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 554.3512, subsection 1, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

1. The holder of a dishonored check, draft, or order may assess against the maker of that check, draft, or order a surcharge not to exceed thirty dollars.

Approved March 28, 2003

CHAPTER 11

URBAN RENEWAL INDEBTEDNESS REPORTING

S.F. 424

AN ACT relating to urban renewal indebtedness reporting and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. CITY AND COUNTY URBAN RENEWAL AREA INDEBTEDNESS REPORT. On or before April 1, 2003, each city and county that has established an urban renewal area shall report to the department of management the total amount of loans, advances, indebtedness, or bonds outstanding on April 1, 2003, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds. Indebtedness includes written agreements whereby the city or county agrees to suspend, abate, exempt, rebate, or reimburse property taxes with moneys in the special fund. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each city and county reporting.

The department of management, in consultation with the legislative fiscal bureau, shall prepare a form for reporting pursuant to this section. The department shall make the form available by electronic means.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 28, 2003

CHAPTER 12FRAUDULENT USE OF CREDIT CARDS
AND PAYMENT CARD SCANNING DEVICES OR REENCODERS

H.F. 504

AN ACT relating to fraudulent use of a credit card, scanning device, or reencoder, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 715A.6, subsection 2, Code 2003, is amended to read as follows:

2. An offense under this section is a class "D" "~~C~~" felony if the value of the property or services secured or sought to be secured by means of the credit card is greater than ~~one~~ ten thousand dollars. If the value of the property or services secured or sought to be secured by means of the credit card is greater than one thousand dollars but not more than ten thousand dollars, an offense under this section is a class "D" felony, otherwise the offense is an aggravated misdemeanor.

Sec. 2. Section 715A.6, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 3. For purposes of this section, the value of the property or services

is the highest value of the property or services determined by any reasonable standard at the time the violation occurred. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value. If property or services are secured by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the acts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single act and the value may be the total value of all property or services involved.

Sec. 3. NEW SECTION. 715A.10 ILLEGAL USE OF SCANNING DEVICE OR REENCODER.

1. A person commits a class "D" felony if the person does any of the following:
 - a. Uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card, and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.
 - b. Uses a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being reencoded, and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.
2. A second or subsequent violation of this section is a class "C" felony.
3. As used in this section:
 - a. "Merchant" means an owner or operator of a retail mercantile establishment or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. A "merchant" also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.
 - b. "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
 - c. "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.
 - d. "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

Approved March 28, 2003

CHAPTER 13**SCHOOL FINANCE — USE OF PHYSICAL PLANT
AND EQUIPMENT LEVY MONEYS***H.F. 175*

AN ACT relating to the use of physical plant and equipment levy revenue, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 298.3, subsections 3 and 10, Code 2003, are amended to read as follows:

3. ~~The purchase of buildings and the purchase, lease, or lease-purchase of a single unit of equipment or technology exceeding five hundred dollars in value per unit.~~

10. ~~Lease-purchase~~ The purchase of buildings or lease-purchase option agreements for school buildings and for equipment exceeding in value five thousand dollars per single unit.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 9, 2003

CHAPTER 14**DISSEMINATION OF INTELLIGENCE DATA
AND INTELLIGENCE ASSESSMENTS***H.F. 216*

AN ACT relating to intelligence data and intelligence assessment dissemination to an agency, organization, or person, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 692.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 12A. "Intelligence assessment" means an analysis of information based in whole or in part upon intelligence data.

Sec. 2. Section 692.8, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Intelligence data in the files of the department may be disseminated only to a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, and only if the department is satisfied that the need to know and the intended use are reasonable. However, intelligence data may also be disseminated to an agency, organization, or person when disseminated for an official purpose, and in order to protect a person or property from a threat of imminent serious harm. Whenever intelligence data relating to a defendant or juvenile who is the subject of a petition under section 232.35 for the purpose of sentencing or adjudication has been provided a court, the court shall inform the defendant or juvenile or the defendant's or juvenile's attorney that it is in possession of such data and shall, upon request of the defendant or juvenile or the defendant's or juvenile's attorney, permit examination of such data.

Sec. 3. Section 692.8A, Code 2003, is amended to read as follows:

692.8A ~~REDISSEMINATION~~ DISSEMINATION OF INTELLIGENCE DATA.

1. A criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer shall not disseminate intelligence data, which has been received from the department or bureau or from any other source, outside the agency or the peace officer's agency unless all of the following apply:

1. a. The intelligence data is for official purposes in connection with prescribed duties of a criminal or juvenile justice agency.

2. b. The agency maintains a list of the agencies, organizations, or persons receiving the intelligence data and the date and purpose of the dissemination.

3. c. The request for intelligence data is based upon name, fingerprints, or other individually identified characteristics. The agency disseminating the intelligence data is satisfied that the need to know and the intended use are reasonable.

2. Notwithstanding subsection 1, a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer may disseminate intelligence data to an agency, organization, or person when disseminated for an official purpose, and in order to protect a person or property from a threat of imminent serious harm, and if the dissemination complies with paragraphs "b" and "c" of subsection 1.

3. An agency, organization, or person receiving intelligence data from a criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer pursuant to this chapter may only redisseminate the intelligence data if authorized by the agency or peace officer providing the data. A criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer who disseminates intelligence data pursuant to this chapter may limit the type of data released in order to protect the intelligence methods and sources used to gather the data, and may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence data. An agency, organization, or person receiving intelligence data is also subject to the provisions of this chapter and shall comply with any administrative rules adopted pursuant to this chapter.

4. This section shall not be construed to prohibit the dissemination of an intelligence assessment to any agency or organization if necessary for carrying out the official duties of the agency or organization, or to a person if disseminated for an official purpose, and if necessary to protect a person or property from a threat of imminent serious harm.

Sec. 4. Section 692.18, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Intelligence data in the possession of ~~the department or bureau~~, a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer or disseminated by ~~the department or bureau~~ such agency or peace officer, are not public records within the provisions of chapter 22.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 9, 2003

CHAPTER 15

IOWA EGG COUNCIL — COMPOSITION

H.F. 240

AN ACT relating to the composition of the Iowa egg council.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 184.6, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The Iowa egg council established under this chapter shall be composed of seven members. Each member must be a natural person who is a resident of this state and a producer or an officer, equity owner, or employee of a producer. A producer shall not be represented by more than ~~one~~ two members of the council. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. The council shall adopt rules pursuant to chapter 17A establishing classifications for large, medium, and small producers. The following persons or their designees shall serve as ex officio nonvoting members:

Approved April 9, 2003

CHAPTER 16FLUNITRAZEPAM — PENALTY FOR MANUFACTURE, DELIVERY,
OR POSSESSION WITH INTENT OR CONSPIRACY
TO MANUFACTURE OR DELIVER*H.F. 249*

AN ACT relating to the manufacture, delivery, possession with the intent to manufacture or deliver, or conspiring to manufacture, deliver, or possess with the intent to manufacture or deliver flunitrazepam, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 124.401, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving fifty kilograms or less of marijuana or involving flunitrazepam is a class "D" felony.

Approved April 9, 2003

CHAPTER 17REVERSION OF STATE CONSERVATION
FUND REVENUES — EXEMPTION

H.F. 254

AN ACT providing that revenues deposited in the state conservation fund are temporarily exempt from reversion and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 456A.17, Code 2003, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 6:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, revenues deposited in the state conservation fund, and remaining in the state conservation fund on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for one year after the close of the fiscal year during which such revenues were deposited. Any such revenues remaining unexpended at the end of the one-year period during which the revenues are available for expenditure shall revert to the general fund of the state.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 9, 2003

CHAPTER 18ELECTRONIC FINANCIAL TRANSACTIONS
AND GOVERNMENTAL ENTITIES

H.F. 289

AN ACT relating to electronic financial transactions with county treasurers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12C.1, subsection 2, paragraph e, Code 2003, is amended to read as follows:¹

e. “Public funds” and “public deposits” mean the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2 or 476A.20; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter; and moneys placed in a depository for the purpose of completing an electronic financial transaction pursuant to section 14B.203 or 331.427.

¹ See chapter 48, §1; chapter 179, §58, 84 herein

Sec. 2. Section 12C.4, Code 2003, is amended to read as follows:

12C.4 LOCATION OF DEPOSITORIES.

Deposits by the treasurer of state shall be in depositories located in this state; by a county officer or county public hospital officer or merged area hospital officer, in depositories located in the county or in an adjoining county within this state; by a memorial hospital treasurer, in a depository located within this state which shall be selected by the memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in depositories located in the county in which the city is located or in an adjoining county, but if there is no depository in the county in which the city is located or in an adjoining county then in any other depository located in this state which shall be selected as a depository by the city council; by a school treasurer or by a school secretary in a depository within this state which shall be selected by the board of directors or the trustees of the school district; by a township clerk in a depository located within this state which shall be selected by the township clerk and approved by the trustees of the township. However, deposits may be made in depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when the deposit is made not more than ten days before the date the principal or interest becomes due. Further, the treasurer of state may maintain an account or accounts outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts. Deposits made for the purpose of completing an electronic financial transaction pursuant to section 14B.203² or 331.427 may be made in any depository located in this state.

Sec. 3. Section 331.427, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 1A. Fees and charges including service delivery fees, credit card fees, and electronic funds transfer charges payable to a third party, not to the county, that are imposed for completing an electronic financial transaction with the county are not considered county revenues for purposes of subsection 1.

Sec. 4. Section 331.553, subsection 5, Code 2003, is amended to read as follows:

5. Accept credit cards and electronic transfers of funds in payment of moneys due to the county, including but not limited to credits and reimbursements received from the state, tax payments, and tax sale redemptions. A county treasurer may adjust fees to reflect the cost of processing such payments.

Sec. 5. Section 445.57, Code 2003, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. Fees and charges including service delivery fees, credit card fees, and electronic funds transfer charges payable to a third party, not to the county, that are imposed for completing an electronic financial transaction with the county are not considered taxes collected for the purposes of this section.

Approved April 9, 2003

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §35 herein

CHAPTER 19
COMMUNITY COLLEGE PERSONNEL
H.F. 341

AN ACT relating to personnel and instructors employed by community colleges.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 279.13, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 4. For purposes of this section, sections 279.14, 279.15 through 279.17, 279.19, and 279.27, unless the context otherwise requires, “teacher” includes the following individuals employed by a community college:

- a. An instructor, but does not include an adjunct instructor.
- b. A librarian, including those denoted as being a learning resource specialist or a media specialist.
- c. A counselor.

Sec. 2. Section 279.19B, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The licensure and coaching authorization requirements of this section shall not apply to community colleges. An individual employed as a coach of a community college interscholastic athletic activity who is not issued a teaching contract under section 279.13 serves at the pleasure of the board of directors of the community college and is not subject to sections 279.13 through 279.19, and 279.27.

Sec. 3. Section 279.23, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Except as otherwise specifically provided, an administrator’s contract shall be governed by the provisions of this section and sections 279.23A, 279.24, and 279.25, and not by section 279.13.

PARAGRAPH DIVIDED. For purposes of this section and sections 279.23A, 279.24, and 279.25, the term “administrator” includes school superintendents, assistant superintendents, educational directors employed by school districts for grades kindergarten through twelve, educational directors employed by area education agencies under chapter 273, principals, assistant principals, other certified school supervisors employed by school districts for grades kindergarten through twelve as defined under section 20.4, and other certified school supervisors employed by area education agencies under chapter 273. For purposes of this section and sections 279.23A, 279.24, and 279.25, with regard to community college employees, “administrator” includes the administrator of an instructional division or an area of instructional responsibility, and the administrator of an instructional unit, department, or section.

Sec. 4. 2002 Iowa Acts, chapter 1047, sections 14 and 17, are repealed.

Sec. 5. 2002 Iowa Acts, chapter 1047, section 20, is amended to read as follows:

SEC. 20. EFFECTIVE DATE. Sections 1 through 4, and sections 6 through 13, sections 15 and 16, and section 18 of this Act take effect July 1, 2003.

Approved April 9, 2003

CHAPTER 20**IOWA DEPARTMENT OF PUBLIC SAFETY PEACE OFFICERS'
RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM —
TEMPORARY INCAPACITY FOR DUTY — SICK LEAVE***H.F. 342*

AN ACT relating to the use of sick leave by certain members of the Iowa department of public safety peace officers' retirement, accident, and disability system who are temporarily incapacitated for duty and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 97A.6, subsection 5, paragraph b, Code 2003, is amended to read as follows:

b. Should a member in service become incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time or place, the member shall, upon being found to be temporarily incapacitated following an examination by the board of trustees, be entitled to receive the member's fixed pay and allowances, without using the member's sick leave, until re-examined reexamined by the board and found to be fully recovered or permanently disabled. In addition, a member found to be temporarily incapacitated under this paragraph shall be credited with any sick leave used prior to the determination that the member was temporarily incapacitated under this paragraph for the period of time sick leave was used.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 9, 2003

CHAPTER 21**MEDICAL ASSISTANCE PROGRAM MANAGED CARE
OR PREPAID SERVICES CONTRACTS —
APPROVED HEALTH CARE SERVICES PROVIDERS —
ADVANCED REGISTERED NURSE PRACTITIONERS***H.F. 479*

AN ACT designating advanced registered nurse practitioners as providers of health care services pursuant to managed care or prepaid services contracts under the medical assistance program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249A.4, subsection 7, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Advanced registered nurse practitioners licensed pursuant to chapter 152 shall be regarded as approved providers of health care services,

including primary care, for purposes of managed care or prepaid services contracts under the medical assistance program. This paragraph shall not be construed to expand the scope of practice of an advanced registered nurse practitioner pursuant to chapter 152.

Approved April 9, 2003

CHAPTER 22

PODIATRISTS — ADMINISTRATION OF ANESTHESIA

H.F. 503

AN ACT relating to the authorization of podiatrists to administer anesthesia.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 149.5, Code 2003, is amended to read as follows:

149.5 AMPUTATIONS — ~~GENERAL ANESTHETICS~~ ANESTHESIA.

A license to practice podiatry shall not authorize the licensee to amputate the human foot ~~or use any anesthetics other than local.~~

A licensed podiatric physician may administer local anesthesia. Conscious sedation may be administered by a licensed podiatric physician in a hospital or an ambulatory surgical center.

A licensed podiatric physician may prescribe and administer drugs for the treatment of human foot ailments as provided in section 149.1.

Approved April 9, 2003

CHAPTER 23

LEGALIZING ACT — URBANDALE CITY COUNCIL APPROVAL OF PARTIAL PROPERTY TAX EXEMPTION

H.F. 615

AN ACT to legalize the proceedings of the City Council of the City of Urbandale relating to the approval of a partial exemption from property taxation of actual value added to industrial real estate, and providing for effective and applicability dates.

WHEREAS, on December 10, 2002, the City Council for the City of Urbandale passed Ordinance No. 2002-20, which became effective on January 3, 2003, approving a partial exemption from property taxation of the actual value added to industrial real estate locally known by its address of 4091 120th Street, in the City of Urbandale in Polk County, Iowa, and legally described as lot 2, Crossroads Business Park, plat 4, included in and forming a part of the City of Urbandale, Polk County, Iowa; and

WHEREAS, it is deemed advisable to remove any doubt regarding the legality of the city council proceedings and the ordinance providing the partial exemption from property taxation of the actual value added to the industrial real estate as described in this Act in accordance with chapter 427B; NOW THEREFORE,

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. All acts and proceedings relating to Ordinance No. 2002-20 passed by the City Council for the City of Urbandale on December 10, 2002, approving a partial exemption from property taxation of the actual value added to industrial real estate in accordance with chapter 427B for the property legally described as lot 2, Crossroads Business Park, plat 4, according to the official plat in and forming a part of the City of Urbandale, Polk County, Iowa, are legalized, validated, and confirmed.

Sec. 2. The acts and proceedings relating to the ordinance as legalized, validated, and confirmed pursuant to section 1 are deemed to constitute prior approval as provided in section 427B.4 entitling the industrial real estate described in section 1 to the partial exemption from property taxation as otherwise provided in section 427B.3 as set forth in the ordinance.

Sec. 3. This Act is effective upon enactment and is retroactively applicable on and after December 10, 2002. In accordance with the ordinance, the amount of actual value added which is eligible to be exempt from taxation shall be calculated in accordance with the schedule provided in section 427B.3 beginning on and after January 3, 2003. This Act shall not be construed to entitle a person to a refund or adjustment of property taxes paid prior to January 3, 2003.

Approved April 9, 2003

CHAPTER 24

TREASURERS — FUNDS, RECORDS, AND OTHER RESPONSIBILITIES — MISCELLANEOUS PROVISIONS

S.F. 134

AN ACT relating to the various duties of the county treasurer and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12B.11, Code 2003, is amended to read as follows:
12B.11 MANNER AND DETAILS OF SETTLEMENT.

At the time of any examination of any such office, or at the time of any settlement with the treasurer in charge of any such public funds, the treasurer shall produce and count in the presence of the officer or officers making such examination or settlement, all moneys or funds then on deposit in the safe or vault in the treasurer's office, and shall produce a statement of all money or funds on deposit with any depository wherein the treasurer is authorized to deposit such funds, ~~which statement shall be certified by one or more officers of such depository,~~ and shall correctly show the balance remaining on deposit in such depository at the close of business on the day preceding the day of such settlement. The treasurer shall also file a statement setting forth the numbers, dates, and amounts of all outstanding checks, or other items of

difference, reconciling the balance as shown by the treasurer's books with those of the depositories. The state treasurer shall also file a statement showing the numbers, dates and amounts of all United States government bonds held as part of said public fund.

Sec. 2. Section 321.1, subsection 60, Code 2003, is amended to read as follows:

60. "Registration year" means the period of twelve consecutive months beginning on the first day of the month following the month of the birth of the owner of the vehicle for vehicles registered by the county treasurer and the calendar year for vehicles registered by the department or motor trucks and truck tractors with a combined gross weight exceeding five tons which are registered by the county treasurer. For leased vehicles registered by the county treasurer, except for motor trucks and truck tractors with a combined gross weight exceeding five tons, "registration year" means the period of twelve consecutive months beginning on the first day of the month following the month in which the lease expires.

Sec. 3. Section 321.39, subsections 2 and 3, Code 2003, are amended to read as follows:

2. For vehicles registered by the county treasurer, at midnight on the last day of the registration year. A person shall not be considered to be driving a motor vehicle with an expired registration for a period of one month following the expiration date of the vehicle registration. The one-month period shall be the same as the period defined in section 321.134, subsection 1.

3. For vehicles on which the first installment of an annual fee has been paid, at midnight on the last day of June or the first business day of July when June 30 falls on Saturday, Sunday, or a holiday; for vehicles on which the second installment of an annual fee has been paid, at midnight on the last day of December or the first business day of January when December 31 falls on Saturday, Sunday, or a holiday.

Sec. 4. Section 331.552, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 34. Destroy tax sale redemption certificates and all associated tax sale records after ten years have elapsed from the end of the fiscal year in which the certificate was redeemed. If a tax sale certificate of purchase is cancelled as required by section 446.37 or 448.1, all associated tax sale records shall be destroyed after ten years have elapsed from the end of the fiscal year in which the tax sale certificate of purchase was cancelled.

Sec. 5. Section 384.62, Code 2003, is amended to read as follows:

384.62 LIMIT.

1. A special assessment against a lot for a public improvement ~~may shall~~ not be in excess of the amount of the assessment, including the conditional deficiency assessment, as shown in the schedule confirmed by the court, or if court confirmation is not utilized, then on the original plat and schedule adopted by the council, and an assessment ~~may shall~~ not exceed twenty-five percent of the value of the lot as shown by the plat and schedule approved by the council or as reduced by the court.

2. Special assessments for the construction or repair of underground connections for private property for gas, water, sewers, or electricity may be assessed to each lot for the actual cost of each connection for that lot, and the twenty-five percent limitation does not apply. Such connections shall not be installed to service railway right of way without written agreement with the railway company owning or leasing the right of way.

3. A special assessment for a public improvement against a tract of land ~~used and~~ assessed as agricultural property shall not become payable upon the filing of a request by the owner for deferment until that land is not ~~used and~~ assessed as agricultural property. ~~At the time of the change in the use of the property, the special assessment shall become payable in the same manner as the special assessment would have become payable had it not been deferred by this section.~~ This section shall not apply to a tract of land of less than one-quarter acre surrounding any dwelling or nonfarm structure on that tract nor shall it apply to a special assessment levied before July 3, 1978. This section shall not apply if the public improvement is a sewer, water, gas or electrical line to which the owner of the land makes a connection.

4. Payment of installments of special assessments for a public improvement against property ~~used and~~ assessed as agricultural property shall be deferred as follows:

1. ~~a.~~ The property owner who seeks deferment of an assessment shall file a written request for deferment with the city clerk at the time of the hearing on the resolution of necessity for the public improvement or within ten days following the date of the hearing and the request shall identify those lots subject to proposed assessments for which the property owner is seeking deferment which are ~~used and~~ assessed as agricultural property. The request may be withdrawn by the property owner at any time before or after the adoption of the resolution of necessity.

2. ~~b.~~ The city shall indicate those lots for which a deferment has been requested on the special assessment schedule.

3. ~~c.~~ After the assessments for the public improvement have been levied and the special assessment schedule has been filed with the county treasurer, the county treasurer shall indicate on the tax rolls those assessments subject to deferment under this section.

4. ~~d.~~ An owner of property subject to an assessment that may be deferred may file a statement at any time up to six months before the assessment installment is due stating that a written request for deferment of such assessments is filed with the city clerk and that the entire lot subject to such assessment has continued to be and is still used and assessed as agricultural property. The collection of that installment and any other unpaid portion of the assessment shall be deferred until the next July 1 and subsequent installments may thereafter be deferred in the same manner for successive years in which a statement is filed. A deferment shall continue for as long as the county assessor continues to classify the property as agricultural land on January 1 of each assessment year. A deferment shall end six months following any January 1 assessment date on which the county assessor no longer classifies the property as agricultural land and the special assessment shall become payable in the same manner as the special assessment would have become payable had it not been deferred by this subsection.

Sec. 6. Section 384.67, Code 2003, is amended to read as follows:

384.67 PAYMENT TO COUNTY TREASURER.

Assessments levied and certified under the provisions of this division, including installments and interest, are payable at the office of the county treasurer of the county where the property assessed is located, except that assessments may be paid in full or in part and without interest within thirty days after the date of certification, at the office of the county treasurer, if the property being assessed is located in an unincorporated area, or the city clerk, if the property being assessed is located in an incorporated area ~~except when the city council specifically provides payment to be made in the office of the county treasurer.~~

Sec. 7. NEW SECTION. 435.26A SURRENDER OF TITLE.

1. A person who owns a manufactured home that is located in a manufactured home community and is installed on a permanent foundation may surrender the manufactured home's certificate of title to the county treasurer for the purpose of assuring eligibility for funds available from mortgage lending programs sponsored by the federal national mortgage association, the federal home loan mortgage corporation, the United States department of agriculture, or any other federal governmental agency or instrumentality that has similar requirements for mortgage lending programs.

2. Upon receipt of a certificate of title from a manufactured home owner, a county treasurer shall notify the department of transportation that the certificate of title has been surrendered, remove the registration of title from the county treasurer's records, and destroy the certificate of title.

3. After the surrender of a manufactured home's certificate of title under this section, the manufactured home shall continue to be taxed under section 435.22 and is not eligible for the homestead tax credit or the military service tax exemption. A foreclosure action on a manufactured home whose title has been surrendered under this section shall be conducted as a real estate foreclosure. A tax lien and its priority shall remain the same on a manufactured home after its certificate of title has been surrendered.

4. The certificate of title of a manufactured home shall not be surrendered under this section if an unreleased security interest is noted on the certificate of title.

5. An owner of a manufactured home who has surrendered a certificate of title under this section and requires another certificate of title for the manufactured home is required to apply for a bonded certificate of title under chapter 321.¹

Sec. 8. Section 445.5, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

As soon as practicable after receiving the tax list prescribed in chapter 443, the treasurer shall deliver to the titleholder, by regular mail, or if requested by the titleholder, by electronic transmission, a statement of taxes due and payable which shall include the following information:

Sec. 9. Section 468.165, Code 2003, is repealed.

Sec. 10. EFFECTIVE DATE. Section 7 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 2003

CHAPTER 25

CHILD IN NEED OF ASSISTANCE PROCEEDINGS AND TERMINATIONS OF PARENTAL RIGHTS — APPEALS

S.F. 224

AN ACT relating to appeals filed in child in need of assistance and termination of parental rights proceedings.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.133, subsection 2, Code 2003, is amended to read as follows:

2. Except for appeals from ~~an order~~ final orders entered in child in need of assistance proceedings or final orders entered pursuant to section 232.117, appellate procedures shall be governed by the same provisions applicable to appeals from the district court. The supreme court may prescribe rules to expedite the resolution of appeals from final orders entered in child in need of assistance proceedings or final orders entered pursuant to section 232.117.

Sec. 2. Section 602.4102, subsection 4, Code 2003, is amended to read as follows:

4. A party to an appeal decided by the court of appeals may, as a matter of right, file an application with the supreme court for further review.

a. An application for further review in an appeal from a child in need of assistance or termination of parental rights proceeding shall not be granted by the supreme court unless filed within ten days following the filing of the decision of the court of appeals.

b. ~~An~~ In all other cases, an application for further review shall not be granted by the supreme court unless the application was filed within twenty days following the filing of the decision of the court of appeals.

4A. The court of appeals shall extend the time for filing of an application if the court of appeals determines that a failure to timely file an application was due to the failure of the clerk of the court of appeals to notify the prospective applicant of the filing of the decision. If an

¹ See chapter 179, §128, 159; 2003 Iowa Acts, First Extraordinary Session, chapter 2, §26, 43 herein

application for further review is not acted upon by the supreme court within thirty days after the application was filed, the application is deemed denied, the supreme court loses jurisdiction, and the decision of the court of appeals is conclusive.

Approved April 11, 2003

CHAPTER 26

REGULATION OF TOBACCO RETAILERS

S.F. 401

AN ACT relating to tobacco retailers and providing penalties and providing applicability provisions and an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 453A.2, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 5A. If a county health department, a city health department, or a city has not assessed a penalty pursuant to section 453A.22, subsection 2, for a violation of subsection 1, within sixty days of the adjudication of the violation, the matter shall be transferred to and be the exclusive responsibility of the Iowa department of public health. Following transfer of the matter, if the violation is contested, the Iowa department of public health shall request an administrative hearing before an administrative law judge, assigned by the division of administrative hearings of the department of inspections and appeals in accordance with the provisions of section 10A.801, to adjudicate the matter pursuant to chapter 17A.

Sec. 2. **NEW SECTION.** 453A.2A TOBACCO COMPLIANCE EMPLOYEE TRAINING PROGRAM.

1. The alcoholic beverages division of the department of commerce shall develop a tobacco compliance employee training program not to exceed two hours in length for employees and prospective employees of tobacco retailers to inform the employees about state and federal laws and regulations regarding the sale of cigarettes and tobacco products to persons under eighteen years of age and compliance with and the importance of laws regarding the sale of cigarettes and tobacco products to persons under eighteen years of age.

2. The tobacco compliance employee training program shall be made available to employees and prospective employees of tobacco retailers at no cost to the employee, the prospective employee, or the retailer, and in a manner which is as convenient and accessible to the extent practicable throughout the state so as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

3. Upon completion of the tobacco compliance employee training program, an employee or prospective employee shall receive a certificate of completion, which shall be valid for a period of two years, unless the employee or prospective employee is convicted of a violation of section 453A.2, subsection 1, in which case the certificate shall be void.

4. The tobacco compliance employee training program shall also offer periodic continuing employee training and recertification for employees who have completed initial training and received certificates of completion.

Sec. 3. Section 453A.22, subsection 2, Code 2003, is amended to read as follows:

2. If a retailer or employee of a retailer has violated section 453A.2 or section 453A.36, subsection 6, the department or local authority, or the Iowa department of public health following transfer of the matter to the Iowa department of public health pursuant to section 453A.2, subsection 5A, in addition to the other penalties fixed for such violations in this section, shall assess a penalty upon the same hearing and notice as prescribed in subsection 1 as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.

b. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars or the retailer's permit shall be suspended for a period of thirty days. The retailer may select its preference in the penalty to be applied under this paragraph.

c. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars and the retailer's permit shall be suspended for a period of sixty thirty days.

d. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars and the retailer's permit shall be revoked suspended for a period of sixty days.

e. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

Sec. 4. Section 453A.22, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four-year period the bar under either this subsection or subsection 2B against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

NEW SUBSECTION. 2B. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one hour in length as developed by the alcoholic beverages division of the department of commerce. A retailer may assert only once in a four-year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

Sec. 5. **APPLICABILITY PROVISIONS.**

1. Notwithstanding any provision of law to the contrary, the section of this Act creating section 453A.2, subsection 5A, is applicable to violations pending on the effective date of this Act for which a penalty has not been assessed under section 453A.22, subsection 2.¹

2. Notwithstanding section 453A.22, subsection 2, Code 2003, the section of this Act amending section 453A.22, subsection 2, is applicable to each violation of section 453A.2, subsection 1, by a retailer or an employee of a retailer which is pending on the effective date of this Act and for which a penalty has not been assessed under section 453A.22, subsection 2, Code 2003.

Sec. 6. Section 453A.22, subsection 2B, as enacted by this Act, is repealed one year from the effective date of this Act.

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §29, 33 herein

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 2003

CHAPTER 27
ELEMENTARY AND SECONDARY EDUCATION —
CHARACTER EDUCATION AND SERVICE LEARNING
H.F. 180

†**AN ACT** relating to character education and service learning in Iowa's elementary and secondary schools.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 256.18A SERVICE LEARNING.

The board of directors of a school district or the authorities in charge of a nonpublic school may require a certain number of service learning units as a condition for the inclusion of a service learning endorsement on a student's diploma or as a condition of graduation from the district or school. For purposes of this paragraph, "service learning" means a method of teaching and learning which engages students in solving problems and addressing issues in their school or greater community as part of the academic curriculum.

Sec. 2. Section 280.12, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 3. Consider recommendations from the school improvement advisory committee to infuse character education into the educational program.

Approved April 11, 2003

CHAPTER 28
SNOWMOBILE FRANCHISES — TERMINATION
— FRANCHISEE PAYMENT RIGHTS
H.F. 339

AN ACT relating to snowmobile franchises by requiring the repurchase of certain inventory upon termination of a franchise and providing effective and retroactive applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 322D.1, subsection 2, Code 2003, is amended to read as follows:

2. "Attachment" means a machine or part of a machine designed to be used on and in conjunction with a farm implement, motorcycle, ~~or~~ all-terrain vehicle, or snowmobile.

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

Sec. 2. Section 322D.1, subsection 4, paragraphs b and e, Code 2003, are amended to read as follows:

b. The franchisee is granted the right to offer and sell farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments manufactured or distributed by the franchiser.

e. The operation of the franchisee's business is substantially reliant on the franchiser for the continued supply of farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments.

Sec. 3. Section 322D.1, subsections 5 and 6, Code 2003, are amended to read as follows:

5. "Franchisee" means a person who receives farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments from the franchiser under a franchise and who offers and sells the farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments to the general public.

6. "Franchiser" means a person who manufactures, wholesales, or distributes farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments, and who enters into a franchise.

Sec. 4. Section 322D.1, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 11. "Snowmobile" means the same as defined in section 321G.1.

Sec. 5. Section 322D.2, Code 2003, is amended to read as follows:

322D.2 FRANCHISEE'S RIGHTS TO PAYMENT.

1. A franchisee who enters into a written franchise with a franchiser to maintain a stock of farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments has the following rights to payment, at the option of the franchisee, if the franchise is terminated:

a. One hundred percent of the net cost of new, unused, complete farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related attachments, which were purchased from the franchiser. In addition, the franchisee shall have a right of payment for transportation charges on the farm implements, motorcycles, ~~or~~ all-terrain vehicles, or snowmobiles, which have been paid by the franchisee.

b. Eighty-five percent of the net prices of any repair parts, including superseded parts, which were purchased from the franchiser and held by the franchisee on the date that the franchise terminated.

c. Five percent of the net prices of parts resold under paragraph "b" for handling, packing, and loading of the parts. However, this payment shall not be due to the franchisee if the franchiser elects to perform the handling, packing, and loading.

2. Upon receipt of the payments due under subsection 1, the franchiser is entitled to possession of and title to the farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related parts or attachments.

3. The cost of farm implements, motorcycles, all-terrain vehicles, snowmobiles, or related attachments and the price of repair parts shall be determined by reference to the franchiser's price list or catalog in effect at the time of the franchise termination.

Sec. 6. Section 322D.3, subsections 7 and 9, Code 2003, are amended to read as follows:

7. A farm implement, motorcycle, ~~or~~ all-terrain vehicle, or snowmobile which is not in new, unused, undamaged, or complete condition.

9. A farm implement, motorcycle, ~~or~~ all-terrain vehicle, or snowmobile which was purchased twenty-four months or more prior to the termination of the franchise.

Sec. 7. NEW SECTION. 322D.10 APPLICATION — SNOWMOBILE FRANCHISE AGREEMENTS.

The rights under section 322D.2, subsection 1, apply to snowmobile franchises in effect on

January 1, 2003, which have no expiration date and are continuing franchises, and to franchises executed or renewed on or after January 1, 2003, but only to snowmobiles and related parts or attachments purchased on or after January 1, 2003.

Sec. 8. EFFECTIVE AND RETROACTIVE DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactive to January 1, 2003.

Approved April 11, 2003

CHAPTER 29

ELECTRIC UTILITIES REGULATION — ALTERNATE ENERGY PRODUCTION OR SMALL HYDRO FACILITIES

H.F. 659

ANACT relating to ownership of alternate energy production facilities by public utilities, making related changes, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.23, subsection 1, Code 2003, is amended to read as follows:

1. An electric utility shall not construct or extend facilities or furnish or offer to furnish electric service to the existing point of delivery of any customer already receiving electric service from another electric utility without having first filed with the board the express written agreement of the electric utility presently serving this customer, except as otherwise provided in this section. Any municipal corporation, after being authorized by a vote of the people, or any electric utility may file a petition with the board requesting a certificate of authority to furnish electric service to the existing point of delivery of any customer already receiving electric service from another electric utility. If, after notice by the board to the electric utility currently serving the customer, objection to the petition is not filed and investigation is not deemed necessary, the board shall issue a certificate within thirty days of the filing of the petition. When an objection is filed, if the board, after notice and opportunity for hearing, determines that service to the customer by the petitioner is in the public interest, including consideration of any unnecessary duplication of facilities, it shall grant this certificate in whole or in part, upon such terms, conditions, and restrictions as may be justified. Whether or not an objection is filed, any certificate issued shall require that the petitioner pay to the electric utility presently serving the customer, the reasonable price for facilities serving the customer. This price determination by the board shall include due consideration of the cost of the facilities being acquired,; any necessary generating capacity and transmission capacity dedicated to the customer, including, but not limited to, electric power generating facilities and alternate energy production facilities not yet in service but for which the board has issued an order pursuant to section 476.53, and electric power generating facility emissions plan budgets approved by the board pursuant to section 476.6, subsection 25; depreciation,; loss of revenue,; and the cost of facilities necessary to reintegrate the system of the utility after detaching the portion sold.

Sec. 2. Section 476.43, subsection 1, Code 2003, is amended to read as follows:

1. Subject to section 476.44, the board shall require electric utilities ~~to enter into long-term contracts~~ to do both of the following under terms and conditions that the board finds are just

and economically reasonable for the electric utilities' customers, are nondiscriminatory to alternate energy producers and small hydro producers, and will further the policy stated in section 476.41:

a. Purchase At least one of the following:

(1) Own alternate energy production facilities or small hydro facilities located in this state.

(2) Enter into long-term contracts to purchase or wheel electricity from alternate energy production facilities or small hydro facilities located in the utility's service area under the terms and conditions that the board finds are just and economically reasonable to the electric utilities' ratepayers, are nondiscriminatory to alternate energy producers and small hydro producers and will further the policy stated in section 476.41.

b. Provide for the availability of supplemental or backup power to alternate energy production facilities or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.

Sec. 3. Section 476.44, subsection 2, Code 2003, is amended to read as follows:

2. An electric utility subject to this division, except a utility which ~~that~~ elects rate regulation pursuant to section 476.1A, shall not be required to own or purchase, at any one time, more than its share of one hundred five megawatts of power from alternative energy production facilities or small hydro facilities at the rates established pursuant to section 476.43. The board shall allocate the one hundred five megawatts based upon each utility's percentage of the total Iowa retail peak demand, for the year beginning January 1, 1990, of all utilities subject to this section. If a utility undergoes reorganization as defined in section 476.76, the board shall combine the allocated purchases of power for each utility involved in the reorganization.

Notwithstanding the one hundred five megawatt maximum, the board may increase the amount of power that a utility is required to own or purchase at the rates established pursuant to section 476.43 if the board finds that a utility, including a reorganized utility, exceeds its 1990 Iowa retail peak demand by twenty percent and the additional power the utility is required to purchase will encourage the development of alternate energy production facilities and small hydro facilities. The increase shall not exceed the utility's increase in peak demand multiplied by the ratio of the utility's share of the one hundred five megawatt maximum to its 1990 Iowa retail peak demand.

Sec. 4. Section 476.45, Code 2003, is amended to read as follows:

476.45 EXEMPTION FROM EXCESS CAPACITY.

Capacity ~~purchased from~~ of an alternate energy production facility or small hydro facility, that is owned or purchased by an electric utility, shall not be included in a calculation of an electric utility's excess generating capacity for ~~rate-making~~ ratemaking purposes.

Sec. 5. Section 476.53, subsection 3, paragraph b, Code 2003, is amended to read as follows:

b. In determining the applicable ratemaking principles, the board shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms. Among the principles and mechanisms the board may consider, the board has the authority to approve ratemaking principles proposed by a rate-regulated public utility that provide for reasonable restrictions upon the ability of the public utility to seek a general increase in electric rates under section 476.6 for at least three years after the generation facility begins providing service to Iowa customers.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 2003

CHAPTER 30**WATER QUALITY PROTECTION FUND —
PRIVATE WATER SUPPLY SYSTEMS —
DEPOSIT AND USE OF PERMIT FEES***S.F. 237*

ANACT relating to fees charged to certain private water supply contractors, establishing a private water supply system account within the water quality protection fund, and appropriating moneys in the account.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.183A, subsection 1, Code 2003, is amended to read as follows:

1. A water quality protection fund is created in the state treasury under the control of the department. The fund consists of moneys appropriated to the fund by the general assembly, moneys deposited into the fund from fees described in subsection 2, moneys deposited into the fund from fees collected pursuant to sections 455B.187 and 455B.190A, and other moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the fund. The fund is divided into ~~two~~ three accounts, including the administration account, ~~and the public water supply system account, and the private water supply system account.~~ Moneys in the administration account ~~shall be used~~ are appropriated to the department for purposes of carrying out the provisions of this division, which relate to the administration, regulation, and enforcement of the federal Safe Drinking Water Act. Moneys in the public water supply system account ~~shall be used~~ are appropriated to the department to support the program to assist supply systems, as provided in section 455B.183B. Moneys in the private water supply system account are appropriated to the department for the purpose of supporting the programs established to protect private drinking water supplies as provided in sections 455B.187, 455B.188, 455B.190, and 455B.190A.

Sec. 2. Section 455B.187, Code 2003, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. The director may charge a fee for permits issued pursuant to this section. All fees collected pursuant to this section shall be deposited into the private water supply system account within the water quality protection fund created in section 455B.183A.

Sec. 3. Section 455B.190A, subsection 5, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. All fees collected pursuant to this subsection shall be deposited into the private water supply system account within the water quality protection fund created in section 455B.183A.

Approved April 14, 2003

CHAPTER 31

TIP-UP FISHING — MISSOURI AND BIG SIOUX RIVERS AND BACKWATERS

H.F. 85

AN ACT relating to tip-up fishing in the waters of the Missouri and Big Sioux rivers and subjecting violators to an existing penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 481A.68, subsection 2, Code 2003, is amended to read as follows:

2. A person shall not use more than three tip-up fishing devices for fishing in the waters of the Mississippi river, ~~the Missouri river, and the Big Sioux river, and its~~ their connected ~~back-water~~ backwaters. A person may use two or three hooks on the same line, but the total number of hooks used by each person shall not exceed three. Each tip-up fishing device used in fishing shall have attached a tag plainly labeled with the owner's name and address. A person shall not use a tip-up fishing device for fishing within three hundred feet of a dam or spillway or in a part of the river which is closed or posted against use of the device. Three tip-up fishing devices may be used in addition to the two lines with no more than two hooks per line, as specified in section 481A.72.

Approved April 14, 2003

CHAPTER 32

ANATOMICAL GIFTS — STATE EMPLOYEE LEAVES — GRANTS

H.F. 381

AN ACT relating to anatomical gifts including bone marrow and organ donation by state employees and grants from the anatomical gift public awareness and transplantation fund.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 70A.39 BONE MARROW AND ORGAN DONATION INCENTIVE PROGRAM.

1. For the purposes of this section:

- a. "Bone marrow" means the soft tissue that fills human bone cavities.
- b. "Vascularized¹ organ" means a heart, lung, liver, pancreas, kidney, intestine, or other organ that requires the continuous circulation of blood to remain useful for purposes of transplantation.

2. Beginning July 1, 2003, state employees, excluding employees covered under a collective bargaining agreement which provides otherwise, shall be granted leaves of absence in accordance with the following:

- a. A leave of absence of up to five workdays for an employee who requests a leave of absence to serve as a bone marrow donor if the employee provides written verification from the employee's physician or the hospital involved with the bone marrow donation that the employee will serve as a bone marrow donor.
- b. A leave of absence of up to thirty workdays for an employee who requests a leave of absence to serve as a vascular organ donor if the employee provides written verification from the

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §37 herein

employee's physician or the hospital involved with the vascular organ donation that the employee will serve as a vascular organ donor.

3. An employee who is granted a leave of absence under this section shall receive leave without loss of seniority, pay, vacation time, personal days, sick leave, insurance and health coverage benefits, or earned overtime accumulation. The employee shall be compensated at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

4. An employee deemed to be on leave under this section shall not be deemed to be an employee of the state for purposes of workers' compensation or for purposes of the Iowa tort claims Act.

Sec. 2. Section 142C.15, subsection 4, paragraph c, Code 2003, is amended to read as follows:

c. Not more than fifty percent of the moneys in the fund annually may be expended in the form of grants to hospitals which perform heart, lung, liver, pancreas, or kidney transplants. ~~As a condition of receiving a grant, a hospital shall demonstrate, through documentation, that the hospital, during the previous calendar year, properly complied with in-hospital anatomical gift request protocols for all deaths occurring in the hospital at a percentage rate which places the hospital in the upper fifty percent of all protocol compliance rates for hospitals submitting documentation for cost reimbursement under this section. The transplant recipients, transplant candidates, living organ donors, or to legal representatives on behalf of transplant recipients, transplant candidates, or living organ donors. Transplant recipients, transplant candidates, living organ donors, or the legal representatives of transplant recipients, transplant candidates, or living organ donors shall submit grant applications with supporting documentation provided by a hospital shall submit an application on behalf of a patient requiring that performs transplants, verifying that the person by or for whom the application is submitted requires a transplant ~~in or is a living organ donor and specifying~~ the amount of the costs associated with the following, if funds are not available from any other third-party payor:~~

- (1) The costs of the organ transplantation procedure.
- (2) The costs of post-transplantation drug or other therapy.
- (3) Other transplantation costs including but not limited to food, lodging, and transportation.

Approved April 14, 2003

CHAPTER 33

DISASTER PREPAREDNESS

H.F. 396

AN ACT relating to disaster preparedness and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION XV DISASTER PREPAREDNESS

Section 1. NEW SECTION. 135.150 DEFINITIONS.

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

1. "Bioterrorism" means the intentional use of any microorganism, virus, infectious

substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism.

2. "Department" means the Iowa department of public health.
3. "Director" means the director or the director's designee of public health.¹
4. "Disaster" means disaster as defined in section 29C.2.
5. "Disaster medical assistance team" or "DMAT" means a team of professionals, including licensed health care providers, nonmedical professionals skilled and trained in disaster or emergency response, and public health practitioners, which is sponsored by a hospital or other entity and approved by the department to provide disaster medical assistance in the event of a disaster or threatened disaster.
6. "Division" means the division of epidemiology, emergency medical services, and disaster operations of the department.
7. "Public health disaster" means a state of disaster emergency proclaimed by the governor in consultation with the department pursuant to section 29C.6 for a disaster which specifically involves an imminent threat of an illness or health condition that meets any of the following conditions of paragraphs "a" and "b":
 - a. Is reasonably believed to be caused by any of the following:
 - (1) Bioterrorism or other act of terrorism.
 - (2) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin.
 - (3) A chemical attack or accidental release.
 - (4) An intentional or accidental release of radioactive material.
 - (5) A nuclear or radiological attack or accident.
 - b. Poses a high probability of any of the following:
 - (1) A large number of deaths in the affected population.
 - (2) A large number of serious or long-term disabilities in the affected population.
 - (3) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of the affected population.

Sec. 2. NEW SECTION. 135.151 DIVISION OF EPIDEMIOLOGY, EMERGENCY MEDICAL SERVICES, AND DISASTER OPERATIONS — ESTABLISHED — DUTIES OF DEPARTMENT.

1. A division of epidemiology, emergency medical services, and disaster operations is established within the department. The division shall coordinate the administration of this division of this chapter with other administrative divisions of the department and with federal, state, and local agencies and officials.
2. The department shall do all of the following:
 - a. Coordinate with the emergency management division of the department of public defense the administration of emergency planning matters which involve the public health, including development, administration, and execution of the public health components of the comprehensive plan and emergency management program pursuant to section 29C.8.
 - b. Coordinate with federal, state, and local agencies and officials, and private agencies, organizations, companies, and persons, the administration of emergency planning matters that involve the public health.
 - c. Conduct and maintain a statewide risk assessment of any present or potential danger to the public health from biological agents.
 - d. If a public health disaster exists, or if there is reasonable cause to believe that a public health disaster is imminent, conduct a risk assessment of any present or potential danger to the public health from chemical, radiological, or other potentially dangerous agents.
 - e. For the purpose of paragraphs "c" and "d", an employee or agent of the department may enter into and examine any premises containing potentially dangerous agents with the consent of the owner or person in charge of the premises or, if the owner or person in charge of

¹ See chapter 179, §64 herein

the premises refuses admittance, with an administrative search warrant obtained under section 808.14. Based on findings of the risk assessment and examination of the premises, the director may order reasonable safeguards or take any other action reasonably necessary to protect the public health pursuant to rules adopted to administer this subsection.

f. Coordinate the location, procurement, storage, transportation, maintenance, and distribution of medical supplies, drugs, antidotes, and vaccines to prepare for or in response to a public health disaster, including receiving, distributing, and administering items from the strategic national stockpile program of the centers for disease control and prevention of the United States department of health and human services.

g. Conduct or coordinate public information activities regarding emergency and disaster planning matters that involve the public health.

h. Apply for and accept grants, gifts, or other funds to be used for programs authorized by this division of this chapter.

i. Establish and coordinate other programs or activities as necessary for the prevention, detection, management, and containment of public health disasters.

j. Adopt rules pursuant to chapter 17A for the administration of this division of this chapter including rules adopted in cooperation with the Iowa pharmacy association and the Iowa hospital association for the development of a surveillance system to monitor supplies of drugs, antidotes, and vaccines to assist in detecting a potential public health disaster.

Prior to adoption, the rules shall be approved by the state board of health and the administrator of the emergency management division of the department of public defense.

Sec. 3. NEW SECTION. 135.152 HEALTH CARE SUPPLIES.

1. The department may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies as deemed advisable in the interest of preparing for or controlling a public health disaster.

2. If a public health disaster exists or there is reasonable cause to believe that a public health disaster is imminent and if the public health disaster or belief that a public health disaster is imminent results in a statewide or regional shortage or threatened shortage of any product described under subsection 1, whether such product has been purchased by the department, the department may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of this state. The department shall collaborate with persons who have control of the products when reasonably possible.

3. In making rationing or other supply and distribution decisions, the department shall give preference to health care providers, disaster response personnel, and mortuary staff.

4. During a public health disaster, the department may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the public health disaster, and may take immediate possession of these pharmaceutical agents and supplies. If a public health disaster affects more than one state, this section shall not be construed to allow the department to obtain antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing the fair and equitable distribution of these pharmaceutical and medical supplies among affected states. The department shall collaborate with affected states and persons when reasonably possible.

5. The state shall pay just compensation to the owner of any product lawfully taken or appropriated by the department for the department's temporary or permanent use in accordance with this section. The amount of compensation shall be limited to the costs incurred by the owner to procure the item.

Sec. 4. NEW SECTION. 135.153 DISASTER MEDICAL ASSISTANCE TEAMS.

1. The department shall approve disaster medical assistance teams to supplement and

support disrupted or overburdened local medical and public health personnel, hospitals, and resources at or near the site of a disaster or threatened disaster by providing direct medical care to victims or by providing other support services.

2. A member of a disaster medical assistance team acting pursuant to this division of this chapter shall be considered an employee of the state under chapter 669, shall be afforded protection as an employee of the state under section 669.21, and shall be considered an employee of the state for purposes of workers' compensation and death benefits, provided that the member has done all of the following:

a. Registered with and received approval to serve on a disaster medical assistance team from the department.

b. Provided direct medical care to a victim of a disaster or provided other support services during a disaster.

3. The department shall provide the department of personnel with a list of individuals who have registered with and received approval from the department to serve on a disaster medical assistance team. The department shall update the list on a quarterly basis, or as necessary for the department of personnel to determine eligibility for coverage.

4. Upon notification of a compensable loss, the department of personnel shall seek funding from the executive council for those costs associated with covered workers' compensation benefits.

Sec. 5. NEW SECTION. 135.154 ADDITIONAL DUTIES OF THE DEPARTMENT RELATED TO A PUBLIC HEALTH DISASTER.

If a public health disaster exists, the department, in conjunction with the governor, may do any of the following:

1. Decontaminate or cause to be decontaminated, to the extent reasonable and necessary to address the public health disaster, any facility or material if there is cause to believe the contaminated facility or material may endanger the public health.

2. Adopt and enforce measures to provide for the identification and safe disposal of human remains, including performance of postmortem examinations, transportation, embalming, burial, cremation, interment, disinterment, and other disposal of human remains. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or the deceased person's family shall be considered when disposing of any human remains.

3. Take reasonable measures as necessary to prevent the transmission of infectious disease and to ensure that all cases of communicable disease are properly identified, controlled, and treated.

4. Take reasonable measures as necessary to ensure that all cases of chemical, biological, and radiological contamination are properly identified, controlled, and treated.

5. Order physical examinations and tests and collect specimens as necessary for the diagnosis or treatment of individuals, to be performed by any qualified person authorized to do so by the department. An examination or test shall not be performed or ordered if the examination or test is reasonably likely to lead to serious harm to the affected individual. The department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter, any individual whose refusal of medical examination or testing results in uncertainty regarding whether the individual has been exposed to or is infected with a communicable or potentially communicable disease or otherwise poses a danger to public health.

6. Vaccinate or order that individuals be vaccinated against an infectious disease and to prevent the spread of communicable or potentially communicable disease. Vaccinations shall be administered by any qualified person authorized to do so by the department. The vaccination shall not be provided or ordered if it is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter, any person who is unable or unwilling to undergo vaccination pursuant to this subsection.

7. Treat or order that individuals exposed to or infected with disease receive treatment or prophylaxis. Treatment or prophylaxis shall be administered by any qualified person authorized to do so by the department. Treatment or prophylaxis shall not be provided or ordered if the treatment or prophylaxis is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division,² any individual who is unable or unwilling to undergo treatment or prophylaxis pursuant to this section.

8. Isolate or quarantine individuals or groups of individuals pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter.

9. Inform the public when a public health disaster has been declared or terminated, about protective measures to take during the disaster, and about actions being taken to control the disaster.

10. Accept grants and loans from the federal government pursuant to section 29C.6 or available provisions of federal law.

Sec. 6. NEW SECTION. 135.155 INFORMATION SHARING.

1. When the department of public safety or other federal, state, or local law enforcement agency learns of a case of a reportable disease or health condition, unusual cluster, or a suspicious event that may be the cause of a public health disaster, the department or agency shall immediately notify the department, the administrator of the emergency management division of the department of public defense, the department of agriculture and land stewardship, and the department of natural resources as appropriate.

2. When the department learns of a case of a reportable disease or health condition, an unusual cluster, or a suspicious event that the department reasonably believes could potentially be caused by bioterrorism or other act of terrorism, the department shall immediately notify the department of public safety, the emergency management division of the department of public defense, and other appropriate federal, state, and local agencies and officials.

3. Sharing of information on reportable diseases, health conditions, unusual clusters, or suspicious events between the department and public safety authorities and other governmental agencies shall be restricted to sharing of only the information necessary for the prevention, control, and investigation of a public health disaster.

4. Release of information pursuant to this section shall be consistent with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 7. Section 29C.6, subsection 1, Code 2003, is amended to read as follows:

1. After finding a disaster exists or is threatened, proclaim a state of disaster emergency. This proclamation shall be in writing, indicate the area affected and the facts upon which it is based, be signed by the governor, and be filed with the secretary of state. If the state of disaster emergency specifically constitutes a public health disaster as defined in section 135.150, the written proclamation shall include a statement to that effect. A state of disaster emergency shall continue for thirty days, unless sooner terminated or extended in writing by the governor. The general assembly may, by concurrent resolution, rescind this proclamation. If the general assembly is not in session, the legislative council may, by majority vote, rescind this proclamation. Rescission shall be effective upon filing of the concurrent resolution or resolution of the legislative council with the secretary of state. A proclamation of disaster emergency shall activate the disaster response and recovery aspect of the state, local and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan applies, and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available.

Sec. 8. Section 135.11, subsection 29, Code 2003, is amended by striking the subsection.

² See chapter 179, §65 herein

Sec. 9. Section 139A.2, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 17A. "Public health disaster" means public health disaster as defined in section 135.150.

Sec. 10. NEW SECTION. 139A.3A INVESTIGATION AND CONTROL.

When the department receives a report under this chapter or acts on other reliable information that a person is infected with a disease, illness, or health condition that may be a potential cause of a public health disaster, the department shall identify all individuals reasonably believed to have been exposed to the disease, illness, or health condition and shall investigate all such cases for sources of infection and ensure that such cases are subject to proper control measures. Any hospital, health care provider, or other person may provide information, interviews, reports, statements, memoranda, records, or other data related to the condition and treatment of any individual if not otherwise prohibited by the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, to the department to be used for the limited purpose of determining whether a public health disaster exists.

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 14, 2003

CHAPTER 34

NEW JOBS AND INCOME PROGRAM — AGRICULTURAL LAND OWNERSHIP BY NONRESIDENT ALIENS

H.F. 612

AN ACT relating to the exemption from land ownership restrictions for nonresident aliens under the new jobs and income program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.331B, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The eligible business may receive one or more ~~one-year~~ extensions of the time limit for complying with the requirements of section 9I.4. Each extension must be approved by the community prior to approval by the department. An eligible business may receive one five-year extension and one or more one-year extensions. The eligible business shall comply with the remaining provisions of chapter 9I to the extent they do not conflict with this subsection.

Approved April 14, 2003

CHAPTER 35**LEGISLATIVE BRANCH FUNCTIONS —
SERVICES, STAFF, SALES, AND PUBLICATIONS***H.F. 636*

AN ACT relating to legislative branch consolidation of functions by combining the legislative service bureau, legislative fiscal bureau, and legislative computer support bureau into a single central legislative staff agency, providing for legislative publications procedures, modifying the sales tax exemption for items sold or services provided by the new agency, including related matters, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 2E.1 LEGISLATIVE SERVICES AGENCY CREATED — SERVICES — LEGISLATIVE PRIVILEGES — NONPARTISANSHIP AND NONADVOCACY.

1. A legislative services agency is created as a nonpartisan, central legislative staff agency under the direction and control of the legislative council. The agency shall cooperate with and serve all members of the general assembly, the legislative council, and committees of the general assembly.

2. The legislative services agency shall provide the following services:

a. Legal and fiscal analysis, including legal drafting services, fiscal analysis of legislation, and state expenditure, revenue, and budget review.

b. State government oversight and performance evaluation.

c. Staffing of standing committees, revenue and budget committees, statutory committees, and interim study committees, and any subcommittees of such committees, including the provision of legal and fiscal analysis to committees and subcommittees.

d. Publication of the official legal publications of the state, including but not limited to the Iowa Code, Iowa Code Supplement, Iowa Acts, Iowa court rules, Iowa administrative bulletin, and Iowa administrative code as provided in chapter 2B.

e. Operation and maintenance of the legislative computer systems used by the senate, house of representatives, and the central legislative staff agencies.

f. Provision of legislative information to the public, provision of library information, management of legislative visitor protocol services, and provision of capitol tour guide services.

g. Other functions as assigned to the legislative services agency by the legislative council or the general assembly.

3. The legislative services agency shall provide services to the general assembly in such a manner as to preserve the authority of the senate and the house of representatives to determine their own rules of proceedings and to exercise all other powers necessary for a separate branch of the general assembly of a free and independent state, and to protect the legislative privileges of the members and employees of the general assembly. In providing services to the general assembly, the legislative services agency shall adhere to all applicable policies of the general assembly and its constituent bodies relating to public access to legislative information and related confidentiality restrictions.

4. The director and all other employees of the legislative services agency shall not participate in partisan political activities and shall not be identified as advocates or opponents of issues subject to legislative debate except as otherwise provided by law or by the legislative council.

Sec. 2. NEW SECTION. 2E.2 DIRECTOR — DUTIES.

1. The administrative head of the legislative services agency shall be the director appointed by the legislative council as provided in section 2.42. The salary of the director shall be set by the legislative council.

2. The director shall do all of the following:

- a. Employ persons with expertise to perform the legal, fiscal, technical, and other functions which are required to be performed by the legislative services agency by this chapter or are assigned to the legislative services agency by the legislative council or the general assembly.
- b. Supervise all employees of the legislative services agency, including the legal counsel designated to provide legal assistance to the administrative rules review committee, and supervise any outside service providers retained by the legislative services agency.
- c. Supervise all expenditures of the agency.
- d. Supervise the legal and fiscal analysis and legal publication functions of the agency.
- e. Supervise the government oversight and program evaluation functions of the agency.
- f. Supervise the committee staffing functions of the agency.
- g. Supervise the computer systems services functions of the agency.
- h. Supervise the legislative and library information, legislative visitor protocol, and capitol tour guide functions of the agency.
- i. Perform other functions as assigned to the director by the legislative council or the general assembly.

Sec. 3. NEW SECTION. 2E.3 INFORMATION ACCESS — CONFIDENTIALITY — SUBPOENAS.

1. a. The director and agents and employees of the legislative services agency, with respect to the agency's provision of services relating to fiscal analysis of legislation, state expenditure, revenue, and budget review, state government oversight and performance evaluation, and staffing of revenue and budget committees, shall at all times have access to all agencies, offices, boards, and commissions of the state and its political subdivisions and private organizations providing services to individuals under contracts with state agencies, offices, boards, or commissions and to the information, records, instrumentalities, and properties used in the performance of such entities' statutory duties or contractual arrangements. All such entities and the described private organizations shall cooperate with the director, and shall make available to the director such information, records, instrumentalities, and properties upon request.

b. If the information sought by the legislative services agency, with respect to the agency's provision of services described in paragraph "a", is required by law to be kept confidential, the agency shall have access to the information, but shall maintain the confidentiality of the information and is subject to the same penalties as the lawful custodian of the information for dissemination of the information. However, the legislative services agency shall not have access to tax return information except for individual income tax sample data as provided in section 422.72, subsection 1.

c. The director may issue subpoenas for production of any information, records, instrumentalities, or properties to which the director is authorized to have access under paragraph "a". If any person subpoenaed refuses to produce the information, records, instrumentalities, or properties, the director may apply to the district court having jurisdiction over that person for the enforcement of the subpoena.

2. The director and agents and employees of the legislative services agency, with respect to the agency's provision of services relating to legal analysis, drafting, and publications, staffing of subject matter standing and statutory committees, and provision of legislative information to the public, may call upon any agency, office, board, or commission of the state or any of its political subdivisions or private organizations providing services to individuals under contracts with a state agency, office, board, or commission for such information and assistance as may be needed in the provision of services described in this subsection. Such information and assistance shall be furnished within the resources and authority of such agency, office, board, or commission. This requirement of furnishing such information and assistance shall not be construed to require the production or opening of any public records which are required by law to be kept private or confidential.

3. The director, an agent or former agent, and an employee or former employee of the legislative services agency shall not be compelled to give testimony or to appear and produce

documentary evidence in a judicial or quasi-judicial proceeding if the testimony or documentary evidence sought relates to a legislative duty or act concerning the consideration or passage or rejection of proposed legislation performed by the director, agent, or employee. An order or subpoena purporting to compel testimony or the production of documentary evidence protected under this subsection is unenforceable.

Sec. 4. NEW SECTION. 2E.4 SPECIFIC SERVICES — PUBLIC POLICY RECOMMENDATIONS RESTRICTED.

The legislative services agency shall provide the following specific services:

1. Preparation of legal and legislative analysis of any governmental matter upon the proper request of members and committees of the general assembly. Such analysis shall not contain any public policy recommendations. Such legal analysis shall be provided through the exercise of an attorney-employee's independent, professional judgment.

2. Drafting and preparation of legislation, including bills, resolutions, and amendments, for committees and individual members of the general assembly; proposed bills and joint resolutions for state agencies and the governor in accordance with section 2.16; and bills embodying a plan of legislative and congressional redistricting prepared in accordance with chapter 42.

3. Fiscal analysis of legislation, and state expenditure, revenue, and budget review. The director of the agency or the director's designee may make recommendations to the general assembly concerning the state's expenditures and revenues.

4. Attendance at the budget hearings required by section 8.26. The director of the agency may offer explanations or suggestions and make inquiries with respect to such budget hearings.

5. Assistance to standing committees and members of the general assembly in attaching fiscal notes to bills and resolutions as provided by the rules of the general assembly.

6. Performance of the duties pertaining to the preparation of correctional impact statements as provided in section 2.56.

7. Furnishing information, acting in an advisory capacity, providing staffing services, and reporting to standing, statutory, and interim committees of the general assembly.

8. Provision of staffing services including but not limited to preparation of legal and legislative analysis for the administrative rules review committee.

9. Preparation of legal and legislative analysis for the legislative council with respect to rules and forms submitted by the supreme court to the legislative council pursuant to section 602.4202.

10. Review and oversight of state program operations and program evaluation of state agencies, including compliance, efficiency, and effectiveness determinations, as required by section 2E.7.

11. Provision of legislative computer systems services to the senate, house of representatives, and central legislative staff agencies, and provision of advice regarding legislative computer systems services, needs, capabilities, and uses to the legislative council and the general assembly.

Sec. 5. NEW SECTION. 2E.5 OFFICIAL LEGAL AND OTHER PUBLICATIONS — PROCUREMENTS.

1. The legislative services agency shall publish the official legal publications of the state as provided in chapter 2B. The legislative services agency shall have legal custody of the publications and shall provide for the warehousing, sale, and distribution of the publications. The legislative services agency shall retain or cause to be retained a number of old editions of the publications but may otherwise distribute or cause to be distributed old editions of the publications to any person upon payment by the person of any distribution costs.

2. The printed versions of the publications listed in this subsection shall be sold at a price to be established by the legislative services agency. In determining the prices, the legislative services agency shall consider the costs of printing, binding, distribution, and paper stock, compilation and editing labor costs, and any other associated costs. The legislative services

agency shall also consider the number of volumes or units to be printed, sold, and distributed in the determination of the prices.

- a. The Iowa Code.
- b. The Iowa Code Supplement.
- c. The Iowa Acts.
- d. The Iowa court rules.
- e. The Iowa administrative code.
- f. The Iowa administrative bulletin.

3. The legislative services agency shall compile for publication and distribute in odd-numbered years the Iowa official register. The register shall contain historical, political, and other information and statistics of general value but shall not contain information or statistics of a partisan character. The print and electronic versions of the register need not contain the same information and statistics but shall be published to provide the greatest access to such information and statistics at the most reasonable cost as determined by the legislative services agency. The different versions of the register may be distributed free of charge, may be distributed free of charge except for postage and handling charges, or may be sold at a price to be established by the legislative services agency.

4. The legislative services agency may establish policies for the production, editing, distribution, and pricing of electronic publications containing information stored by the legislative branch in an electronic format, including information contained in the printed publications listed in this section. Such electronic publications may include programming not originally part of the stored information, including but not limited to search and retrieval functions. The policies shall provide for the widest possible distribution of these value-added electronic publications at the lowest price practicable, which shall not be more than the costs attributable to producing, editing, and distributing the electronic publications.

5. Subject to section 2.42, the legislative services agency shall determine its procurement procedures, which may include procurement determinations based on service provider competence, meeting of service or product specifications, and reasonableness of price; the posting of security to accompany a service provider proposal; the preference of Iowa-based businesses if comparable in price; the disclosure of service provider assignments; the inclusion of renewal options; the imposition of liquidated damages and other penalties for breach of any service provider requirement; and the rejection of all service provider proposals and institution of a new procurement process.

Sec. 6. NEW SECTION. 2E.6 SPECIAL DISTRIBUTION OF LEGAL PUBLICATIONS — RESTRICTIONS ON FREE DISTRIBUTIONS.

1. The legislative services agency shall make free distribution of the printed versions of the official legal publications listed in section 2E.5, subsection 2, subject to payment of any routine distribution costs such as but not limited to mailing and handling costs, to the three branches of state government, to elected county officers, to county and city assessors, to Iowa's congressional delegation, to federal courts in Iowa and federal judges and magistrates for Iowa, and to state and university depository libraries, the library of congress, and the library of the United States supreme court. Only such officers, offices, and agencies entitled to or receiving free copies during the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be entitled to continue to receive free copies in subsequent years, except that successor and new officers, offices, and agencies shall receive a reasonable number of free copies as determined by the legislative services agency. Such officers, offices, and agencies shall annually review the number of copies received in the prior year to determine if the number of copies received can be reduced and shall submit the information in a report to the legislative services agency. The number of copies received, once reduced, shall not be increased to the previous level without the express consent of the legislative services agency.

2. Each officer, office, or agency receiving one or more free copies of a publication under this section shall only receive up to the number of copies indicated free at the time of initial distribution. If an officer, office, or agency receiving one or more free copies of a publication

under this section desires additional copies beyond the number initially received, the officer, office, or agency must request the additional copies and pay the normal charge for such publication.

3. If a version of a publication provided under this section is available in an electronic format, the legislative services agency may establish policies providing for the substitution of an electronic version for the printed version of the publication, and for the amount of payment, if any, required for the electronic publication. The payment amount shall not be more than established pursuant to section 2E.5 for the same publication. For the Iowa administrative code and its supplements, the legislative services agency may provide that the distribution requirement of this section is met by distributing relevant portions of the Iowa administrative code or its supplements in either a printed or electronic format.

4. Notwithstanding any provision of this section to the contrary, the legislative services agency may review the publication costs and offsetting sales revenues relating to legal publications in printed formats, and may establish policies requiring payment from persons otherwise entitled to receive them at no cost or at a price covering distribution costs pursuant to subsection 1. The payment amount shall not be more than established pursuant to section 2E.5 for the same publication.

Sec. 7. NEW SECTION. 2E.7 STATE GOVERNMENT OVERSIGHT AND PROGRAM EVALUATION.

1. The general assembly shall independently and intensively review and oversee the performance of state agencies in the operation of state programs to evaluate the efficiency and effectiveness of the state programs and to consider alternatives which may improve the benefits of such programs or may reduce their costs to the citizens of the state. The legislative services agency shall provide technical and professional support for the general assembly's oversight responsibility.

2. The general assembly by concurrent resolution or the legislative council may direct the legislative services agency to conduct a program evaluation of any state agency. Upon the passage of the concurrent resolution or receiving the direction of the legislative council, the director of the legislative services agency shall inform the chairpersons of the committees responsible for appropriations of the anticipated cost of the program evaluation and the number and nature of any additional personnel needed to conduct the program evaluation and shall notify the official responsible for the program to be evaluated. The director, after consulting with the responsible official and the entity requesting the program evaluation, shall determine the goals and objectives of the state agency or state program for the purpose of the program evaluation.

3. In conducting the program evaluation, the legislative services agency may make certain determinations including but not limited to the following:

a. The organizational framework of the state agency, its adequacy and relationship to the overall structure of state government, and whether the program under the agency's jurisdiction could be more effective if consolidated with another program, transferred to another program, or modified, or whether the program should be abolished.

b. Whether the state agency is conducting programs and activities and expending funds appropriated to the state agency in compliance with state and federal law and any executive order of the governor, and whether statutory or administrative rule changes are advisable.

c. Whether the state agency is conducting authorized activities and programs pursuant to goals and objectives established by statute or rule, specific legislative intent, the budget, the governor, or a strategic or other long-range plan, and whether alternatives which might produce the desired results at a lower cost have been considered.

d. Whether the state agency is conducting programs and activities and expending funds appropriated to the state agency in an efficient and effective manner, has complied with all applicable laws, and, if not, determine the causes for such inefficiency, ineffectiveness, or noncompliance.

e. Relationships within and among other governmental agencies and programs including

financial exchanges, coordination, inconsistent programs, and areas of duplication or overlapping programs.

f. The productivity of the state agency's operations measured in terms of cost-benefit relationships or other accepted measures of effectiveness.

g. Other criteria determined by the director.

4. Upon the completion of the program evaluation and preparation of a report on the evaluation, the legislative services agency shall provide a copy of the report to the governing official or board of the state agency and afford the state agency a reasonable opportunity to respond to the findings and recommendations of the report. The response shall be included in the final version of the report released to the general assembly or the legislative council. Until its release the report shall be regarded as confidential by all persons properly having custody of the report.

Sec. 8. NEW SECTION. 2E.8 SALES — TAX EXEMPTION.

1. The legislative services agency and its legislative information office may sell mementos and other items relating to Iowa history and historic sites, the general assembly, and the state capitol, on the premises of property under the control of the legislative council, at the state capitol, and on other state property.

2. The legislative services agency is not a retailer under chapter 422 and the sale of items or provision of services by the legislative services agency is not a retail sale under chapter 422, division IV, and is exempt from the sales tax.

Sec. 9. Section 2.9, Code 2003, is amended to read as follows:

2.9 JOURNALS — BILLS AND AMENDMENTS.

1. a. The senate and house of representatives shall each publish a daily journal of the transactions of their respective bodies. The secretary of the senate and the chief clerk of the house shall each determine the format and manner of the journal's publication, the procurement procedures for the journal's publication, and the journal's distribution for their respective bodies.

b. The secretary of the senate and the clerk of the house of representatives shall each preserve copies of the printed daily journals of their respective bodies, as corrected, certify to their correctness, and file them with the secretary of state at the adjournment of each session of the general assembly. The secretary of state shall cause the journals to be bound and preserved as preserve the original journals of the senate and the house in the manner specified by the majority leader of the senate and speaker of the house.

2. a. The senate and house of representatives shall each publish bills and amendments of their respective bodies. The secretary of the senate and the chief clerk of the house shall each determine the procurement procedures for the publication of the bills and amendments and the distribution of the bills and amendments for their respective bodies.

b. A bill that seeks to legalize the acts of any official or board or other official body, in regard to any matter of public nature or for any person or persons, company, or corporation, shall not be considered by the senate or house of representatives until the bill is published and distributed to members of the general assembly, and the publication shall be without expense to the state. The senate and house shall not order any such bill published until the secretary of the senate or chief clerk of the house has received a deposit to cover the cost of the publication. The newspaper publication of such bill shall be without expense to the state, and the bill shall not be published in a newspaper until the costs of the newspaper publication has been paid to the secretary of state.

Sec. 10. Section 2.42, subsections 1, 2, 11, 12, 13, 14, 15, 16, 18, and 19, Code 2003, are amended to read as follows:

1. To establish policies for the operation of the legislative service bureau, ~~including the priority to be given to research requests and the distribution of research reports services agency.~~

2. To appoint the director of the legislative ~~service bureau~~ services agency for such term of office as may be set by the council.

11. To approve the appointment of the Iowa Code editor and the administrative code editor and ~~establish the salaries of the persons employed in that office.~~

12. To establish policies for the distribution of information which is stored by the general assembly in an electronic format, including the contents of statutes or rules, other than ~~value-added~~ electronic publications as provided in section ~~7A.22 2E.5~~. The legislative council shall establish payment rates that encourage the distribution of such information to the public, including private vendors reselling that information. The legislative council shall not establish a price that attempts to recover more than is attributable to costs related to reproducing and delivering the information.

13. To establish policies with regard to the publishing of printed and electronic versions of the Iowa administrative code, the Iowa administrative bulletin, the Iowa Code, the Iowa Code Supplement, and the ~~session laws Iowa Acts~~, or any part of those publications. The publishing policies may include, but are not limited to: the style and format to be used; the frequency of publication; the contents of the publications; the numbering system to be used in the Iowa Code, the Iowa Code Supplement, and the ~~session laws Iowa Acts~~; the preparation of editorial comments or notations; the correction of errors; the type of print or electronic media and data processing software to be used; the number of printed volumes to be published; recommended revisions of the Iowa Code, the Iowa Code Supplement, and the ~~session laws Iowa Acts~~; the letting of contracts for the publication of the Iowa administrative code, the Iowa administrative bulletin, the Iowa court rules, the Iowa Code, the Iowa Code Supplement, and session laws the Iowa Acts; the pricing of the publications to which section 22.3 does not apply; access to, and the use, reproduction, legal protection, sale or distribution, and pricing of related data processing software consistent with chapter 22; and any other matters deemed necessary to the publication of uniform and understandable publications.

~~14. To establish policies for the operation of the legislative fiscal bureau.~~

~~15. To appoint the director of the legislative fiscal bureau for such term of office as may be set by the council.~~

16. To hear and act upon appeals of aggrieved employees of the legislative ~~service bureau, legislative fiscal bureau, computer support bureau,~~ services agency and the office of the citizens' aide pursuant to rules of procedure established by the council.

~~18. To establish policies for the operation of the computer support bureau.~~

~~19. To appoint the director of the computer support bureau for a term of office set by the council.~~

Sec. 11. Section 2.45, subsection 2, Code 2003, is amended to read as follows:

2. The legislative fiscal committee, composed of the chairpersons or their designated committee member and the ranking minority party members or their designated committee member of the committees of the house and senate responsible for developing a state budget and appropriating funds, the chairpersons or their designated committee member and the ranking minority party members or their designated committee member of the committees on ways and means, and two members, one appointed from the majority party of the senate by the majority leader of the senate and one appointed from the majority party of the house by the speaker of the house of representatives. In each house, unless one of the members who represent the committee on ways and means is also a member of the legislative council, the person appointed from the membership of the majority party in that house shall also be appointed from the membership of the legislative council. ~~The legislative fiscal committee shall determine policies for the legislative fiscal bureau and shall direct the administration of performance audits and visitations, subject to the approval of the legislative council.~~

Sec. 12. Section 2.56, Code 2003, is amended to read as follows:

2.56 CORRECTIONAL IMPACT STATEMENTS.

1. Prior to debate on the floor of a chamber of the general assembly, a correctional impact

statement shall be attached to any bill, joint resolution, or amendment which proposes a change in the law which creates a public offense, significantly changes an existing public offense or the penalty for an existing offense, or changes existing sentencing, parole, or probation procedures. The statement shall include information concerning the estimated number of criminal cases per year that the legislation will impact, the fiscal impact of confining persons pursuant to the legislation, the impact of the legislation upon existing correctional institutions, community-based correctional facilities and services, and jails, the likelihood that the legislation may create a need for additional prison capacity, and other relevant matters. The statement shall be factual and shall, if possible, provide a reasonable estimate of both the immediate effect and the long-range impact upon prison capacity.

~~2. a. The preliminary determination of whether a bill, joint resolution, or amendment appears to require a correctional impact statement shall be made by the legislative service bureau, which shall send a copy of the bill, joint resolution, or amendment, upon completion of the draft, to the legislative fiscal director for review, unless the requestor specifies the request is to be confidential.~~

b. ~~2. a.~~ When a committee of the general assembly reports a bill, joint resolution, or amendment to the floor, the committee shall state in the report whether a correctional impact statement is or is not required.

e. ~~b.~~ The legislative ~~fiscal director~~ services agency shall review all bills and joint resolutions placed on the calendar of either chamber of the general assembly, as well as amendments filed to bills or joint resolutions on the calendar, to determine whether a correctional impact statement is required.

d. ~~c.~~ A member of the general assembly may request the preparation of a correctional impact statement by submitting a request to the legislative ~~fiscal bureau~~ services agency.

3. The legislative ~~fiscal director~~ services agency shall cause to be prepared ~~and shall approve~~ a correctional impact statement within a reasonable time after receiving a request or determining that a proposal is subject to this section. All correctional impact statements approved by the legislative ~~fiscal director~~ services agency shall be transmitted immediately to either the chief clerk of the house or the secretary of the senate, after notifying the sponsor of the legislation that the statement has been prepared, for publication ~~in the daily clip sheet~~. The chief clerk of the house or the secretary of the senate shall attach the statement to the bill, joint resolution, or amendment affected as soon as it is available.

4. The legislative ~~fiscal director~~ services agency may request the cooperation of any state department or agency or political subdivision in preparing a correctional impact statement.

5. A revised correctional impact statement shall be prepared if the correctional impact has been changed by the adoption of an amendment, and may be requested by a member of the general assembly or be prepared upon a determination made by the legislative ~~fiscal director~~ services agency. However, a request for a revised correctional impact statement shall not delay action on the bill, joint resolution, or amendment unless so ordered by the presiding officer of the chamber.

Sec. 13. Section 2B.1, Code 2003, is amended to read as follows:

2B.1 IOWA CODE AND ADMINISTRATIVE CODE DIVISIONS — EDITORS.

~~1. The Iowa Code and administrative code divisions are established within the legislative service bureau.~~

~~2. 1.~~ The director of the legislative ~~service bureau~~ services agency shall appoint the Iowa Code editor and the administrative code editor, subject to the approval of the legislative council, as provided in section 2.42. The Iowa Code editor and the administrative code editor shall serve as the heads of their respective divisions, at the pleasure of the director of the legislative ~~service bureau~~, and subject to the approval of the legislative council services agency.

~~3. 2.~~ The Iowa Code and administrative code ~~divisions editors~~ are responsible for the editing, compiling, and proofreading of the publications they prepare, as provided in this chapter. The Iowa Code ~~division editor~~ is entitled to the temporary possession of the original enrolled Acts and resolutions as necessary to prepare them for publication.

Sec. 14. Section 2B.5, Code 2003, is amended to read as follows:

2B.5 DUTIES OF ADMINISTRATIVE CODE ~~DIVISION~~ EDITOR.

The administrative code ~~division~~ editor shall:

1. Cause the Iowa administrative bulletin and the Iowa administrative code to be published as provided in chapter 17A.
2. Cause the Iowa court rules to be published and distributed, as directed by the supreme court after consultation with the legislative council. The Iowa court rules shall consist of all rules prescribed by the supreme court. ~~The court rules shall be published in loose-leaf form and supplements shall be prepared and distributed as directed by the supreme court.~~ The Iowa court rules and supplements to the court rules shall be priced as provided in section ~~7A.22~~ 2E.5.
3. Cause to be published annually ~~in pamphlet form~~ a correct list of state officers and deputies, members of boards and commissions, ~~judges~~ justices of the supreme ~~court~~, ~~appellate judges of the court of appeals~~, and ~~judges of the~~ district courts including district associate judges and judicial magistrates, and members of the general assembly. The offices of the governor and secretary of state shall cooperate in the preparation of the list. ~~This pamphlet shall be published as soon after July 1 as it becomes apparent that it will be reasonably current.~~
4. Notify the administrative rules coordinator if a rule is not in proper style or form.
5. Perform other duties as directed by the director of the legislative ~~service bureau~~ services agency, the legislative council, or the administrative rules review committee and as provided by law.

Sec. 15. Section 2B.6, Code 2003, is amended to read as follows:

2B.6 DUTIES OF IOWA CODE ~~DIVISION~~ EDITOR.

The Iowa Code ~~division~~ editor shall:

1. Submit recommendations as the Iowa Code editor deems proper to each general assembly for the purpose of amending, revising, codifying, and repealing portions of the statutes which are inaccurate, inconsistent, outdated, conflicting, redundant, or ambiguous, and present the recommendations in bill form to the appropriate committees of the general assembly.
2. Cause the annual ~~session laws~~ Iowa Acts to be published, as provided in section 2B.10, including copies of all Acts and joint resolutions passed at each session of the general assembly.
3. Cause the Iowa Code and Iowa Code Supplement to be published as provided in section 2B.12.
4. Perform other duties as directed by the director of the legislative ~~service bureau~~ services agency or the legislative council and as provided by law.

Sec. 16. Section 2B.10, subsection 5, Code 2003, is amended to read as follows:

5. The enrolling clerks of the house and senate shall arrange for the Iowa Code ~~division~~ editor to receive suitable copies of all Acts and resolutions as soon as they are enrolled.

Sec. 17. Section 2B.12, subsection 6, paragraph f, Code 2003, is amended to read as follows:

- f. The Constitution of the State of Iowa, original and codified versions.

Sec. 18. Section 2B.13, Code 2003, is amended to read as follows:

2B.13 EDITORIAL POWERS AND DUTIES.

1. The Iowa Code editor in preparing the copy for an edition of the Iowa Code or a Iowa Code Supplement, ~~and the administrative code editor in preparing the copy for an edition of the Iowa administrative code or bulletin~~ shall not alter the sense, meaning, or effect of any Act of the general assembly, but may:
 - a. Correct manifestly misspelled words and grammatical and clerical errors, including punctuation ~~but without changing the meaning, and change capitalization, spelling, and punctuation for purposes of uniformity and consistency in Code language.~~
 - b. Correct internal references to sections which are cited erroneously or have been repealed, ~~and~~ amended, or renumbered.

c. Substitute the proper chapter, section, subsection, or other statutory reference for the term "this Act" or references to another Act of the general assembly when there appears to be no doubt as to the proper method of making the substitution.

d. Substitute the proper date for references to the effective or applicability dates of an Act when there appears to be no doubt as to the proper method of making the substitution.

e. Correct names of agencies, officers, or other entities which have been changed, when there appears to be no doubt as to the proper methods ~~method~~ of making the corrections ~~correction~~. The Code editor shall maintain a record of the corrections made under this paragraph. The record shall be available to the public.

e. f. Transfer, divide, or combine sections or parts of sections and add or amend headnotes to sections and subsections. Pursuant to section 3.3, the headnotes are not part of the law.

g. Change words that designate one gender to reflect both genders when the provisions apply to both genders.

h. If any Code section or part of a Code section, or any Act of the general assembly which is intended to be codified, is amended by more than one Act or more than one provision in an Act of the general assembly, and the amendments do not expressly refer to or amend one of the other Acts or Act provisions in question, harmonize the amendments, if possible, so that effect may be given to each and incorporate the amendments as harmonized in the Code section. If amendments made by several Acts are irreconcilable, unless one of the amendments repeals or strikes the language in question, the Iowa Code editor shall codify the amendment that is latest in date of enactment by the general assembly. If amendments made by provisions within an Act are irreconcilable, unless one of the amendments repeals or strikes the language in question, the Iowa Code editor shall codify the provision listed last in the Act. If one of the amendments repeals or strikes the language in question, the Iowa Code editor shall codify the amendment that repeals or strikes the language.

2. The Iowa Code editor may prepare and publish comments deemed necessary for a proper explanation of the manner of printing a section or chapter of the Iowa Code.

3. The Iowa Code editor, in preparing the copy for an edition of the Iowa Code or a Code Supplement, and the administrative code editor in preparing the copy for an edition of the Iowa administrative code, shall edit the copy in order that words which designate one gender are changed to reflect both genders when the provisions of law apply to persons of both genders.

2. The administrative code editor in preparing the copy for an edition of the Iowa administrative code or bulletin shall not alter the sense, meaning, or effect of any rule, but may:

a. Correct misspelled words and grammatical and clerical errors, including punctuation, and change capitalization, spelling, and punctuation for purposes of uniformity and consistency.

b. Correct references to rules or sections which are cited erroneously or have been repealed, amended, or renumbered.

c. Correct names of agencies, officers, or other entities when there appears to be no doubt as to the proper method of making the correction.

d. Transfer, divide, or combine rules or parts of rules and add or amend catchwords to rules and subrules.

e. Change words that designate one gender to reflect both genders when the provisions apply to both genders.

f. Perform any other editorial tasks required or authorized by section 17A.6.

3. The Iowa Code editor may, in preparing the copy for an edition of the Iowa Code or Iowa Code Supplement, establish standards for and change capitalization, spelling, and punctuation in any Code provision for purposes of uniformity and consistency in Code language. The administrative code editor may establish standards for capitalization, spelling, and punctuation for purposes of uniformity and consistency in the administrative code.

4. The Iowa Code editor shall seek direction from the senate committee on judiciary and the house committee on judiciary when making Iowa Code or Iowa Code Supplement changes, and the administrative code editor shall seek direction from the administrative rules review

committee and the administrative rules coordinator when making Iowa administrative code changes, which appear to require substantial editing and which might otherwise be interpreted to exceed the scope of the authority granted in this section.

5. The Iowa Code editor may prepare and publish comments deemed necessary for a proper explanation of the manner of printing a section or chapter of the Iowa Code. The Iowa Code editor shall maintain a record of all of the corrections made under subsection 1. The Iowa Code editor and the administrative code editor shall also maintain a separate record of the changes made under this section subsection 1, paragraphs "b" through "h". The record records shall be available to the public.

6. The Iowa Code editor and the administrative code editor shall not make editorial changes which go beyond the authority granted in this section or other law.

7. The effective date of all editorial changes in an edition of the Iowa Code or a Iowa Code Supplement is the effective date of the selling price Iowa Code editor's approval of the final press proofs for the statutory text contained within that publication as established by the legislative council or the legislative council's designee. The effective date of all editorial changes for the Iowa administrative code is the date those changes are published in the Iowa administrative code.

Sec. 19. Section 2B.17, subsections 3 and 5, Code 2003, are amended to read as follows:

3. The official printed versions of the Iowa Code, Code Supplement, and ~~session laws~~ Iowa Acts published under authority of the state are the only authoritative publications of the statutes of this state. No other Other publications of the statutes of the state shall not be cited in the courts or in the reports or rules of the courts. The Iowa Code editor is the custodian of the official printed versions of the Iowa Code, Iowa Code Supplement, and Iowa Acts and may attest to and authenticate any portion of those official printed versions for purposes of admitting a portion of the official printed version in any court or office of any state, territory, or possession of the United States or in a foreign jurisdiction.

5. The printed version of the Iowa administrative code is the permanent publication of administrative rules in this state and the Iowa administrative bulletin and the Iowa administrative code published pursuant to chapter 17A are the official publications of the administrative rules of this state, and are the only authoritative publications of the administrative rules of this state. Other publications of the administrative rules of this state shall not be cited in the courts or in the reports or rules of the courts. The Iowa administrative code editor is the custodian of the official printed versions of the Iowa administrative code and the Iowa administrative bulletin and may attest to and authenticate any portion of those official printed versions for purposes of admitting a portion of the official printed version in any court or office of any state, territory, or possession of the United States or in a foreign jurisdiction.

Sec. 20. Section 2B.21, Code 2003, is amended to read as follows:

2B.21 AVAILABILITY OF PARTS OF THE IOWA CODE AND ADMINISTRATIVE CODE.

The Iowa Code ~~division editor~~ and the administrative code ~~division editor~~, in accordance with policies established by the legislative council, may cause parts of the Iowa Code or administrative code to be made available for the use of public officers and other persons. This authority shall be exercised in a manner planned to avoid delay in the other publications of the ~~divisions editors~~.

Sec. 21. Section 7D.6, Code 2003, is amended to read as follows:

7D.6 REPORT FOR — OFFICIAL REGISTER.

The secretary shall, as soon as practicable after January 1 of each odd-numbered year, prepare a report of the proceedings of the executive council for the two preceding calendar years. Said The report shall include a statement of:

1. The official canvass of the votes cast at the last general election.
2. Other acts of said the council that are of general interest.

Said The report shall may be published in the Iowa official register as provided in section 2E.5.

Sec. 22. Section 7E.6, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 23. Section 8.22A, subsection 1, Code 2003, is amended to read as follows:

1. The state revenue estimating conference is created consisting of the governor or the governor's designee, the director of the legislative ~~fiscal bureau~~ services agency or the director's designee, and a third member agreed to by the other two.

Sec. 24. Section 9F.4, Code 2003, is amended to read as follows:

9F.4 PUBLICATION IN ~~—~~ OFFICIAL REGISTER.

The ~~state printing administrator shall~~ legislative services agency may publish said ~~the~~ the federal census report ~~and certificate aforesaid in full~~ in each copy of the Iowa official register as provided in section 2E.5.

Sec. 25. Section 9F.5, Code 2003, is amended to read as follows:

9F.5 EVIDENCE.

Said ~~The~~ The certified census records in the office of the secretary of state, ~~and said authorized publications, including the certificates attached thereto,~~ shall be competent evidence of all matters therein contained.

Sec. 26. Section 15A.9, subsection 11, Code 2003, is amended by striking the subsection.

Sec. 27. Section 17A.4, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Any notice of intended action or rule filed without notice pursuant to subsection 2, which necessitates additional annual expenditures of at least one hundred thousand dollars or combined expenditures of at least five hundred thousand dollars within five years by all affected persons, including the agency itself, shall be accompanied by a fiscal impact statement outlining the expenditures. The agency shall promptly deliver a copy of the statement to the legislative services agency. To the extent feasible, the legislative services agency shall analyze the statement and provide a summary of that analysis to the administrative rules review committee. If the agency has made a good faith effort to comply with the requirements of this subsection, the rule shall not be invalidated on the ground that the contents of the statement are insufficient or inaccurate.

Sec. 28. Section 17A.6, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The administrative code editor shall cause the Iowa administrative bulletin to be published ~~in a printed form~~ in accordance with section 2.42 at least every other week, unless the administrative code editor and the administrative rules review committee determine that an alternative publication schedule is preferable. ~~An electronic version of the Iowa administrative bulletin may also be published as provided in section 2.42.~~ The Iowa administrative bulletin shall contain all of the following:

Sec. 29. Section 17A.6, subsections 2, 3, and 5, Code 2003, are amended to read as follows:

2. Subject to the direction of the administrative rules coordinator, the administrative code editor shall cause the Iowa administrative code to be compiled, indexed, and published in accordance with section 2.42 in a ~~printed loose-leaf~~ form containing all rules adopted and filed by each agency. The administrative code editor further shall cause ~~loose-leaf~~ supplements to the Iowa administrative code to be published as determined by the administrative rules coordinator and the administrative rules review committee, containing all rules filed for publication in the prior time period. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. The administrative rules coordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system. ~~An electronic version of the Iowa administrative code may also be published as provided in section 2.42.~~

3. The administrative code editor may omit or cause to be omitted from the Iowa administra-

tive code or bulletin any rule the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if the rule in ~~printed or~~ processed form is made available on application to the adopting agency at no more than its cost of reproduction, and if the Iowa administrative code or bulletin contains a notice stating the specific subject matter of the omitted rule and stating how a copy of the omitted rule may be obtained.

The administrative code editor shall omit or cause to be omitted from the Iowa administrative code any rule or portion of a rule nullified by the general assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

5. The Iowa administrative code, its supplements, and the Iowa administrative bulletin shall be made available upon request to all persons who subscribe to any of them ~~through the state printing division. Copies of this code so made available shall be kept current by the division.~~

Sec. 30. Section 17A.8, subsection 10, Code 2003, is amended by striking the subsection.

Sec. 31. Section 18.3, subsection 3, Code 2003, is amended to read as follows:

3. Administering the provisions of sections 18.26 to ~~18.103~~ 18.100.

Sec. 32. Section 18.28, Code 2003, is amended to read as follows:

18.28 "PRINTING" DEFINED.

As used in chapter 7A and sections 18.26 to ~~18.103~~ 18.100, "printing" means the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by any library of the state or any of its offices, departments, boards and commissions held as a part of their library collection.

Sec. 33. NEW SECTION. 18.28A LEGISLATIVE BRANCH EXCLUDED.

This chapter does not apply to the printing contracts or procedures of the legislative branch.

Sec. 34. Section 18.30, Code 2003, is amended to read as follows:

18.30 CONTRACTS WITH STATE INSTITUTIONS.

The director may, without advertising for bids, enter into contracts or make provision for doing any of the work coming under the provisions of chapter 7A and sections 18.26 to ~~18.103~~ 18.100 at any school or institution under the ownership or control of the state. The work shall be done under conditions substantially the same as those provided for in the case of contracts with individuals and the same standard of quality or product shall be required.

Sec. 35. Section 18.50, Code 2003, is amended to read as follows:

18.50 EMERGENCY CONTRACTS.

The director may at any time award a separate printing contract or may authorize an assistant to award a separate printing contract for any work and materials or printing supplies within the provisions of chapter 7A and sections 18.26 to ~~18.103~~ 18.100 which are not included in current printing contracts or which cannot properly be made the subject of a general contract. A separate printing contract must have been duly solicited by the director from vendors engaged in the kind of work under consideration who have indicated a desire to bid on the class of work to be performed.

Sec. 36. Section 18.59, subsection 5, Code 2003, is amended to read as follows:

5. To avoid duplication, overlapping, and redundancy of pamphlets and publications, other than legislative branch publications and official documents and books and publications authorized by ~~chapters 2B and chapter~~ 7A, to examine the contents of proposed pamphlets or publications and to approve or disapprove such pamphlets or publications only for such reason; and to effectuate this power, the director shall adopt rules for its administration.

Sec. 37. Section 18.75, subsections 6 and 8, Code 2003, are amended to read as follows:

~~6. Have legal custody of all Codes, session laws, books of annotations, tables of corresponding sections, publications, except premium lists published by the Iowa state fair board, containing reprints of statutes or administrative rules, or both, reports of state departments, and reports of the supreme court, and sell, account for, and distribute the same as provided by law. However, the legislative service bureau shall solicit and process orders for the distribution of all printed Codes, session laws, administrative codes and bulletins, court rules, and the state roster.~~

8. By November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the administrator, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request ~~without charge~~ electronically to each caucus of the general assembly, the legislative service bureau, ~~the legislative fiscal bureau~~ services agency, the chief clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in ~~both print or~~ electronic medium, upon payment of a fee if appropriate, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in the general fund. Requests for publications shall be handled only upon receipt of postage by the administrator.

Sec. 38. Section 22.3A, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. The amount charged for access to a public record shall be not more than that required to recover direct publication costs, including but not limited to editing, compilation, and media production costs, incurred by the government body in developing the data processing software, and preparing the data processing software for transfer to the person. The amount shall be in addition to any other fee required to be paid under this chapter for the examination and copying of a public record. If a person accesses a public record stored in an electronic format that does not require formatting, editing, or compiling to access the public record, the charge for providing the accessed public record shall not exceed the reasonable cost of accessing that public record. The government body shall, if requested, provide documentation which explains and justifies the amount charged. This paragraph shall not apply to any publication for which a price has been established pursuant to another section, including section ~~7A.22~~ 2E.5.

Sec. 39. Section 25B.5, Code 2003, is amended to read as follows:

25B.5 COST ESTIMATES — NOTATION IN ACTS.

1. When a bill or joint resolution is requested, the legislative ~~service bureau~~ services agency shall make an initial determination of whether the bill or joint resolution may impose a state mandate. If a state mandate may be included, that fact shall be included in the explanation of the bill or joint resolution.

2. If a bill or joint resolution may include a state mandate, ~~a copy of the prepared draft shall be sent to the legislative fiscal bureau which~~ services agency shall determine if the bill or joint resolution contains a state mandate. If the bill or joint resolution contains a state mandate and is still eligible for consideration during the legislative session for which the bill or joint resolution was drafted, the legislative ~~fiscal bureau~~ services agency shall prepare an estimate of the amount of costs imposed.

3. If a bill or joint resolution containing a state mandate is enacted, unless the estimate

already on file with the house of origin is sufficient, the legislative ~~fiscal bureau~~ services agency shall prepare a final estimate of additional local revenue expenditures required by the state mandate and file the estimate with the secretary of state for inclusion with the official copy of the bill or resolution to which it applies. A notation of the filing of the estimate shall be made in the Iowa Acts of the general assembly published pursuant to chapter 2B.

Sec. 40. Section 97D.4, subsection 4, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Administrative assistance shall be provided by the legislative ~~service bureau and the legislative fiscal bureau~~ services agency.

Sec. 41. Section 256.53, Code 2003, is amended to read as follows:

256.53 STATE PUBLICATIONS.

Upon issuance of a state publication in any format, a state agency shall deposit with the division at no cost to the division, seventy-five copies of the publication or a lesser number if specified by the division, except as provided in section 2E.6.

Sec. 42. Section 331.502, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 43. Section 602.1204, subsection 3, Code 2003, is amended to read as follows:

3. The supreme court shall compile and publish all procedures and directives relating to the supervision and administration of the internal affairs of the judicial branch, and shall distribute a copy of the compilation and all amendments to each operating component of the judicial branch. ~~Copies also shall be distributed to agencies referred to in section 18.97 upon request.~~

Sec. 44. Sections 2.14, 2.16, 2.35, 2.45, 2.61, 2D.3, 3.2, 7A.11, 15E.111, 23A.2A, 28B.1, 28B.4, 42.2, 42.3, 42.6, 49.7, 275.23A, 331.209, and 602.4202, Code 2003, are amended by striking from the sections the words "legislative service bureau" and "bureau" when referring to the legislative service bureau and inserting in lieu thereof the words "legislative services agency".

Sec. 45. Sections 2.46, 2.51, 2B.10, 7E.5A, 8.23, 8.35A, 8.44, 8.46, 8.55, 8.61, 8.62, 8E.209, 8E.301, 12E.13, 14B.103, 14B.105, 14B.206, 15.113, 15.343, 18.16A, 18.16B, 80E.1, 97B.17, 135.11, 161D.8, 161D.13, 217.12, 237.18, 255.24A, 260C.66, 261.22, 261.25, 262.64A, 262A.13, 263A.11, 263A.13, 266.39D, 266.39F, 292.2, 294A.19, 307.20, 307.40, 307.46, 307.47, 327J.3, 384.3, 403.23, 404A.5, 421.17, 422.72, 455B.183A, 455G.4, 505.7, 524.207, 533.67, 602.1301, 602.1302, 602.8108, 904.116, 904.706, 905.6, 905.8, and 906.5, Code 2003, are amended by striking from the sections the words "legislative fiscal bureau" and inserting in lieu thereof the words "legislative services agency".

Sec. 46. CODE EDITOR'S DIRECTIVE. The Code editor shall correct any references to the legislative services agency as the successor to the legislative service bureau, legislative fiscal bureau, and computer support bureau, including grammatical constructions, anywhere else in the Iowa Code, in any bills awaiting codification, and in any bills enacted by the Eightieth General Assembly, 2003 Regular Session.

Sec. 47. Sections 2.48, 2.49, 2.50, 2.52, 2.55, 2.55A, 2.58, 2.59, 2.60, 2.64, 2.65, 2.66, 2.67, 2.100, 2.101, 2.102, 2.103, 2.104, 7A.15, 7A.16, 7A.17, 7A.18, 7A.19, 7A.20, 7A.21, 7A.22, 7A.25, 7A.26, 9.6, 18.86, 18.87, 18.88, 18.89, 18.90, 18.95, 18.96, 18.97, 18.97A, 18.101, 18.102, and 18.103, Code 2003, are repealed.

Sec. 48. PREVAILING PROVISIONS. The provisions of this Act regarding the publication and distribution of the Iowa official register shall prevail over any conflicting provisions of any other Act enacted by the Eightieth General Assembly, 2003 Regular Session.

Sec. 49. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 14, 2003

CHAPTER 36
COUNTY, CITY, AND SCHOOL CONTRACTS
— PROHIBITED INTEREST EXCEPTIONS
S.F. 272

AN ACT relating to conflicts of interest in public contracts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 279.7A, Code 2003, is amended to read as follows:

279.7A INTEREST IN PUBLIC CONTRACTS PROHIBITED — EXCEPTIONS.

A member of the board of directors of a school corporation shall not have an interest, direct or indirect, in a contract for the purchase of goods, including materials and profits, and the performance of services for the director's school corporation. A contract entered into in violation of this section is void. This section does not apply to contracts for the purchase of goods or services which benefit a director, or to compensation for part-time or temporary employment which benefits a director, if the benefit to the director does not exceed two thousand five hundred dollars in a fiscal year, and contracts made by a school board, upon competitive bid in writing, publicly invited and opened. This section does not apply to a contract that is a bond, note, or other obligation of a school corporation if the contract is not acquired directly from the school corporation, but is acquired in a transaction with a third party, who may or may not be the original underwriter, purchaser, or obligee of the contract, or to a contract in which a director has an interest solely by reason of employment if the contract is made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this section does not apply to a contract for professional services not customarily awarded by competitive bid.

Sec. 2. Section 331.342, subsection 4, Code 2003, is amended to read as follows:

4. Contracts in which a county officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8, or both, if the contracts are made by competitive bid, publicly invited and opened, and or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

Sec. 3. Section 331.342, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 11. A contract that is a bond, note, or other obligation of the county and the contract is not acquired directly from the county, but is acquired in a transaction with a third party, who may or may not be the original underwriter, purchaser, or obligee of the contract.

Sec. 4. Section 362.5, subsection 5, Code 2003, is amended to read as follows:

5. Contracts in which a city officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 9, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract is for professional services not customarily awarded by competitive bid, ~~if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.~~

Sec. 5. Section 362.5, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A contract that is a bond, note, or other obligation of the city and the contract is not acquired directly from the city, but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.

Approved April 17, 2003

CHAPTER 37

LICENSING OF HUNTING, FISHING, AND RELATED ACTIVITIES — MILITARY PERSONNEL — RESIDENCY STATUS

H.F. 411

AN ACT providing resident license fees for hunting, fishing, trapping, and related activities to certain persons in the armed forces of the United States.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 483A.1A, subsection 7, paragraph d, Code 2003, is amended to read as follows:

d. Is a member of the armed forces of the United States who is serving on active duty, claims residency in this state, and has filed a state individual income tax return as a resident pursuant to chapter 422, division II, for the preceding tax year, or is stationed in this state.

Approved April 17, 2003

CHAPTER 38

SPORT FISHING LICENSES — MUSSELS AND SHELLS

H.F. 412

AN ACT relating to the amount of mussels and shells which may be taken pursuant to a sport fishing license.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 482.12, subsection 1, paragraph a, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

a. A sport fishing license entitles a person to take and possess a maximum amount of mussels or shells daily as authorized by rule of the department or commission under the authority of sections 456A.24, 481A.38, 481A.39, and 482.1.

Approved April 17, 2003

CHAPTER 39ELECTRONIC TRANSACTIONS —
COMPUTER INFORMATION AGREEMENTS — CHOICE OF LAW*H.F. 456*

AN ACT relating to contract choice-of-law provisions referring to the uniform computer information transactions Act, and related matters and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. 2000 Iowa Acts, chapter 1189, section 32, as amended by 2001 Iowa Acts, chapter 34, section 1, as amended by 2002 Iowa Acts, chapter 1106, section 1, is repealed.

Sec. 2. 2000 Iowa Acts, chapter 1189, section 33, as amended by 2001 Iowa Acts, chapter 34, section 2, as amended by 2002 Iowa Acts, chapter 1106, section 2, is repealed.

Sec. 3. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 2003

CHAPTER 40

CAMPAIGN FINANCE — MISCELLANEOUS PROVISIONS

H.F. 601

AN ACT relating to campaign finance, including political party committees, campaign disclosure reports, independent expenditures, and income tax checkoff provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 56.3, subsection 1, Code 2003, is amended to read as follows:

1. a. Every candidate's committee shall appoint a treasurer who shall be an Iowa resident who has reached the age of majority. Every political ~~committee, state statutory political committee, and county statutory political~~ committee shall appoint both a treasurer and a chairperson, each of whom shall have reached the age of majority.

b. Every candidate's committee shall maintain all of the committee's funds in bank accounts in a financial institution located in Iowa. Every political ~~committee, state statutory political committee, and county statutory political~~ committee shall either have an Iowa resident as treasurer or maintain all of the committee's funds in bank accounts in a financial institution located in Iowa.

c. An expenditure shall not be made by the treasurer or treasurer's designee for or on behalf of a committee without the approval of the chairperson of the committee, or the candidate. Expenditures shall be remitted to the designated recipient within fifteen days of the date of the issuance of the payment.

Sec. 2. Section 56.5, subsection 2, paragraph d, Code 2003, is amended by striking the subsection.¹

Sec. 3. Section 56.6, subsections 2 and 5, Code 2003, are amended to read as follows:

2. If any committee, after having filed a statement of organization or one or more disclosure reports, dissolves or determines that it shall no longer receive contributions or make disbursements, ~~the treasurer of~~ the committee shall notify the board within thirty days following such dissolution by filing a dissolution report on forms prescribed by the board. Moneys refunded in accordance with ~~a dissolution statement sections 56.41 and 56.42~~ shall be considered a disbursement or expense but the names of persons receiving refunds need not be released or reported unless the contributors' names were required to be reported when the contribution was received.

5. a. A committee shall not dissolve until all loans, debts and obligations are paid, forgiven, or transferred and the remaining money in the account is distributed according to ~~the organization statement sections 56.41 and 56.42~~. If a loan is transferred or forgiven, the amount of the transferred or forgiven loan must be reported as an in-kind contribution and deducted from the loans payable balance on the disclosure form. If, upon review of a committee's statement of dissolution and final report, the board determines that the requirements for dissolution have been satisfied, the dissolution shall be certified and the committee relieved of further filing requirements.

b. A statutory political committee is prohibited from dissolving, but may be placed in an inactive status upon the approval of the board. Inactive status may be requested for a statutory political committee when no officers exist and the statutory political committee has ceased to function. The request shall be made by the previous treasurer or chairperson of the committee and by the appropriate state statutory political committee. A statutory political committee granted inactive status shall not solicit or expend funds in its name until the committee reorganizes and fulfills the requirements of a political committee under this chapter.

¹ See chapter 179, §81 herein

Sec. 4. Section 56.13, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

56.13 INDEPENDENT EXPENDITURES.

1. As used in this section, "independent expenditure" means an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a ballot issue that is made without the prior approval or coordination with a candidate, candidate's committee, or a ballot issue committee.

2. An individual who meets all of the following criteria shall file an independent expenditure statement:

a. The individual is not a candidate.

b. The individual is acting independently and not in coordination with another individual, organization, or committee.

c. The individual makes one or more independent expenditures in excess of seven hundred fifty dollars in the aggregate to advocate the election or defeat of one or more candidates or the passage or defeat of one or more ballot issues.

3. a. Any combination of two or more individuals, or a person other than an individual, that makes one or more independent expenditures in excess of seven hundred fifty dollars in the aggregate to advocate the election or defeat of one or more candidates or the passage or defeat of one or more ballot issues shall file an independent expenditure statement.

b. Sections 56.5, 56.5A, 56.6, and 56.7 shall not apply to persons meeting the requirements of paragraph "a".

c. This subsection shall not apply to a candidate, candidate's committee, state statutory political committee, county statutory political committee, or a political committee.

4. a. An independent expenditure statement shall be filed within forty-eight hours of the making of an independent expenditure in excess of seven hundred fifty dollars in the aggregate.

b. An independent expenditure statement shall be filed with the board and the board shall immediately make the independent expenditure statement available for public viewing.

c. For purposes of this section, an independent expenditure is made at the time that the cost is incurred.

5. The independent expenditure statement shall contain all of the following information:

a. Identification of the individuals or persons filing the statement.

b. Description of the position advocated by the individuals or persons with regard to the clearly identified candidate or ballot issue.

c. Identification of the candidate or ballot issue benefited by the independent expenditure.

d. The dates on which the expenditure or expenditures took place or will take place.

e. Description of the nature of the action taken that resulted in the expenditure or expenditures.

f. The fair market value of the expenditure or expenditures.

6. Any person making an independent expenditure shall comply with the attribution requirements of section 56.14.

7. a. The board shall develop, prescribe, furnish, and distribute forms for the independent expenditure statements required by this section.

b. The board shall adopt rules pursuant to chapter 17A for the implementation of this section.

Sec. 5. Section 56.20, Code 2003, is amended to read as follows:

56.20 RULES PROMULGATED.

The ~~director of revenue and finance, in co-operation with the director of the department of management and the ethics and campaign disclosure board,~~ shall administer the provisions of sections 56.18 to 56.26 and ~~they~~ shall promulgate all necessary rules in accordance with chapter 17A.

Sec. 6. Section 56.22, subsection 2, Code 2003, is amended to read as follows:

2. Funds distributed to statutory political committees pursuant to this chapter shall not be used to expressly advocate the nomination, election, or defeat of any candidate during the primary election. Nothing in this subsection shall be construed to prohibit a statutory political committee from using such funds to pay expenses incurred in arranging and holding a nominating convention.

Sec. 7. Section 56.23, Code 2003, is amended to read as follows:

56.23 FUNDS — CAMPAIGN EXPENSES ONLY.

1. The chairperson of the state statutory political committee shall produce evidence to ~~the director of revenue and finance and the ethics and campaign disclosure board~~ not later than the twenty-fifth day of January each year, that all income tax checkoff funds expended for campaign expenses have been utilized exclusively for campaign expenses.

2. The ethics and campaign disclosure board shall issue, prior to the payment of any money, guidelines ~~which that~~ explain which expenses and evidence thereof qualify as acceptable campaign expenses.

3. Should the ethics and campaign disclosure board ~~and the director of revenue and finance~~ determine that any part of the funds have been used for noncampaign or improper expenses, ~~they the board~~ may order the political party or the candidate to return all or any part of the total funds paid to that political party for that election. When such funds are returned, they shall be deposited in the general fund of the state.

Sec. 8. Section 56.43, subsection 1, Code 2003, is amended to read as follows:

1. a. Equipment, supplies, or other materials purchased with campaign funds or received in-kind are campaign property.

b. Campaign property belongs to the candidate's committee and not to the candidate.

c. Campaign property ~~which that~~ has a value of five hundred dollars or more at the time it is acquired by the committee shall be separately disclosed as committee inventory on reports filed pursuant to section 56.6, including a declaration of the approximate current value of the property. ~~Such The campaign~~ property shall continue to be reported as committee inventory until it is disposed of by the committee or until the property has been reported once as having a residual value of less than one hundred dollars. ~~However, consumable~~

d. Consumable campaign property is not required to be reported as committee inventory, regardless of the initial value of the consumable campaign property. "Consumable campaign property", for purposes of this section, means stationery, yard signs, and other campaign materials ~~which that~~ have been permanently imprinted to be specific to a candidate or election.

Sec. 9. CODE EDITOR DIRECTIVE. The Code editor shall move and renumber chapter 56 as chapter 68A, and shall change all references to chapter 56 appropriately throughout the Code.

Approved April 17, 2003

CHAPTER 41**DRIVER'S LICENSE OR NONOPERATOR'S
IDENTIFICATION CARD APPLICATIONS OR RENEWALS
— SELECTIVE SERVICE REGISTRATION***H.F. 623*

AN ACT relating to registration with the United States selective service system by application for a driver's license or nonoperator's identification card or for renewal of a driver's license or nonoperator's identification card.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 321.183 APPLICATION FOR DRIVER'S LICENSE OR NON-OPERATOR'S IDENTIFICATION CARD — SELECTIVE SERVICE REGISTRATION.

1. A person who applies for a driver's license or nonoperator's identification card or for renewal of a driver's license or nonoperator's identification card, and who is required by 50 U.S.C. app. § 451 et seq. to register with the United States selective service system, shall be registered by the department with the selective service system. The department shall forward to the selective service system in an electronic format the necessary personal information of such applicant, notwithstanding provisions to the contrary in section 321.11, subsection 3.

2. An applicant's submission of an application for a driver's license or nonoperator's identification card or for renewal of a driver's license or nonoperator's identification card shall indicate that the applicant has already registered with the selective service system or that the applicant authorizes the department to forward the applicant's personal information to the selective service system for registration. The department shall notify the applicant on the application that submission of the application shall serve as consent to registration with the selective service system, if the applicant is required by 50 U.S.C. app. § 451 et seq. to register.

3. Notwithstanding subsections 1 and 2, an applicant for a driver's license or nonoperator's identification card or for renewal of a driver's license or nonoperator's identification card who is required to register with the United States selective service system shall not be registered by the department if, after being given information on the penalties for failure to register, the applicant declines to be registered. The department shall forward to the selective service system in an electronic format the applicable personal information of such applicant indicating the applicant refused to be registered.

Sec. 2. Section 321.190, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. The department shall, upon application and payment of the required fee, issue to an applicant a nonoperator's identification card. To be valid the card shall bear a distinguishing number assigned to the card holder, the full name, date of birth, sex, residence address, a physical description and a colored photograph of the card holder, the usual signature of the card holder, and such other information as the department may require by rule. An applicant for a nonoperator's identification card shall apply for the card in the manner provided in section 321.182, subsections 1 through 3. The card shall be issued to the applicant at the time of application pursuant to procedures established by rule. An applicant for a nonoperator's identification card who is required by 50 U.S.C. app. § 451 et seq. to register with the United States selective service system shall be registered by the department with the selective service system as provided in section 321.183.

Approved April 17, 2003

CHAPTER 42TERMINATION OF PREGNANCY REPORTS
— INDUCED TERMINATION METHODS

S.F. 3

AN ACT relating to the inclusion of certain information in a termination of pregnancy report.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 144.29A, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. The method used for an induced termination, including whether mifepristone was used.

Approved April 21, 2003

CHAPTER 43

CERTIFIED REAL ESTATE APPRAISERS

S.F. 119

AN ACT relating to real estate appraiser certification.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 543D.7, subsection 2, Code 2003, is amended by striking the subsection.

Sec. 2. Section 543D.19, subsection 1, Code 2003, is amended to read as follows:

1. A certified real estate appraiser shall retain for ~~three~~ five years, originals or true copies of all written contracts engaging the appraiser's services for real estate appraisal work and all reports and supporting data assembled and formulated for use by the appraiser or the associate appraiser in preparing the reports.

Sec. 3. Section 543D.19, subsection 2, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

2. An appraiser must retain all work files for a period of at least five years after preparation or at least two years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last, and either maintain custody of the appraiser's work file or make appropriate work file retention, access, and retrieval arrangements with a party having custody of the work file.

Approved April 21, 2003

CHAPTER 44
SUBSTANTIVE CODE CORRECTIONS
S.F. 155

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities, and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 6B.18, subsection 2, Code 2003, is amended to read as follows:

2. An appeal of appraisal of damages is deemed to be perfected upon filing of a notice of appeal with the district court within thirty days from the date of mailing the notice of appraisal of damages. The notice of appeal shall be served on the adverse party, or the adverse party's agent or attorney, and any lienholders lienholder and encumbrancers encumbrancer of the property in the same manner as an original notice within thirty days from the date of filing the notice of appeal unless, for good cause shown, the court grants more than thirty days. If after reasonable diligence, the notice cannot be personally served, the court may prescribe an alternative method of service consistent with due process of law.

Sec. 2. Section 8D.2, subsection 5, paragraph b, Code 2003, is amended to read as follows:

b. For the purposes of this chapter, "public agency" also includes any homeland security or defense facility established by the administrator of the emergency management division of the department of public defense or the governor or any facility connected with a security or defense system as required by the administrator of the emergency management division of the department of public defense or the governor. ~~A facility that is considered a public agency pursuant to this paragraph shall be authorized to access the Iowa communications network strictly for homeland security communication purposes. Any utilization of the network that is not related to communications concerning homeland security is expressly prohibited.~~

Sec. 3. Section 8D.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A facility that is considered a public agency pursuant to section 8D.2, subsection 5, paragraph "b", shall be authorized to access the Iowa communications network strictly for homeland security communication purposes. Any utilization of the network that is not related to communications concerning homeland security is expressly prohibited.

Sec. 4. Section 10A.101, subsection 2, Code 2003, is amended by striking the subsection.

Sec. 5. Section 10B.4A, Code 2003, is amended to read as follows:

10B.4A SUSPENSION OF OTHER FILING REQUIREMENTS.

The secretary of state shall not prepare or distribute forms for reports or file reports otherwise required pursuant to section 9H.5A, 9I.8, or 501.103. A person required to file a report pursuant to this chapter is not required to file a report under those sections. A person required to file a report pursuant to this chapter is not required to register with the secretary of state as otherwise required in section 9I.7.

~~A person required to file a report pursuant to this chapter is not required to register with the secretary of state as otherwise required in any chapter enumerated in this section.~~

Sec. 6. Section 12C.19, subsection 1, Code 2003, is amended to read as follows:

1. Securities pledged pursuant to this chapter may be withdrawn on application of the pledging depository institution, and as to securities pledged by a credit union, upon approval of the public officer to whom the securities are pledged, if the deposit of securities is no longer

necessary to comply with this chapter, or withdrawal is required for collection by virtue of its maturity or ~~for~~ exchange. The depository institution shall replace securities so withdrawn for collection or exchange.

Sec. 7. Section 12C.23A, subsection 3, paragraph d, Code 2003, is amended to read as follows:

d. If the loss of public funds is not covered by federal deposit insurance and the proceeds of the closed bank's assets that are liquidated within thirty days of the closing of the bank are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed federal deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors in the closed bank by a percentage that represents the assessed bank's proportional share of the total of uninsured public funds deposits held by all banks and all branches of out-of-state banks, based upon the average of the uninsured public funds of the assessed bank or branch of an out-of-state bank as of the end of the four calendar quarters prior to the date of closing of the closed bank and the average of the uninsured public funds in all banks and branches of out-of-state banks as of the end of the four calendar quarters prior to the date of closing of the closed bank, excluding the amount of uninsured public funds held by the closed bank at the end of the four calendar quarters ~~held by the closed bank~~. Each bank shall pay its assessment to the treasurer of state within three business days after it receives notice of assessment.

Sec. 8. Section 14B.105, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. The members appointed pursuant to paragraph "a", subparagraphs (3) through (7), shall serve four-year staggered terms and such appointments to the information technology council are subject to the requirements of sections 69.16, 69.16A, and 69.19. The four-year terms of members appointed by the governor shall be staggered as designated by the governor. ~~Members~~ The members appointed by the governor pursuant to paragraph "a", subparagraphs (3) through (7), shall not serve consecutive four-year terms. ~~Members~~ The members appointed by the governor are subject to senate confirmation and may also be eligible to receive compensation as provided in section 7E.6. Members shall be reimbursed for actual and necessary expenses incurred in performance of the members' duties.

Sec. 9. Section 15.108, subsection 6, paragraph b, subparagraph (1), Code 2003, is amended to read as follows:

(1) Work closely with representatives of business and industry, labor organizations, ~~the council on human investment~~, the department of education, the department of workforce development, and educational institutions to determine the employee training needs of Iowa employers, and where possible, provide for the development of industry-specific training programs.

Sec. 10. Section 15E.45, subsections 1, 3, 6, and 8, Code 2003, are amended to read as follows:

1. An investment in a ~~community~~ community-based seed capital fund shall qualify for a tax credit under section 15E.43 provided that all requirements of sections 15E.43, 15E.44, and this section are met.

3. a. In order for an investment in a community-based seed capital fund to qualify for a tax credit, the community-based seed capital fund in which the investment is made shall, within one hundred twenty days of the date of the first investment, notify the board of all of the following:

(1) The names, addresses, taxpayer identification numbers, equity interests issued, consideration paid for the interests, and the amount of any tax credits, of which all,

~~(2) All~~ limited partners or members who may initially qualify for the tax credits, ~~and the~~
~~(3) The~~ earliest year in which the tax credits may be redeemed.

b. The list of limited partners or members who may qualify for the tax credits shall be amended as new equity interests are sold or as any information on the list shall change.

6. In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this section, or in the event that the community-based seed capital fund has not invested at least thirty-three percent of its invested capital in no fewer than two separate qualifying businesses, measured at the end of the thirty-sixth month after commencing the fund's investing activities, the board shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue and finance that it has done so, and the tax credit certificates shall be null and void. However, a community-based seed capital fund may apply to the board for a one-year waiver ~~from~~ of the requirements of this subsection.

8. A community-based seed capital fund shall not invest in the Iowa fund of funds, if organized pursuant to ~~2002 Iowa Acts, House File 2078, if enacted~~ section 15E.65.

Sec. 11. Section 15E.51, subsection 4, Code 2003, is amended to read as follows:

4. A taxpayer shall not claim a tax credit under this section if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds created in section 15E.65 or an investor that receives a tax credit for an investment in a community-based seed capital fund as ~~defined described in 2002 Iowa Acts, House File 2271~~ section 15E.45.

Sec. 12. Section 15E.67, Code 2003, is amended to read as follows:

15E.67 POWERS AND EFFECTIVENESS.

This division shall not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this division are cumulative to such powers. This division shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional to the powers conferred by any other laws law. The level, timing, or degree of success of the Iowa fund of funds or the investment funds in which the Iowa fund of funds invests in, or the extent to which the investment funds are invested in Iowa venture capital projects, or are successful in accomplishing any economic development objectives, shall not compromise, diminish, invalidate, or affect the provisions of any contract entered into by the board or the Iowa fund of funds.

Sec. 13. Section 15E.193C, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

An eligible development business includes a developer or development contractor that constructs, expands, or rehabilitates a building space within a designated enterprise zone with a minimum capital investment of at least five hundred thousand dollars. A development business is eligible to receive incentives and assistance under this section if ~~businesses the business~~ the business locating into the building space ~~have~~ has not closed or reduced its operation in one area of the state or a city and relocated substantially the same operation in the enterprise zone. An eligible development business is eligible for one, but not both, of the following exemptions to the capital investment requirements:

Sec. 14. Section 16.15, subsection 4, Code 2003, is amended to read as follows:

4. Permanent financing for units to be subsidized under the housing assistance payments program may be provided by the authority, directly or indirectly, by the proceeds from the sale of bonds and notes as provided in this Act chapter, or by other moneys available to the authority, by appropriations or otherwise.

Sec. 15. Section 16.132, subsections 5 and 6, Code 2003, are amended to read as follows:

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or

statutory debt limitations but are special obligations of the authority, and are payable solely from the income and receipts or other funds or property of the department, and the amounts on deposit in the revolving loan funds, and the amounts payable to the department under its loan agreements with the municipalities and water systems eligible entities as defined in section 455B.291 to the extent that the amounts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for such bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state to the payment of any bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bonds or notes.

6. The state pledges to and agrees with the holders of bonds or notes issued under the Iowa ~~sewage treatment~~ water pollution control works and drinking water facilities financing program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 16. Section 23A.2, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The state board of regents or a school corporation may, by rule, provide for exemption from the application of this chapter for any of the following activities:

Sec. 17. Section 23A.2, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. Use of vehicles owned by the institution or school for charter trips offered to the public, or to full, or part-time, or temporary students.

Sec. 18. Section 25B.7, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 19. Section 28.4, subsection 12, paragraph e, Code 2003, is amended by striking the paragraph.

Sec. 20. Section 29B.22, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Convening authorities shall at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice; and the staff judge advocate of any command may communicate directly with the staff judge advocate of a ~~superior or subordinate~~ any command, ~~or with the state judge advocate.~~

Sec. 21. Section 43.45, subsection 1, Code 2003, is amended to read as follows:

1. Upon the closing of the polls the precinct election officials shall immediately publicly canvass the vote. The canvass shall be conducted using the procedures established in ~~subsection 2 or 3, whichever is~~ this section which are appropriate for the voting system used in the precinct.

Sec. 22. Section 43.45, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. Certify to the number of votes cast upon the ticket of each political party for each candidate for each office.

Sec. 23. Section 45.5, subsection 1, paragraph c, Code 2003, is amended to read as follows:
c. A statement that the candidate is or will be a resident of the appropriate ward, city, county, school district, or legislative or other district as required by section ~~45.1~~ 39.27.

Sec. 24. Section 45.5, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Signatures on a petition page shall be counted only if the required information is written or printed at the top of the page. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside. ~~Signature lines on the A signature line in a nomination petitions petition~~ shall not be counted if the line lacks the signature of the eligible elector and the signer's address and city. The person examining the petition shall mark any deficiencies on the petition.

Sec. 25. Section 48A.29, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The notice shall be sent by forwardable mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification ~~proving your residence in (name of county) County~~ before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county."

Sec. 26. Section 49.71, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The precinct election officials, before the opening of the polls, shall cause ~~said cards of the~~ instructions for voters required pursuant to section 49.70 to be securely posted as follows:¹

Sec. 27. Section 49.125, Code 2003, is amended to read as follows:

49.125 COMPENSATION OF TRAINEES.

All election personnel attending such training course shall be paid for attending such course ~~for a period not to exceed two hours~~, and shall be reimbursed for travel to and from the place where the training is given at the rate determined by the board of supervisors if the distance involved is more than five miles. The wages shall be computed at the hourly rate established pursuant to section 49.20 and payment of wages and mileage for attendance shall be made at the time that payment is made for duties performed on election day.

Sec. 28. Section 56.4, subsection 1, Code 2003, is amended to read as follows:

1. All statements and reports required to be filed under this chapter shall be filed with the board. The board shall provide copies of all statements and reports filed under this chapter for a county, city, school, or other political subdivision ~~with~~ to the commissioner responsible under section 47.2.

Sec. 29. Section 80.22, Code 2003, is amended to read as follows:

80.22 PROHIBITION ON OTHER DEPARTMENTS.

All other departments and bureaus of the state are hereby prohibited from employing special

¹ See chapter 179, §78, 84 herein

peace officers or conferring upon regular employees any police powers to enforce provisions of the statutes, which are specifically reserved by ~~this Act 1939 Iowa Acts, chapter 120, to this~~ the department of public safety. But the commissioner of public safety shall, upon the requisition of the attorney general, from time to time assign for service in the department of justice such of its officers, not to exceed six in number, as may be requisitioned by the attorney general for special service in the department of justice, and when so assigned such officers shall be under the exclusive direction and control of the attorney general.

Sec. 30. Section 97B.17, subsections 3 and 4, Code 2003, are amended to read as follows:

3. Summary information concerning the demographics of the members and general statistical information concerning the system are subject to chapter 22, as well as aggregate information by category.

~~4. a.~~ 4. a. However, ~~the~~ The division's records are evidence for the purpose of proceedings before the division or any court of the amounts of wages and the periods in which they were paid, and the absence of an entry as to a member's wages in the records for any period is evidence that wages were not paid that member in the period.

~~4. b.~~ 4. b. Notwithstanding any provisions of chapter 22 to the contrary, the division's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this subsection. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The division shall not be civilly or criminally liable for the release or rerelease of records in accordance with this subsection.

Sec. 31. Section 97B.42C, Code 2003, is amended to read as follows:

97B.42C RETIREMENT SYSTEM MERGER — MUNICIPAL UTILITY RETIREMENT SYSTEM.

A municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412 may adopt a resolution to authorize the merger of its pension and annuity retirement system with and into the Iowa public employees' retirement system. The system is authorized, but is not required, to accept such a proposal. The governing body of the municipal water utility or waterworks and the Iowa public employees' retirement system shall, acting in their fiduciary capacities, mutually determine the terms and conditions of such a merger, including any additional funds necessary to fund the service credits being transferred to the Iowa public employees' retirement system, and either party may decline the merger if they cannot agree on such terms and conditions. ~~The system~~ the division shall adopt such rules as it deems necessary and prudent to effectuate mergers as provided by this section.

Sec. 32. Section 99B.7, subsection 1, paragraph o, Code 2003, is amended to read as follows:

~~o. Except as provided in subsection 7, paragraph "a",~~ a person shall not conduct, promote, administer, or assist in the conducting, promoting, or administering of a bingo occasion, unless the person regularly participates in activities of the qualified organization other than conducting bingo occasions or participates in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization.

Sec. 33. Section 99B.12, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Card and parlor games, including but not limited to poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominoes, checkers, chess, backgammon, pool, and darts. However, it shall be unlawful gambling for any person to engage in bookmaking, or to play any punchboard, pushcard, pull-tab, or slot machine, or to play craps, chuck-a-luck, roulette,

klondike, blackjack, chemin de fer, baccarat, faro, equality, three-card monte, or any other game, except poker, which is customarily played in gambling casinos and in which the house customarily provides a banker, dealer, or croupier to operate the game, or a specially designed table upon which to play ~~same~~ the game.

Sec. 34. Section 99F.1, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. "Division" means the division of criminal investigation of the department of public safety as provided in section 80.17.

Sec. 35. Section 124C.1, subsection 1, Code 2003, is amended by striking the subsection.

Sec. 36. Section 135.11, subsection 17, Code 2003, is amended to read as follows:
17. Administer chapters 125, 136A, 136C, 139A, 142, 142A, 144, and 147A.

Sec. 37. Section 137F.1, subsection 8, paragraph e, Code 2003, is amended to read as follows:

e. Premises where a person operates a farmers market, if ~~the person does not sell or distribute potentially hazardous food~~ potentially hazardous food is not sold or distributed from the premises.

Sec. 38. Section 153.33, subsection 5, unnumbered paragraph 1, Code 2003, is amended to read as follows:

In any investigation made or hearing conducted by the board on its own motion, or upon written complaint filed with the board by any person, pertaining to any alleged violation of this chapter or the accusation against any licensee or registrant, the following procedure and rules so far as material to such investigation or hearing shall obtain:

Sec. 39. Section 153.33, subsection 5, paragraphs a, b, d, and h, Code 2003, are amended to read as follows:

a. The accusation of such person against any licensee or registrant shall be reduced to writing, verified by some person familiar with the facts therein stated, and three copies thereof filed with the board.

b. If the board shall deem the charges sufficient, if true, to warrant suspension or revocation of license or registration, it shall make an order fixing the time and place for hearing thereon and requiring the licensee or registrant to appear and answer thereto, such order, together with a copy of the charges so made to be served upon the accused at least twenty days before the date fixed for hearing, either personally or by certified or registered mail, sent to the licensee's or registrant's last known post office address as shown by the records of the board.

d. In all such investigations and hearings pertaining to the suspension or revocation of licenses or registrations, the board and any person affected thereby may have the benefit of counsel, and upon the request of the licensee or registrant or the licensee's or registrant's counsel the board shall issue subpoenas for the attendance of such witnesses in behalf of the licensee or registrant, which subpoenas when issued shall be delivered to the licensee or registrant or the licensee's or registrant's counsel. Such subpoenas for the attendance of witnesses shall be effective if served upon the person named therein anywhere within this state, provided, that at the time of such service the fees now or hereafter provided by law for witnesses in civil cases in district court shall be paid or tendered to such person.

h. Pending the review and final disposition thereof by the district court, the action of the board suspending or revoking such license or registration shall not be stayed.

Sec. 40. Section 159.6, subsection 8, as amended by 2002 Iowa Acts, chapter 1017, section 2, is amended to read as follows:

8. State aid received by certain associations as provided in chapters ~~177~~ 176A through 182, 186, and 352.

Sec. 41. Section 159A.3, subsection 4, Code 2003, is amended by striking the subsection.

Sec. 42. Section 159A.3, subsection 5, Code 2003, is amended to read as follows:

5. 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, ~~and the state board of regents institutions, and the Wallace technology transfer foundation of Iowa,~~ shall cooperate to implement this section.

Sec. 43. Section 173.3, as amended by 2002 Iowa Acts, chapter 1017, section 3, is amended to read as follows:

173.3 CERTIFICATION OF STATE AID ASSOCIATIONS.

On or before November 15 of each year, the secretary of agriculture shall certify to the secretary of the state fair board the names of the various associations and societies which have qualified for state aid under the provisions of chapters ~~177~~ 176A through 178, 181, 182, 186, and 352, and which are entitled to representation in the convention as provided in section 173.2.

Sec. 44. Section 192.101A, unnumbered paragraph 1, Code 2003, is amended to read as follows:

As used in this chapter, all terms shall have the same meaning as defined in the "Grade 'A' Pasteurized Milk Ordinance, ~~1999~~ 2001 Revision". However, notwithstanding the ordinance, the following definitions shall apply:

Sec. 45. Section 192.102, Code 2003, is amended to read as follows:

192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade 'A' Pasteurized Milk Ordinance, ~~1999~~ 2001 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 46. Section 192.110, subsection 1, Code 2003, is amended to read as follows:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers ~~1999~~ 2001" and "Method of Making Sanitation Ratings of Milk Supplies, ~~1999~~ 2001 Revision". The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

Sec. 47. Section 229A.8A, subsection 2, paragraph g, Code 2003, is amended to read as follows:

g. The committed person is not likely to ~~commit~~ engage in predatory acts constituting sexually violent offenses while in the program.

Sec. 48. Section 229A.10, subsection 1, Code 2003, is amended to read as follows:

1. If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to ~~commit~~ engage in predatory acts ~~or that constitute~~ sexually violent offenses if discharged, the director shall authorize the person to petition the court for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall

be before a jury if demanded by either the petitioner or the attorney general. If the attorney general objects to the petition for discharge, the burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is likely to engage in predatory acts that constitute sexually violent offenses if discharged.

Sec. 49. Section 232.68, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through ~~235A.23~~ 235A.24, unless the context otherwise requires:

Sec. 50. Section 232.71B, subsection 4, paragraph e, Code 2003, is amended to read as follows:

e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known. The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The purpose of the interview shall be to provide the person with the opportunity to explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The court may waive the requirement to offer the interview only for good cause. The person offered an interview, or the person's attorney on the person's behalf, may decline ~~to be interviewed~~ the offer of an interview of the person.

Sec. 51. Section 235A.13, unnumbered paragraph 1, Code 2003, is amended to read as follows:

As used in chapter 232, division III, part 2, and sections 235A.13 to ~~235A.23~~ 235A.24, unless the context otherwise requires:

Sec. 52. Section 236.2, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 5A. "Plaintiff" includes a person filing an action on behalf of an unemancipated minor.

Sec. 53. Section 236.3, subsection 2, Code 2003, is amended to read as follows:

2. Name and address of the parent or guardian filing the petition, if the petition is being filed on behalf of an unemancipated minor. ~~For the purposes of this chapter, "plaintiff" includes a person filing an action on behalf of an unemancipated minor.~~ A mailing address may be provided by the plaintiff pursuant to section 236.10.

Sec. 54. Section 237A.2, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person shall not establish or operate a child care center without obtaining a license under the provisions of this chapter. A center may operate for a specified period of time, to be established by rule of the department, if application for a license has been made. If the department denies an application for an initial license, notwithstanding section ~~17A.8~~ 17A.18, the applicant center shall not continue to provide child care pending the outcome of an evidentiary hearing. The department shall issue a license if it determines that all of the following conditions have been met:

Sec. 55. Section 237A.29, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. In determining the value of the public funding obtained by fraudulent means, if the public funding is obtained by two or more acts of fraudulent means by the same person or in the same location, or is obtained by different persons by two or more acts which occur in approximately the same location or time period so that the acts of fraudulent means used to obtain the public funding are attributable to a single scheme, plan, or conspiracy, these acts may be considered

as a single instance of the use of fraudulent means and the value may be the total value of all moneys involved.

Sec. 56. Section 237A.29, subsection 3, paragraph b, Code 2003, is amended to read as follows:

b. In addition to applying the suspension under paragraph "a", the department may request that the attorney general file a petition with the district court of the county in which the provider is located for issuance of a temporary injunction enjoining the provider from providing child care until the names and addresses are submitted to the department. The attorney general may file the petition upon receiving the request from the department. Any temporary injunction may be granted without a bond being required from the department.²

Sec. 57. Section 277.23, subsection 2, Code 2003, is amended to read as follows:

2. A change from five to seven directors shall be effected in a district at the first regular election after authorization by the voters or the board, or ~~when after~~ after a district becomes wholly or in part within first includes all of a city of fifteen thousand or more population, ~~or more~~ in the manner described in section 275.37.

Sec. 58. Section 284.11, subsection 2, Code 2003, is amended to read as follows:

2. All licensed practitioners employed at a participating attendance center that has demonstrated improvement in student achievement shall share in a cash awards award paid from moneys received by a school district pursuant to section 284.13, subsection 1. ~~The~~ However, ~~the~~ school district is encouraged to extend cash awards to other staff employed at the attendance center.

Sec. 59. Section 321E.8, Code 2003, is amended to read as follows:

321E.8 ANNUAL PERMITS.

Subject to the discretion and judgment provided for in section 321E.1, annual permits shall be issued in accordance with the following provisions:

1. Vehicles with indivisible loads, or manufactured or mobile homes including appurtenances, having an overall width not to exceed sixteen feet zero inches, an overall length not to exceed one hundred twenty feet zero inches, an overall height not to exceed fifteen feet five inches, and a total gross weight not to exceed eighty thousand pounds, may be moved as follows:

a. Vehicles with indivisible loads, or manufactured or mobile homes including appurtenances, having an overall width not to exceed twelve feet five inches, an overall length not to exceed one hundred twenty feet zero inches, and an overall height not to exceed thirteen feet ten inches may be moved for unlimited distances without route approval from the permitting authority.

b. Vehicles with indivisible loads, or manufactured or mobile homes including appurtenances, having an overall width not to exceed fourteen feet six inches, an overall length not to exceed one hundred twenty feet zero inches, and an overall height not to exceed fifteen feet five inches may be moved on the interstate highway system and primary highways with more than one lane traveling in each direction for unlimited distances and no more than fifty miles from the point of origin on all other highways without route approval from the permit issuing authority.

c. All other vehicles with indivisible loads operating under this subsection shall obtain route approval from the permitting authority.

d. Vehicles with indivisible loads may operate under an all-systems permit in compliance with paragraph "a", "b", or "c".

2. Vehicles with indivisible loads, or manufactured or mobile homes including appurtenances, having an overall width not to exceed thirteen feet five inches and an overall length not to exceed one hundred twenty feet zero inches may be moved on highways specified by the permitting authority for unlimited distances if the height of the vehicle and load does not

² See chapter 179, §79 herein

exceed fifteen feet five inches and the total gross weight of the vehicle does not exceed one hundred fifty-six thousand pounds. The vehicle owner or operator shall verify with the permitting authority prior to movement of the load that highway conditions have not changed so as to prohibit movement of the vehicle. Any cost to repair damage to highways or highway structures shall be borne by the owner or operator of the vehicle causing the damage. Permitted vehicles under this subsection shall not be allowed to travel on any portion of the interstate highway system. Vehicles with indivisible loads operating under the permit provisions of this subsection may operate under the permit provisions of subsection 1 provided the vehicle and load comply with the limitations described in subsection 1.

Sec. 60. Section 321G.4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The owner of each all-terrain vehicle or snowmobile required to be numbered shall register it every two years with the county recorder of the county in which the owner resides or, if the owner is a nonresident, the owner shall register it in the county in which the all-terrain vehicle or snowmobile is principally used. The commission has supervisory responsibility over the registration of all-terrain vehicles and snowmobiles and shall provide each county recorder with registration forms and certificates and shall allocate ~~identification~~ registration numbers to each county.

Sec. 61. Section 321G.19, subsection 1, Code 2003, is amended to read as follows:

1. The owner of a rented all-terrain vehicle or snowmobile shall keep a record of the name and address of each person renting the all-terrain vehicle or snowmobile, its ~~identification reg-~~ istration number, the departure date and time, and the expected time of return. The records shall be preserved for six months.

Sec. 62. Section 321G.33, subsections 1, 2, and 4, Code 2003, are amended to read as follows:

1. The department may assign a distinguishing number to an all-terrain vehicle or snowmobile when the serial number on the all-terrain vehicle or snowmobile is destroyed or obliterated and issue to the owner a special plate bearing the distinguishing number which shall be affixed to the all-terrain vehicle or snowmobile in a position to be determined by the department. The all-terrain vehicle or snowmobile shall be registered and titled under the distinguishing number in lieu of the former serial number. Every all-terrain vehicle or snowmobile shall have ~~an~~ a vehicle identification number assigned and affixed as required by the department.

2. The commission shall adopt, by rule, the procedures for application and for issuance of ~~an~~ a vehicle identification number for homebuilt all-terrain vehicles or snowmobiles.

4. A person other than a manufacturer who constructs or rebuilds an all-terrain vehicle or snowmobile for which there is no legible vehicle identification number shall submit to the department an affidavit which describes the all-terrain vehicle or snowmobile. In cooperation with the county recorder, the department shall assign ~~an~~ a vehicle identification number to the all-terrain vehicle or snowmobile. The applicant shall permanently affix the vehicle identification number to the all-terrain vehicle or snowmobile in a manner that such alteration, removal, or replacement of the vehicle identification number would be obvious.

Sec. 63. Section 331.424C, Code 2003, is amended to read as follows:

331.424C EMERGENCY SERVICES FUND.

A county that is providing fire protection service or emergency medical service to a township pursuant to section 331.385 shall establish an emergency services fund and may certify taxes not to exceed sixty and three-fourths cents per one thousand dollars of the assessed value of taxable property located in the township. The county has the authority to use a portion of the taxes levied and deposited in the fund for the purpose of accumulating moneys to carry out the purposes of section 359.43, subsection 3 ~~4~~.

Sec. 64. Section 446.9, subsections 1 and 2, Code 2003, are amended to read as follows:

1. A notice of the date, time, and place of the annual tax sale shall be served upon the person in whose name the parcel subject to sale is taxed. The county treasurer shall serve the notice by sending it by regular first class mail to the person's last known address not later than May 1 of each fiscal year. The notice shall contain a description of the parcel to be sold which is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. It shall also contain the amount of delinquent taxes for which the parcel is liable each year, the amount of the interest, and fees, and the amount of the service fee as provided in section 446.10, subsection 2, all to be incorporated as a single sum. The notice shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

2. Publication of the date, time, and place of the annual tax sale shall be made once by the treasurer in at least one official newspaper in the county as selected by the board of supervisors and designated by the treasurer at least one week, but not more than three weeks, before the day of sale. The publication shall contain a description of the parcel to be sold that is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. All items offered for sale pursuant to section 446.18 may be indicated by an "s" or by an asterisk. The publication shall also contain the name of the person in whose name the parcel to be sold is taxed, and the amount delinquent for which the parcel is liable each year, the amount of the interest, and fees, and the amount of the service fee as provided in section 446.10, subsection 2, all to be incorporated as a single sum. The publication shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

Sec. 65. Section 455B.105, subsection 3, Code 2003, is amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement this chapter and chapter 459, ~~subchapters I, II, III, IV, and VI,~~ and the rules deemed necessary for the effective administration of the department. When the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more restrictive requirement. In addition, the commission shall include with its reasoning a financial impact statement detailing the general impact upon the affected parties. It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of this chapter and chapter 459, ~~subchapters I, II, III, IV, and VI.~~ Rules adopted by the executive committee before January 1, 1981, shall remain effective until modified or rescinded by action of the commission.

Sec. 66. Section 455B.171, subsection 15, Code 2003, is amended by striking the subsection.

Sec. 67. Section 455B.183, Code 2003, is amended to read as follows:

455B.183 WRITTEN PERMITS REQUIRED.

1. It is unlawful to carry on any of the following activities without first securing a written permit from the director, or from a city or county public works department if the public works department reviews the activity under this section, as required by the department:

1. a. The construction, installation, or modification of any disposal system or public water supply system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section, the use or disposal of

sewage sludge, and private sewage disposal systems. Unless federal law or regulation requires the review and approval of plans and specifications, a permit shall be issued for the construction, installation, or modification of a public water supply system or part of a system if a qualified, registered engineer certifies to the department that the plans for the system or part of the system meet the requirements of state and federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable state and federal laws and regulations and the review of the department shall be advisory.

2. b. The construction or use of any new point source for the discharge of any pollutant into any water of the state.

3. c. The operation of any waste disposal system or public water supply system or any part of or extension or addition to the system. This provision does not apply to a pretreatment system, the effluent of which is to be discharged directly to another disposal system for final treatment and disposal; a semipublic sewage disposal system, the construction of which has been approved by the department and which does not discharge into water of the state; or a private sewage disposal system which does not discharge into a water of the state. Sludge from a semipublic or private sewage disposal system shall be disposed of in accordance with the rules adopted by the department pursuant to chapter 17A. The exemption of this paragraph shall not apply to any industrial waste discharges.

2. Upon adoption of standards by the commission pursuant to section 455B.173, subsections 5 to 8, plans and specifications for sewer extensions and water supply distribution system extensions covered by this section shall be submitted to the city or county public works department for approval if the local public works department employs a qualified, registered engineer who reviews the plans and specifications using the specific state standards known as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems that have been formulated and adopted by the department pursuant to section 455B.173, subsections 5 to 8. The local agency shall issue a written permit to construct if all of the following apply:

a. The submitted plans and specifications are in substantial compliance with departmental rules and the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems.

b. The extensions primarily serve residential consumers and will not result in an increase greater than five percent of the capacity of the treatment works or serve more than two hundred fifty dwelling units or, in the case of an extension to a water supply distribution system, the extension will have a capacity of less than five percent of the system or will serve fewer than two hundred fifty dwelling units.

c. The proposed sewer extension will not exceed the capacity of any treatment works which received a state or federal monetary grant after 1972.

d. The proposed water supply distribution system extension will not exceed the production capacity of any public water supply system constructed after 1972.

3. After issuing a permit, the city or county public works department shall notify the director of such issuance by forwarding a copy of the permit to the director. In addition, the local agency shall submit quarterly reports to the director including such information as capacity of local treatment plants and production capacity of public water supply systems as well as other necessary information requested by the director for the purpose of implementing this chapter.

4. Plans and specifications for all other waste disposal systems and public water supply systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. Plans and specifications for public water supply systems and water supply distribution system extensions must be certified by a registered engineer as provided in subsection 1, paragraph "a". The construction of any such waste disposal system or public water supply system shall be in accordance with standards formulated and adopted by the department pursuant to section 455B.173, subsections 5 to 8.

If it is necessary or desirable to make material changes in the plans or specifications, revised plans or specifications together with reasons for the proposed changes must be submitted to the department for a supplemental written permit. The revised plans and specifications for a public water supply system must be certified by a registered engineer as provided in subsection 1, paragraph "a".

5. Prior to the adoption of statewide standards, the department may delegate the authority to review plans and specifications to those governmental subdivisions if in addition to compliance with subsection 3 1, paragraph "c", the governmental subdivisions agree to comply with all state and federal regulations and submit plans for the review of plans and specifications including a complete set of local standard specifications for such improvements.

6. The director may suspend or revoke delegation of review and permit authority after notice and hearing as set forth in chapter 17A if the director determines that a city or county public works department has approved extensions which do not comply with design criteria, which exceed the capacity of waste treatment plants or the production capacity of public water supply systems or which otherwise violate state or federal requirements.

7. The department shall exempt any public water supply system from any requirement respecting a maximum contaminant level or any treatment technique requirement of an applicable national drinking water regulation if these regulations apply to contaminants which the department determines are harmless or beneficial to the health of consumers and if the owner of a public water supply system determines that funds are not reasonably available to provide for controlling amounts of those contaminants which are harmless or beneficial to the health of consumers.

Sec. 68. Section 455B.187, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A contractor shall not engage in well construction or reconstruction without first registering or being certified as required in this part and department rules adopted pursuant to this part. If a well contractor is registered prior to July 1, 1991, the well contractor shall meet the requirements of certification by July 1, 1993. Following adoption of the rules establishing a well contractor certification program, a person seeking initial well contractor status shall meet the requirements established for certification. Beginning July 1, 1993, the department shall replace the registration program with the well certification program. Water wells shall not be constructed, reconstructed, or abandoned by a person except as provided in this part or rules adopted pursuant to this part. Within thirty days after construction or reconstruction of a well, a contractor shall provide well information required by rule to the department and the Iowa geological survey.

Sec. 69. Section 455D.11I, subsection 4, Code 2003, is amended to read as follows:

4. A certificate of registration shall at all times be carried and displayed in the vehicle used for transportation of waste tires and shall be shown to a representative of the department of natural resources or the state department of transportation, upon request. The state department of transportation may inspect vehicles used for the transportation of waste tires and request that the certificate of registration of the waste tire hauler be shown, upon request.

Sec. 70. Section 457A.2, subsection 2, Code 2003, is amended to read as follows:

2. "Natural and cultural resources" includes, but is not limited to, archaeological and historical resources.

Sec. 71. Section 459.102, subsection 18, Code 2003, is amended to read as follows:

18. Reserved "Department" means the department of natural resources created pursuant to section 455A.2.

Sec. 72. Section 459.102, subsection 40, Code 2003, is amended to read as follows:

40. "Restricted spray irrigation equipment" means spray irrigation equipment which

disperses manure through an orifice at a rate maximum pressure of eighty pounds per square inch or more.

Sec. 73. Section 459.301, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. At least one confinement feeding operation structure must be constructed on ~~and~~ or after May 21, 1998.

Sec. 74. Section 459.303, subsection 2, Code 2003, is amended to read as follows:

2. The department shall issue a construction permit upon approval of an application. The department shall approve the application if the application is submitted to the county board of supervisors in the county where the proposed confinement feeding operation structure is to be located as required pursuant to section 459.304, and the application meets the requirements of this chapter. If a county submits an approved recommendation pursuant to a construction evaluation resolution filed with the department, the application must also achieve a satisfactory rating produced by the master matrix used by the board or department under section 459.304. The department shall approve the application regardless of whether the applicant is required to be issued a construction permit.

Sec. 75. Section 459.309, Code 2003, is amended to read as follows:

459.309 SETTLED OPEN FEEDLOT EFFLUENT BASINS — CONSTRUCTION DESIGN STANDARDS.

If the department requires that a settled open feedlot effluent basin be constructed according to construction design standards, regardless of whether the department requires the owner to be issued a construction permit under section 459.103, any construction design standards for the basin shall be established by rule as provided in chapter 17A that exclusively account for special design characteristics of open feedlots and related basins, including but not limited to the dilute composition of settled open feedlot effluent as collected and stored in the basins.

Sec. 76. Section 459.501, subsection 2, Code 2003, is amended to read as follows:

2. The fund consists of moneys from indemnity fees remitted by permittees to the department as provided in section 459.502; moneys from indemnity fees remitted by persons required to submit manure management plans to the department pursuant to section 459.503; sums collected on behalf of the fund by the department through legal action or settlement; moneys required to be repaid to the department by a county pursuant to this subchapter; ~~civil penalties assessed and collected by the department or the attorney general pursuant to chapter 455B, against animal feeding operations; moneys paid as a settlement involving an enforcement action for a civil penalty subject to assessment and collection against permittees by the department or the attorney general pursuant to chapter 455B;~~ interest, property, and securities acquired through the use of moneys in the fund; or moneys contributed to the fund from other sources.

Sec. 77. Section 462A.12, subsection 6, Code 2003, is amended to read as follows:

6. An owner or operator shall not permit any person under twelve years of age to operate the personal watercraft unless accompanied in or on the same personal watercraft by a responsible person of at least eighteen years of age. ~~However, commencing~~ Commencing January 1, 2003, a person who is twelve years of age or older but less than eighteen years of age shall not operate any personal watercraft unless the person has successfully completed a department-approved watercraft safety course. A person required to have a watercraft safety certificate shall carry and shall exhibit or make available the certificate upon request of an officer of the department. A violation of this subsection is a simple misdemeanor as provided in section 462A.13. However, a person charged with violating this subsection shall not be convicted if the person produces in court, within a reasonable time, a department-approved certificate. The cost of a department certificate, or any duplicate, shall not exceed five dollars.

Sec. 78. Section 476A.23, subsection 3, paragraph b, Code 2003, is amended to read as follows:

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

Sec. 79. Section 476A.23, subsection 3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

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

Sec. 80. Section 490.202, subsection 2, paragraphs d and f, Code 2003, are amended to read as follows:

d. A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

(1) The amount of a financial benefit received by a director to which the director is not entitled.

(2) An intentional infliction of harm on the corporation or the shareholders.

(3) A violation of section 490.833.

(4) An intentional violation of criminal law.

A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

f. ~~A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:~~

~~(1) The amount of a financial benefit received by a director to which the director is not entitled.~~

~~(2) An intentional infliction of harm on the corporation or the shareholders.~~

~~(3) A violation of section 490.833.~~

~~(4) An intentional violation of criminal law.~~

~~A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.~~

Sec. 81. Section 490.724, subsection 5, Code 2003, is amended to read as follows:

5. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section ~~or section 490.722, subsection 2,~~ is valid unless a court of competent jurisdiction determines otherwise.

Sec. 82. Section 490.727, subsection 2, Code 2003, is amended to read as follows:

2. An amendment to the articles of incorporation or bylaws that adds, changes, or deletes a greater quorum or voting requirement must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

Sec. 83. Section 490.831, subsection 3, paragraphs a and b, Code 2003, are amended to read as follows:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 490.861, ~~subsection 2, paragraph "c"~~ 490.832, alter the burden of proving the fact or lack of fairness otherwise applicable.

b. Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 490.833 or a transactional interest under section 490.861 490.832.

Sec. 84. Section 490.851, subsection 1, Code 2003, is amended to read as follows:

1. Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if all either of the following apply:

a. All of the following apply:

a- (1) The individual acted in good faith.

b- (2) The individual reasonably believed:

(1) (a) In the case of conduct in the individual's official capacity, that the individual's conduct was in the best interests of the corporation.

(2) (b) In all other cases, that the individual's conduct was at least not opposed to the best interests of the corporation.

e- (3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful, or the

b. The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation as authorized by section 490.202, subsection 2, paragraph "e".

Sec. 85. Section 490.856, subsection 2, Code 2003, is amended to read as follows:

2. The provisions of subsection 1, paragraph "b", shall apply to an officer who is also a director if the basis on which the officer is made a party to a proceeding is an act or omission action taken or a failure to take an action solely as an officer.

Sec. 86. Section 490.1323, subsection 3, Code 2003, is amended to read as follows:

3. A shareholder who does not demand payment or execute and return the form and, in the case of certificated shares, deposit the shareholder's share certificates where required, each by the date set forth in the dissenters' notice described in section 490.1322, subsection 2, shall not be entitled to payment for the shareholder's shares under this division.

Sec. 87. Section 490.1324, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. A statement that shareholders described in subsection 1 have the right to demand further payment under section 490.1326 and that if any such shareholder does not do so within the time period specified therein, such shareholder shall be deemed to have accepted such the payment to the shareholder pursuant to subsection 1 in full satisfaction of the corporation's obligations under this chapter.

Sec. 88. Section 490.1404, subsection 1, Code 2003, is amended to read as follows:

1. A corporation may revoke its dissolution within one hundred twenty days of its the effective date of its articles of dissolution.

Sec. 89. Section 502.102, subsection 13, paragraph c, Code 2003, is amended to read as follows:

c. With respect to a viatical settlement investment contract, "issuer" means a person involved in creating, transferring, or selling to an investor any interest in such a contract, including but not limited to fractional or pooled interests, but does not include an agent or a broker-dealer.

Sec. 90. Section 502.202, subsection 19, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A viatical settlement investment contract, or fractional or pooled interest in such contract, provided any of the following conditions are satisfied:

Sec. 91. Section 508E.3A, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. The national association of insurance commissioners, the insurance division of the

department of commerce, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance or viatical settlement acts, or any other organization established for such purpose, and their agents, employees, or designees.

Sec. 92. Section 537.1301, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. In the case of a loan, the net amount paid to, receivable by, or paid or payable for the account of the debtor, plus the amount of any discount excluded from the finance charge under subsection ~~20~~ 19, paragraph "b," subparagraph 3, plus additional charges if permitted under paragraph "c" of this subsection.

Sec. 93. Section 542.13, subsection 16, paragraph d, Code 2003, is amended to read as follows:

~~4~~ 17. Nothing contained in this chapter shall be construed to authorize any person engaged in the practice as a certified public accountant or licensed public accountant or any member or employee of such firm to engage in the practice of law individually or within entities licensed under this chapter.

Sec. 94. Section 542.19, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. The other state's licensing or certification standards are substantially equivalent to those required by this chapter.

Sec. 95. Section 544B.12, Code 2003, is amended to read as follows:
544B.12 SEAL.

Every professional landscape architect shall have a seal, approved by the board, which shall contain the name of the landscape architect and the words "Professional Landscape Architect, State of Iowa", and such other words or figures as the board may deem necessary. All landscape architectural plans and specifications, prepared by such professional landscape architect or under the supervision of such professional landscape architect, shall be dated and bear the legible seal of such professional landscape architect. Nothing contained in this section shall be construed to permit the seal of a professional landscape architect to serve as a substitute for the seal of a licensed architect, a licensed professional engineer, or a licensed land surveyor whenever the seal of an architect, engineer or land surveyor is required under the laws of this state.

Sec. 96. Section 554.9701, Code 2003, is amended to read as follows:
554.9701 EFFECTIVE DATE.

~~This~~ The amendments to this Article takes as enacted in 2000 Iowa Acts, chapter 1149, take effect on July 1, 2001, and are applicable on and after that date.

Sec. 97. Section 554D.118, subsection 4, Code 2003, is amended to read as follows:

4. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 554.1201, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under chapter 554, including, if the applicable statutory requirements under section 554.3302, subsection 1, section 554.7501, or section ~~554.9308~~ 554.9330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

Sec. 98. Section 554D.120, subsection 4, Code 2003, is amended to read as follows:

4. Except as otherwise provided in subsection 2 and in section 554D.114, subsection 6, this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Sec. 99. Section 556.1, subsection 3, Code 2003, is amended to read as follows:

3. "Cooperative association" means an entity which is structured and operated on a cooperative basis, including an association of persons organized under chapter 497, 498, or 499; an entity composed of entities organized under those chapters; a cooperative corporation organized under chapter 501; a cooperative association organized under chapter 490; or any other entity recognized pursuant to 26 U.S.C. § 1381(a) which meets the definitional requirements of an association as provided in 12 U.S.C. § 1141(j)(a) or 7 U.S.C. § 291.

Sec. 100. Section 598.7A, subsection 5, Code 2003, is amended to read as follows:

5. The supreme court shall prescribe qualifications for mediators under this section ~~on or before January 1, 2001~~. The qualifications shall include but are not limited to the ethical standards to be observed by mediators. The qualifications shall not include a requirement that the mediator be licensed to practice any particular profession.

Sec. 101. Section 600.13, subsection 1, Code 2003, is amended to read as follows:

1. At the conclusion of the adoption hearing, the juvenile court or court shall do one of the following:

- a. Issue a final adoption ~~decree~~; decree.
- b. Issue an interlocutory adoption ~~decree~~; or, decree.
- c. Issue a standby adoption decree pursuant to section 600.14A.
- d. Dismiss the adoption petition if the requirements of this chapter have not been met or if dismissal of the adoption petition is in the best interest of the person whose adoption has been petitioned. Upon dismissal, the juvenile court or court shall determine who is to be guardian or custodian of a minor child, including the adoption petitioner if it is in the best interest of the minor person whose adoption has been petitioned.

Sec. 102. Section 602.8105, subsection 1, paragraph e, Code 2003, is amended to read as follows:

e. For an appeal from a judgment in small claims or for filing and docketing a writ of error, seventy-five dollars.

Sec. 103. Section 633.4105, subsection 2, paragraph b, subparagraph (1), Code 2003, is amended to read as follows:

(1) By majority vote of all qualified beneficiaries, who are adults, and the representative of any minor or incompetent qualified beneficiary, as ~~defined by~~ provided in section 633.6303.

Sec. 104. Section 637.603, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The trustee sends written notice of the trustee's intention to take any action described in ~~subsection 1~~ section 637.602, along with copies of such written policy and this subchapter, to all of the following persons:

Sec. 105. Section 637.605, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The trustee sends written notice of the trustee's intention to take any action described in ~~subsection 1~~ section 637.604, along with copies of such written policy, this subchapter, and the determination of the disinterested person to all of the following persons:

Sec. 106. Section 717A.2, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. A person who violates subsection 1, paragraph "a", is guilty of a class "C" felony if the injury to or death of an animal or damage to property exceeds fifty thousand dollars, a class "D" felony if the injury to or death of an animal or damage to property exceeds five hundred dollars but does not exceed fifty thousand dollars, an aggravated misdemeanor if the injury to or death

of an animal or damage to property exceeds one hundred dollars but does not exceed five hundred dollars, a serious misdemeanor if the injury to or death of an animal or damage to property exceeds fifty dollars but does not exceed one hundred dollars, or a simple misdemeanor if the injury to or death of an animal or damage to property does not exceed fifty dollars.

Sec. 107. Section 910.1, subsection 4, Code 2003, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. "Restitution" also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to section 321J.2, subsection 9, paragraph "b", court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs including correctional fees approved pursuant to section 356.7, or court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender.

Sec. 108. 2002 Iowa Acts, chapter 1137, section 68, subsection 2, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The Code editor is directed to strike section 455I.1, unnumbered paragraph 1, Code 2001, and section 455I.1, subsection 5, Code 2001.

Sec. 109. 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 26, is amended to read as follows:

SEC. 26. RETROACTIVE APPLICABILITY AND EFFECTIVE DATES.

1. This division of this Act is retroactively applicable to July 1, 2001, and is applicable on and after that date.

2. The effective date of sections 21 through 24 of this division of this Act shall be the later of July 1, 2002, or upon the legislative enactment of the interstate compact for adult offender supervision by the thirty-fifth jurisdiction. The director of the department of corrections shall notify the Code editor upon the enactment of the compact by the thirty-fifth jurisdiction.

Sec. 110. Section 11.24, Code 2003, is repealed.

Sec. 111. Section 236.15B, Code 2003, is repealed.

Sec. 112. Section 443.23, Code 2003, is repealed.

Sec. 113. Section 558.1A, Code 2003, is repealed.

Sec. 114. AUTHORIZATION TO CODE EDITOR — REFERENCE CHANGES.

1. The Code editor may add any or all of the following references in the 2003 Code Supplement or in the 2005 Code as deemed proper by the Code editor:

a. The Code editor may include the phrase "as provided in chapter 17A" or ", chapter 17A," following the language "Iowa administrative procedure Act" if the language does not provide a reference to chapter 17A or a section of that chapter.

b. The Code editor may include the phrase "as provided in chapter 537" or ", chapter 537," following the language "Iowa consumer credit code" if the language does not provide a reference to chapter 537 or a section of that chapter.

c. The Code editor may include the phrase "as provided in chapter 554" or ", chapter 554," following the language "uniform commercial code" or "Iowa uniform commercial code" if the language does not provide a reference to chapter 554 or a section of that chapter.

d. The Code editor may include the phrase "as provided in section 103A.7" or ", section

103A.7,” following the language “state building code” if the language does not provide a reference to chapter 103A or section 103A.7.

2. The Code editor may substitute the term “division” for the “division of criminal investigation of the department of public safety” wherever it appears in chapter 99F.

Sec. 115. AUTHORIZATION TO CODE EDITOR — TRANSFER. The Code editor may transfer section 126.24 to a new chapter 708B or another chapter deemed appropriate by the Code editor.

Sec. 116. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The sections of this Act amending sections 159.6 and 173.3, as amended by 2002 Iowa Acts, chapter 1017, take effect July 1, 2005.

2. The section of this Act amending section 490.851 takes effect upon enactment and applies retroactively to January 1, 2003.

3. The section of this Act amending section 554.9701, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2001.

4. The section of this Act amending 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 26, being deemed of immediate importance, takes effect upon enactment.

Approved April 21, 2003

CHAPTER 45

EDUCATION PRACTITIONER LICENSING EXAMINATION — STATISTICAL INFORMATION

S.F. 201

AN ACT relating to a review of statistical information compiled by the board of educational examiners from Praxis II examinations administered to initial, provisional teaching license applicants.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 284.12, subsection 4, Code 2003, is amended to read as follows:

4. The board of educational examiners shall compile statistical information from the results of the examinations administered pursuant to section 272.2, subsection 16, Code 2003. The information compiled shall identify the practitioner preparation programs from which the applicants graduated, but shall not identify applicants individually. The statistical information compiled by the board pursuant to this subsection is a public record. The board shall submit a review of the statistical information to the chairpersons and ranking members of the senate and house committees on education and the state board by ~~December 1, 2003~~ January 15, 2004. This subsection is repealed effective June 30, 2004.

Approved April 21, 2003

CHAPTER 46**INSURANCE COMPANY DEMUTUALIZATION
OR REORGANIZATION — UNCLAIMED PROPERTY**

S.F. 236

AN ACT relating to the time periods that unclaimed demutualization proceeds and wages are presumed to be abandoned and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 556.3A UNCLAIMED DEMUTUALIZATION PROCEEDS HELD BY INSURANCE COMPANIES.

1. Property distributable in the course of demutualization or related reorganization of an insurance company occurring on or after January 1, 2003, that remains unclaimed is deemed abandoned two years after the earlier of:

a. The first date on which the property of an insurance company being demutualized or reorganized was distributable.

b. The date of last contact by the insurance company with a policyholder.

2. Property distributable in the course of demutualization or related reorganization of an insurance company occurring before January 1, 2003, that remains unclaimed is deemed abandoned two years after the first date on which the property of an insurance company being demutualized or reorganized was distributable.

Sec. 2. Section 556.9, subsection 1, Code 2003, is amended to read as follows:

1. All intangible personal property, not otherwise covered by this chapter, including any income or increment earned on the property and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned. However, unpaid wages, including wages represented by payroll checks or other compensation for personal services owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than one year after becoming payable are presumed abandoned.

Sec. 3. Section 556.11, subsection 4, Code 2003, is amended to read as follows:

4. The report shall be filed annually before November 1 for the fiscal year ending on the preceding June 30. However, the report of unclaimed demutualization proceeds as provided in section 556.3A shall be made before May 1 for the preceding calendar year. The treasurer of state may postpone the reporting date upon written request by any person required to file a report.

Sec. 4. Section 556.12, subsection 1, Code 2003, is amended to read as follows:

1. If a report has been filed with the treasurer of state, or property has been paid or delivered to the treasurer of state, for the fiscal year ending on June 30 or in the case of unclaimed demutualization proceeds, for the preceding calendar year as required by section 556.11, the treasurer of state shall provide for the publication annually of at least one notice not later than the following November 30. Each notice shall be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If an address is not listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has its principal place of business within this state.

Sec. 5. EFFECTIVE DATE. Sections 1, 3, and 4 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 21, 2003

CHAPTER 47
CHILD ABUSE ASSESSMENT REPORTING
S.F. 303

AN ACT relating to the contents of certain child abuse assessment reports.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.71B, subsection 11, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. If after completing the assessment process the child protection worker determines, with the concurrence of the worker's supervisor and the department's area administrator, that a report is a spurious report or that protective concerns are not present, the portions of the assessment report described under paragraphs "d" and "e" shall not be required.

Approved April 21, 2003

CHAPTER 48
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
— THIRD-PARTY RECEIPT OF FUNDS AND DOCUMENTS
S.F. 395

AN ACT relating to assistance services provided to the department of agriculture and land stewardship, including for the filing of documents and the payment of fees and civil penalties, and the authorization to assess additional charges.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12C.1, subsection 2, paragraph e, Code 2003, is amended to read as follows:

e. "Public funds" and "public deposits" mean the any of the following:

(1) The moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the

state or a political subdivision; Moneys of the state include moneys which are transmitted to a depository for purposes of completing an electronic financial transaction pursuant to section 159.43.

(2) The moneys of any court or public body noted in subsection 1;

(3) The moneys of a legal or administrative entity created pursuant to chapter 28E;

(4) The moneys of an electric power agency as defined in section 28F.2 or 476A.20; and federal.

(5) Federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.¹

SUBCHAPTER III ASSISTANCE SERVICES

Sec. 2. NEW SECTION. 159.40 DEFINITIONS.

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

1. "Depository" means a qualified person who executes a contract with the department pursuant to section 159.41 to provide assistance services as provided in this subchapter.

2. "Electronic funds transfer" means a remote electronic transmission used for ordering, instructing, or authorizing a financial institution to apply money to or credit the account of the payee and debit the account of the payer. The remote electronic transmission may be initiated by telephone, computer, or similar device.

3. "Filing document" means any of the following:

a. An application for a license, permit, or certification, required to be submitted to the department as provided in this title.

b. A registration required to be submitted to the department as provided in this title.

4. "Filing document fee" means a fee or other charge established by statute or rule which is required to accompany a filing document submitted to the department as provided in this title.

Sec. 3. NEW SECTION. 159.41 ASSISTANCE SERVICES — AUTHORITY TO CONTRACT WITH DEPOSITARY.

Whenever practical, the department may execute a contract with a person qualified to provide assistance services under this subchapter, if the contract for the assistance services is cost-effective and the quality of the services ensures compliance with state and any applicable federal law. A person executing a contract with the department for the purpose of providing the assistance services shall be deemed to be a depository of the state and an agent of the department only for purposes expressly provided in this subchapter. The department shall periodically review assistance services performed by a person under the contract to ensure that quality, cost-effective service is being provided.

Sec. 4. NEW SECTION. 159.42 ASSISTANCE SERVICES — FILING DOCUMENTS.

1. A contract executed under this subchapter may require that a depository provide for the receipt, acceptance, and storage of filing documents that are sent in an electronic format to the depository by persons who would otherwise be required to submit filing documents to the department under other provisions of this title. The contract shall be governed under the same provisions as provided in section 14B.202.

2. a. A depository must send filing documents that it receives to the department for processing, including for the approval or disapproval of an application or the acknowledgement of a registration. The receipt of the filing document by the depository shall be deemed receipt of the filing document but not an approval of an application or acknowledgement of a registration by the department.

b. A depository may send a person notice of the department's approval or disapproval of an application or acknowledgement of a registration. The department and not a depository shall

¹ See chapter 18, §1; chapter 179, §58 herein

be considered the lawful custodian of the department's filing documents which shall be public records as provided in chapter 22.

3. A filing document that is transmitted electronically to a depository or from a depository to another person is an electronic record for purposes of chapter 554D. An application or registration required to be signed must be authenticated by an electronic signature as provided by the department in conformance with chapter 554D.

Sec. 5. NEW SECTION. 159.43 ASSISTANCE SERVICES — COLLECTION OF MONEYS.

1. A contract executed under this subchapter may require that a depository provide for the receipt, acceptance, and transmission of moneys owed to the department by a person in order to satisfy a liability arising from the operation of law which is limited to filing document fees and civil penalties. These moneys are public funds or public deposits as provided in chapter 12. The depository shall transfer the moneys to the department for deposit into the general fund of the state unless the disposition of the moneys is specifically provided for under other law.

2. A depository may commit its assets to lines of credit pursuant to credit arrangements, including but not limited to agreements with credit and debit cardholders and with other credit or debit card issuers. The depository may accept forms of payment including credit cards, debit cards, or electronic funds transfer.

3. The moneys owed to the department shall not exceed the amount required to satisfy the liability arising from the operation of law. However, the contract executed under this subchapter may provide for assistance service charges, including service delivery fees, credit card fees, debit card fees, and electronic funds transfer charges payable to the depository or another party and not to the state. An assistance service charge shall not exceed that permitted by statute. The contract may also provide for the retention of interest earned on moneys under the control of the depository. These moneys are not considered public funds or public deposits as provided in chapter 12.

4. The depository, as required by the department for purposes of determining compliance, shall send information to the department including payment information for an identified filing document fee or the payment of a specific civil penalty.

5. Each calendar year, the auditor of state shall conduct an annual audit of the activities of the depository.

Sec. 6. NEW SECTION. 159.44 FILING DOCUMENTS AND PAYMENT OF MONEYS TO DEPARTMENT.

Nothing in this subchapter shall prevent a person from submitting a filing document or making a payment to the department as otherwise provided in this title.

Sec. 7. DIRECTIONS TO CODE EDITOR.

1. The Code editor shall transfer section 159.31 to new section 159.26.

2. The Code editor shall divide chapter 159 into subchapters and eliminate captions which do not include sections containing law text. The Code editor shall consolidate or eliminate the repeal, reserve, and transfer entries in chapter 159 of the 2003 Iowa Code in order to enhance the readability of the chapter. As part of consolidating or eliminating the entries, the Code editor shall provide directions to the reader that explain where historical information pertaining to the repeal, transfer, or reserving of those entries may be obtained.

Approved April 21, 2003

CHAPTER 49

IDENTITY THEFT

H.F. 170

AN ACT relating to the criminal offense of identity theft by making changes in the elements of the offense.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 715A.8, subsection 2, Code 2003, is amended to read as follows:

2. A person commits the offense of identity theft if the person ~~with the intent to obtain a benefit fraudulently obtains identification information of another person and uses or attempts to fraudulently use that identification information of another person, with the intent to obtain credit, property, or services without the authorization of that other person, or other benefit.~~

Approved April 21, 2003

CHAPTER 50

MOTOR FUEL TAX REFUNDS — BENEFITED FIRE DISTRICTS

H.F. 344

AN ACT allowing a refund of motor fuel taxes paid by a benefited fire district.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 452A.17, subsection 1, paragraph a, subparagraph (3), Code 2003, is amended to read as follows:

(3) A regional transit system, the state, any of its agencies, or any political subdivision of the state, ~~or any benefited fire district~~ which is used for a purpose specified in section 452A.57, subsection 11, or for public purposes, including fuel sold for the transportation of pupils of approved public and nonpublic schools by a carrier who contracts with the public school under section 285.5.

Approved April 21, 2003

CHAPTER 51
INDIGENT DEFENSE
H.F. 349

AN ACT relating to the representation of indigent persons and indigent defense claims.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13B.4, subsection 4, paragraph d, subparagraph (2), Code 2003, is amended to read as follows:

(2) The motion shall be set for hearing by the court and the state public defender shall be provided with at least ten days' notice of any the hearing on the motion. The state public defender shall not be required to file a resistance to the motion filed under this paragraph "d".

Sec. 2. Section 13B.4, subsection 4, paragraph d, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) Any court order entered after the state public defender has taken action on a claim, which affects that claim, without first notifying the state public defender and permitting the state public defender an opportunity to be heard, is void.

Sec. 3. Section 13B.4, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The state public defender shall not revise the allocations to the office of the state public defender and the allocations for fees of court-appointed attorneys for indigent adults and juveniles, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau, the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system, and the cochairpersons and ranking members of the house and senate committees on appropriations.

Sec. 4. Section 13B.9, subsection 4, Code 2003, is amended to read as follows:

4. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. If the case is returned and the state public defender has filed a successor designation, the court shall appoint the successor designee. If there is no successor designee on file, the court shall make the appointment pursuant to section 815.10. As used in this subsection, "successor designee" may include another local public defender office or a nonprofit organization that has a contract with the office of the state public defender for the provision of legal services to indigent persons.

Sec. 5. Section 815.11, Code 2003, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, or 822, or section 232.141, subsection 3, paragraph "c", or section 598.23A, 814.9, 814.10, 814.11, 815.4, 815.5, 815.7, 815.10, or 908.11 on behalf of an indigent shall be paid from funds appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals for those purposes. Costs incurred in any administrative proceeding or in any other proceeding under chapter 598, 600A, 633, or 915, or other provisions of the Code or administrative rules are not payable from these funds.

Approved April 21, 2003

CHAPTER 52**MANURE STORAGE INDEMNITY FUND — FEES AND CHARGES***H.F. 380*

AN ACT providing for the administration of funds for animal agriculture, including moneys transferred from and deposited into these funds, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 459.102, subsection 26, Code 2003, is amended to read as follows:

26. "Indemnity fee" means ~~the a~~ fee provided in section 459.502 ~~or 459.503~~.

Sec. 2. Section 459.501, subsection 2, Code 2003, is amended to read as follows:

2. The fund consists of moneys from indemnity fees remitted by permittees to the department as provided in section 459.502; moneys from indemnity fees remitted by persons required to submit manure management plans to the department pursuant to section 459.503; sums collected on behalf of the fund by the department through legal action or settlement; moneys required to be repaid to the department by a county pursuant to this subchapter; ~~civil penalties assessed and collected by the department or the attorney general pursuant to chapter 455B, against animal feeding operations; moneys paid as a settlement involving an enforcement action for a civil penalty subject to assessment and collection against permittees by the department or the attorney general pursuant to chapter 455B;~~ interest, property, and securities acquired through the use of moneys in the fund; or moneys contributed to the fund from other sources.

Sec. 3. Section 459.501, subsection 5, paragraph a, Code 2003, is amended by striking the paragraph.

Sec. 4. NEW SECTION. 459.503A INDEMNITY FEE — WAIVER AND REINSTATEMENT.

The indemnity fee required under sections 459.502 and 459.503 shall be waived and the fee shall not be assessable or owing if at the end of any three-month period, unobligated and unencumbered moneys in the manure storage indemnity fund, not counting the department's estimate of the cost to the fund for pending or unsettled claims, exceed three million dollars. The department shall reinstate the indemnity fee under those sections if unobligated and unencumbered moneys in the fund, not counting the department's estimate of the cost to the fund for pending or unsettled claims, are less than two million dollars.

Sec. 5. TRANSFER OF MONEYS FROM THE MANURE STORAGE INDEMNITY FUND. Notwithstanding 2002 Iowa Acts, chapter 1137, section 59, the department shall not transfer any amount of the balance of the manure storage indemnity fund to the animal agriculture compliance fund on or after the effective date of this Act. The department shall return any amount already transferred in accordance with the schedule established by the department pursuant to 2002 Iowa Acts, chapter 1137, section 59.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 21, 2003

CHAPTER 53CONTROLLED AND PRECURSOR SUBSTANCES
— MISCELLANEOUS CHANGES

H.F. 389

AN ACT providing for miscellaneous technical and substantive changes relating to controlled and precursor substances.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 124.204, subsection 3, paragraph u, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

u. Pholcodine.

Sec. 2. Section 124.204, subsection 6, paragraph g, Code 2003, is amended to read as follows:

g. Methcathinone, its salts, optical isomers, and salts of optical isomers. Some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiofenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432.

Sec. 3. Section 124.204, subsection 9, paragraph a, Code 2003, is amended to read as follows:

a. N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (~~denzylfentanyl~~) (benzylfentanyl), its optical isomers, salts and salts of isomers.

Sec. 4. Section 124.206, subsection 2, paragraph d, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Coca leaves and any salt, compound, derivative or preparation of coca leaves. Decocainized coca leaves or extractions which do not contain cocaine or ecgonine are excluded from this paragraph. The following substances and their salts, isomers, derivatives, and salts of isomers and derivatives, if salts, isomers, derivatives, or salts of isomers and derivatives exist under the specific chemical designation, are included in this paragraph:

Sec. 5. Section 124.206, subsection 4, paragraph a, Code 2003, is amended to read as follows:

a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.

Sec. 6. Section 124.208, subsection 5, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

5. NARCOTIC DRUGS. Unless specifically excepted or unless listed in another schedule:

a. Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than three hundred milligrams of dihydrocodeinone (another name:

hydrocodone) per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than three hundred milligrams of dihydrocodeinone (another name: hydrocodone) per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than one point eight grams of dihydrocodeine (another name: hydrocodone) per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

b. Any material, compound, mixture, or preparation containing the narcotic drug buprenorphine, or its salts.

Sec. 7. Section 124.208, subsection 6, unnumbered paragraph 1, Code 2003, is amended to read as follows:

~~Anabolic steroids, except any~~ Any product containing an anabolic steroid which product is expressly intended for administration through implants to cattle or other nonhuman species is excluded from all schedules, unless such steroid is prescribed, dispensed, or distributed for human use. Anabolic steroids include Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation, and including any salt, ester, or isomer of the following drugs or substances if that salt, ester, or isomer promotes muscle growth:

Sec. 8. Section 124.212, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 9. Section 124.304, subsection 1, Code 2003, is amended to read as follows:

1. ~~A~~ The board may suspend, revoke, or restrict a registration under section 124.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that any of the following apply to the registrant:

a. ~~Has~~ The registrant has furnished false or fraudulent material information in any application filed under this chapter;

b. ~~Has~~ The registrant has had the registrant's federal registration ~~suspended or revoked~~ to manufacture, distribute, or dispense controlled substances ~~suspended, revoked, or restricted;~~ ~~or.~~

c. ~~Has~~ The registrant has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this section only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though the entry of the judgment or sentence has been withheld and the individual placed on probation.

d. ~~Has~~ The registrant has committed such acts as would render the registrant's registration under section 124.303 inconsistent with the public interest as determined under that section.

e. If the registrant is a licensed health care professional, the registrant has had the registrant's professional license revoked or suspended or has been otherwise disciplined in a way that restricts the registrant's authority to handle or prescribe controlled substances.

Sec. 10. Section 124B.2, subsection 1, Code 2003, is amended by adding the following new paragraphs:

NEW PARAGRAPH. x. Red phosphorus.

NEW PARAGRAPH. y. White phosphorus (another name: yellow phosphorus).

NEW PARAGRAPH. z. Hypophosphorous acid and its salts (including ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, and sodium hypophosphite).

Approved April 21, 2003

CHAPTER 54

CONSUMER CREDIT TRANSACTIONS — EXTENSIONS OF CREDIT

H.F. 395

AN ACT relating to the extension of credit without discrimination under the consumer credit code.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 537.3311, Code 2003, is amended to read as follows:
537.3311 DISCRIMINATION PROHIBITED.

A creditor shall not refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds ~~because of the~~ due to any of the following:

1. The age, color, creed, national origin, political affiliation, race, religion, sex, marital status, or disability of the consumer, or because the

2. The consumer receives public assistance, social security benefits, pension benefits, or the like, or because of the

3. The exercise by the consumer of rights pursuant to this chapter or other provisions of law the federal Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq.

Approved April 21, 2003

CHAPTER 55

EQUIPMENT DEALERSHIP AGREEMENTS

H.F. 446

AN ACT relating to dealership agreements, and providing for the Act's applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 322F.1, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Agricultural equipment" means a device, part of a device, or an

attachment of a device designed to be principally used for an agricultural purpose. "Agricultural equipment" includes but is not limited to equipment associated with livestock or crop production, horticulture, or floriculture. "Agricultural equipment" includes but is not limited to tractors; trailers; combines; tillage, planting, and cultivating implements; bailers, irrigation implements; and all-terrain vehicles.

NEW SUBSECTION. 1A. "Construction equipment", "industrial equipment", or "utility equipment" means a device, part of a device, or an attachment to a device designed to be principally used for a construction or industrial purpose. "Construction equipment", "industrial equipment", or "utility equipment" includes equipment associated with earthmoving, industrial material handling, mining, forestry, highway construction or maintenance, and landscaping. "Construction equipment", "industrial equipment", or "utility equipment" includes but is not limited to tractors, graders, excavators, loaders, and backhoes.

NEW SUBSECTION. 7A. "Outdoor power equipment" means equipment using small motors or engines, if the equipment is used principally for outside service, including but not limited to aerators, augers, blowers, brush clearers, brush cutters, chain saws, dethatchers, edgers, hedge trimmers, lawn mowers, pole saws, power rakes, snowblowers, and tillers.

Sec. 2. Section 322F.1, subsection 2, Code 2003, is amended to read as follows:

2. "Dealer" or "dealership" means a person engaged in the retail sale of equipment, ~~if the person sells equipment designed to be principally used for agricultural operations, including but not limited to livestock or crop production or horticulture.~~

Sec. 3. Section 322F.1, subsection 4, Code 2003, is amended by striking the subsection, and inserting in lieu thereof following:

4. "Equipment" means agricultural equipment, construction equipment, industrial equipment, utility equipment, or outdoor power equipment. However, "equipment" does not include self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

Sec. 4. Section 322F.2, subsection 1, Code 2003, is amended to read as follows:

1. a. A supplier shall terminate a dealership agreement for equipment other than outdoor power equipment by cancellation, nonrenewal, or a substantial change in competitive circumstances only upon good cause and upon at least ninety days' prior written notice delivered to the dealer by certified or registered mail or restricted certified mail. A supplier shall terminate a dealership agreement for outdoor power equipment by cancellation or nonrenewal only upon good cause and upon at least ninety days' prior written notice delivered to the dealer by restricted certified mail or hand delivered by a representative of the supplier to the dealer or a designated representative of the dealer.

b. The A written termination notice must specify each deficiency constituting good cause for the action. The notice must also state that the dealer has sixty days to cure a specified deficiency. If the deficiency is cured within sixty days from the date that the notice is delivered, the notice is void. However, if the deficiency is based on a dealer's inadequate representation of a manufacturer's product relating to sales, as provided in section 322F.1, the notice must state that the dealer has eighteen months to cure the deficiency. If the deficiency based on inadequate representation of a manufacturer's product relating to sales is cured within eighteen months from the date that notice is delivered, the notice is void.

Sec. 5. Section 322F.3, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The supplier must pay to the dealer or credit the dealer's account with one hundred percent of the net cost of all equipment used in demonstrations, including equipment leased primarily for demonstration or lease, at the equipment's agreed-upon depreciated value, provided that such equipment is in new condition and has not been abused.

Sec. 6. Section 322F.5, Code 2003, is amended to read as follows:

322F.5 DEATH OR INCAPACITY OF DEALER.

If a dealer or a ~~person holding a majority shareholder of a corporation interest in a business entity~~ operating a dealership dies or is incapacitated, the rights under this chapter may be exercised as an option by the heirs at law if the dealer or ~~shareholder majority interest holder~~ died intestate, or by the executor under the terms of the dealer's or ~~shareholder's majority interest holder's~~ will. If the heirs or the executor do not exercise this option within twelve months from the date of death of the dealer or ~~shareholder majority interest holder~~, the supplier must repurchase the equipment as if the supplier had terminated the dealership agreement pursuant to section 322F.3. However, this section does not entitle an heir, executor, administrator, legatee, or devisee of a deceased dealer or majority ~~shareholder interest holder~~ to continue to operate the dealership without the consent of the supplier.

Sec. 7. Section 322F.7, subsection 7, Code 2003, is amended to read as follows:

7. ~~a. Takes For a dealership agreement governing equipment other than outdoor power equipment, takes~~ action terminating, canceling, failing to renew ~~the dealership agreement~~, or substantially ~~changing changes~~ the competitive circumstances intended by the dealership agreement, due to the results of conditions beyond the dealer's control, including drought, flood, labor disputes, or economic recession.

~~b. For a dealership agreement governing outdoor power equipment, takes action terminating, canceling, or failing to renew the dealership agreement due to the results of conditions beyond the dealer's control, including drought, flood, labor disputes, or economic recession.~~

This subsection shall not apply if the dealer is in default of a security agreement in effect with the supplier.

Sec. 8. Section 322F.8, subsection 1, Code 2003, is amended to read as follows:

1. A dealer may bring a legal action against a supplier for damages sustained by the dealer as a consequence of the supplier's violation of this chapter. A supplier violating this chapter shall compensate the dealer for damages sustained by the dealer as a consequence of the supplier's violation, together with the actual costs of the action, including reasonable ~~attorneys' attorney~~ fees.

~~a. The For a dealership agreement governing equipment other than outdoor power equipment, a dealer may be granted injunctive relief against unlawful termination, cancellation, or the nonrenewal of the dealership agreement, or a substantial change of competitive circumstances as provided in section 322F.2.~~

~~b. For a dealership agreement governing outdoor power equipment, a dealer may be granted injunctive relief against unlawful termination, cancellation, or the nonrenewal of the dealership agreement as provided in section 322F.2.~~

PARAGRAPH DIVIDED. The remedies in this section are in addition to any other remedies permitted by law.

Sec. 9. Section 322F.8, subsection 2, paragraph b, Code 2003, is amended to read as follows:

b. If upon termination of a dealership agreement by nonrenewal or cancellation, by a dealer or supplier, the supplier fails to make payment or credit the account of the dealer as provided in this chapter, the supplier is liable in a civil action brought by the dealer for ~~one hundred percent of the net costs of the equipment the repurchase amount set forth in section 322F.3, plus interest as calculated pursuant to paragraph "a", and ninety percent of the net price of repair parts, plus interest as calculated pursuant to paragraph "a".~~

Sec. 10. Section 322F.9, subsection 2, Code 2003, is amended to read as follows:

2. a. For all dealership agreements other than those ~~provided for all-terrain vehicles, in this section, this~~ chapter applies to those dealership agreements in effect that have no expiration

date and all other dealership agreements entered into or renewed on or after July 1, 1990. Any such dealership agreement in effect on June 30, 1990, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 1990.

b. For all dealership agreements for governing all-terrain vehicles, this chapter applies to those dealership agreements in effect that have no expiration date and all other such dealership agreements entered into or renewed on or after July 1, 2002. Any such dealership agreement in effect on July 1, 2002, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 2002.

c. For all dealership agreements governing agricultural equipment used principally for floriculture and for all dealership agreements governing construction equipment, industrial equipment, utility equipment, and outdoor power equipment, this chapter applies to those dealership agreements in effect that have no expiration date and all other such dealership agreements entered into or renewed on or after the effective date of this Act. Any dealership agreement in effect on the effective date of this Act, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to the effective date of this Act.

Approved April 22, 2003

CHAPTER 56

MOTOR VEHICLE DAMAGE DISCLOSURE STATEMENTS

H.F. 502

AN ACT relating to damage disclosure statements required for transfer of ownership of motor vehicles and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.69, subsections 2 and 3, Code 2003, are amended to read as follows:

2. The damage disclosure statement required by this section shall, at a minimum, state the total retail dollar amount of all damage to the vehicle during the period of the transferor's ownership of the vehicle and whether the transferor knows if the vehicle was titled as a salvage or flood vehicle in this or any other state prior to the transferor's ownership of the vehicle. For the purposes of this section, "damage" refers to damage to the vehicle caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood, where the cost of repair is ~~five~~ six thousand dollars or more per incident, but does not include normal wear and tear, glass damage, mechanical repairs or electrical repairs that have not been caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood. "Damage" does not include the cost of repairing, replacing, or reinstalling tires, lights, batteries, windshields, windows, a sound system, or an inflatable restraint system. A determination of the amount of damage to a vehicle shall be based on estimates of the retail cost of repairing the vehicle, including labor, parts, and other materials, if the vehicle has not been repaired or on the actual retail cost of repair, including labor, parts, and other materials, if the vehicle has been repaired. Only individual incidents in which the retail cost of repairs is ~~five~~ six thousand dollars or more are required to be disclosed by this section. If the vehicle has incurred damage of ~~five~~ six thousand dollars or more per incident in more than one incident, the damage amounts must be combined and disclosed as the total of all separate incidents.

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. However, if the transferor has a salvage certificate of title for the vehicle, the transferor is not required to disclose under this section the total retail cost of repairs to the vehicle during the period of the transferor's ownership of the vehicle. If the transferor is not a resident of this state or if the transferee acquired the vehicle by operation of law as provided in section 321.47, the transferee shall not be required to submit a damage disclosure statement from the transferor with the transferee's application for title unless the state of the transferor's residence requires a damage disclosure statement. However, the transferee shall submit a damage disclosure statement with the transferee's application for title indicating whether a salvage or rebuilt title had ever existed for the vehicle, whether the vehicle had incurred prior damage of ~~five~~ six thousand dollars or more per incident, and the year, make, and vehicle identification number of the motor vehicle. The transferee shall not be required to indicate whether the vehicle had incurred prior damage of ~~five~~ six thousand dollars or more per incident under this subsection if the transferor's certificate of title is from another state and if it indicates that the vehicle is salvaged and not rebuilt or is another state's salvage certificate of title.

Sec. 2. Section 321.69, subsection 7, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The damage disclosure statements shall be made on the back of the certificate of title if the title is available to the transferor at the time of sale. If the title is not available at the time of sale or if the face of the transferor's Iowa title contains no indication that the vehicle was previously salvaged or titled as salvaged or rebuilt and the transferor knows or reasonably should know that the vehicle was previously salvaged or titled as salvaged or rebuilt in another state, the transferor shall make the disclosure on a separate disclosure document. The damage disclosure statement forms shall be as approved by the department. The treasurer shall not accept a damage disclosure statement and issue a title unless the back of the title or separate disclosure document has been fully completed and signed and dated by the transferee and the transferor, if applicable. If a separate damage disclosure document from a prior owner is required to be furnished with the application for title, the transferor must provide a copy of the separate damage disclosure document to the transferee at or before the time of sale.

Sec. 3. Section 321.69, subsections 8 and 9, Code 2003, are amended to read as follows:

8. A person, authorized vehicle recycler licensed under chapter 321H, or motor vehicle dealer licensed under chapter 322 shall not be liable to a subsequent owner, driver, or passenger of a vehicle because a prior owner or lessee gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had previously been damaged and repaired or had been titled on a salvage or rebuilt certificate of title unless the person, recycler, or dealer knew or reasonably should have known that the prior owner or lessee gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had been damaged and repaired or had been titled on a salvage or rebuilt certificate of title.

9. This section does not apply to ~~new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less~~, motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than nine model years old, motorcycles, motorized bicycles, and special mobile equipment. The This section does apply to motor homes. The requirement in subsection 1 that the new certificate of title and registration receipt shall state on the face of the title the total cumulative dollar amount of damage does not apply to a vehicle with a certificate of title bearing a designation that the vehicle was previously titled on a salvage certificate of title pursuant to section 321.52, subsection 4, paragraph "b", or to a vehicle with a certificate of title bearing a "REBUILT" or "SALVAGE" designation pursuant to section 321.24, subsection 4 or 5. This section does not apply to new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less, unless such vehicle has incurred damage as defined in subsection 2.¹

¹ See chapter 179, §71 herein

Sec. 4. Section 321.69, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 9A. A person shall not sell, lease, or trade a motor vehicle if the person knows or reasonably should know that the motor vehicle contains a nonoperative airbag that is part of an inflatable restraint system, or that the motor vehicle has had an airbag removed and not replaced, unless the person clearly discloses, in writing, to the person to whom the person is selling, leasing, or trading the vehicle, prior to the sale, lease, or trade, that the airbag is missing or nonoperative. In addition, a lessee who has executed a lease as defined in section 321F.1 shall provide the disclosure statement required in this subsection to the lessor upon termination of the lease.

The written disclosure required by this subsection shall be deemed to be a damage disclosure statement for the purposes of subsections 6, 8, and 10.

Sec. 5. Section 321.69, subsection 10, Code 2003, is amended to read as follows:

10. A person who knowingly makes a false damage disclosure statement or fails to make a damage disclosure statement required by this section commits a fraudulent practice. Failure of a person, authorized vehicle recycler licensed under chapter 321H, or motor vehicle dealer licensed under chapter 322, to comply with any duty imposed by this section constitutes a violation of section 714.16, subsection 2, paragraph "a".

Approved April 22, 2003

CHAPTER 57

STATE GOVERNMENT ANNUAL REPORTS — FINANCIAL INFORMATION

H.F. 604

AN ACT requiring state government annual reports made to the general assembly to include certain financial information.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 7A.2A ANNUAL REPORTS — FINANCIAL INFORMATION.

An annual report issued by a state official, board, commission, department, or independent agency that is required by law to be submitted to the general assembly shall include a financial information section pertaining to the topic of the report. The financial information shall include but is not limited to budget and actual revenue and expenditure information for the fiscal year covered by the annual report and for the previous fiscal year and may include budget information for future fiscal years. In addition to any narrative, the financial information shall be provided in graphic form utilizing a columnar format.

Approved April 22, 2003

CHAPTER 58**CEMETERY OR FUNERAL MERCHANDISE AND FUNERAL SERVICES
— CANCELLATION OF PURCHASE AGREEMENTS***H.F. 616*

AN ACT prohibiting a cancellation penalty upon cancellation of a purchase agreement for cemetery merchandise, funeral merchandise, and funeral services.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 523A.602, subsection 2, paragraph b, Code 2003, is amended to read as follows:

b. (1) If a purchase agreement is canceled, a purchaser requests a transfer of the trust assets upon cancellation of a purchase agreement, or another establishment provides merchandise or services designated in a purchase agreement, the seller shall refund or transfer within thirty days of receiving a written demand no less than the purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services adjusted for inflation, using the consumer price index amounts announced by the commissioner annually, less any cancellation penalty actual expenses incurred by the seller pursuant to the purchase agreement as set forth in the purchase agreement under section 523A.601, subsection 1, paragraph “f”. The amount of the cancellation penalty actual expenses deducted by the seller shall not exceed ten percent of the purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services. The seller may also deduct the value of the cemetery merchandise, funeral merchandise, and funeral services already received by, delivered to, or warehoused for the purchaser.

(2) For the purposes of this paragraph “b”, “actual expenses” means all reasonable business expenses of an establishment that are associated with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. “Actual expenses” includes but is not limited to the following:

- (a) Marketing and promotional expenses.
- (b) Investment management fees.
- (c) Annual reporting fees related to accounting and regulatory requirements.
- (d) Licensing fees of the establishment.
- (e) Administration, regulatory reporting, and custody expenses related to purchase agreements.
- (f) Computer and software expenses.
- (g) Expenses related to employees of the establishment such as licensing fees, continuing education, and salaries and commissions.
- (h) Miscellaneous office expenses.

Approved April 22, 2003

CHAPTER 59

REGULATION OF COOPERATIVE ASSOCIATIONS

H.F. 634

AN ACT relating to the conversion of cooperative associations originally organized as business corporations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 499.43B EXISTING COOPERATIVES ORGANIZED UNDER CHAPTER 490 OR 491 — OPTION.

A cooperative association organized under chapter 490 or 491 may elect to be governed by and to comply with the provisions of this chapter. The election shall be governed by the following procedures:

1. The board of directors and shareholders must adopt a resolution reciting that the cooperative association elects to be governed by and to comply with this chapter. The cooperative association, to the extent necessary, shall change its name to comply with the provisions of this chapter. The resolution shall be adopted according to the same procedures as provided in section 499.41. Upon the adoption of the resolution, the cooperative association shall execute an instrument on forms prescribed by the secretary of state. The instrument must be signed by the president and secretary and verified by one of the officers signing the instrument. The instrument shall include all of the following:

a. The name of the cooperative association, before and after this election.
b. A description of each resolution adopted by the cooperative association pursuant to this section, including the date each resolution was adopted.

2. The instrument shall be filed with the secretary of state. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association is in compliance with the provisions of the chapter in which it was organized at the time of filing. A cooperative association shall file a biennial report which is due pursuant to section 499.49. Upon filing the instrument with the secretary, all of the following shall apply:

a. The cooperative association shall be deemed to be organized under this chapter and the provisions of this chapter shall apply to the cooperative association.

b. The secretary of state shall issue a certificate to the cooperative association acknowledging that it is deemed to be organized under this chapter.

3. The application of this chapter to the cooperative association does not affect a right accrued or established, or liability or penalty incurred pursuant to the chapter in which the cooperative association was formally organized, prior to the filing of the instrument with the secretary of state.

Approved April 22, 2003

CHAPTER 60

OPERATING WHILE INTOXICATED REVISIONS

H.F. 65

†AN ACT relating to motor vehicle operating while intoxicated offenses.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321J.2, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. While having an alcohol concentration of ~~.10~~ .08 or more.

Sec. 2. Section 321J.2, subsection 2, paragraph a, subparagraph (3), Code 2003, is amended to read as follows:

(3) Revocation of the person's driver's license pursuant to section 321J.4, subsection 1, section 321J.9, or section 321J.12, subsection 2, which includes a minimum revocation period of one hundred eighty days, ~~including a minimum period of ineligibility for a temporary restricted license of thirty days~~, and may involve a revocation period of one year. A revocation under section 321J.9 includes a minimum period of ineligibility for a temporary restricted license of ninety days.

(a) A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

(b) A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.¹

Sec. 3. Section 321J.4, subsections 1 and 3, Code 2003, are amended to read as follows:

1. If a defendant is convicted of a violation of section 321J.2 and the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for one hundred eighty days if the defendant has had no previous conviction or revocation under this chapter. The defendant shall not be eligible for any temporary restricted license ~~for at least thirty days after the effective date of the revocation if a test was obtained and for at least ninety days if a test was refused under section 321J.9.~~

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

¹ See chapter 179, §120 herein

resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.²

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of revocation.

3. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, and if the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12, or has not otherwise been revoked for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days. The defendant shall not be eligible for any temporary restricted license for at least ~~thirty days after the effective date of the revocation if a test was obtained~~ and for at least ninety days if a test was refused.

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.³

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 4. Section 321J.6, subsection 1, paragraph g, Code 2003, is amended to read as follows:

g. The preliminary breath screening test was administered and it indicated an alcohol concentration of .02 or more but less than ~~.10~~ .08 and the person is under the age of twenty-one.

Sec. 5. Section 321J.12, subsection 2, Code 2003, is amended to read as follows:

2. a. A person whose driver's license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an

² See chapter 179, §121 herein

³ See chapter 179, §122 herein

ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.⁴

c. If the person is under the age of twenty-one, the person shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

d. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for one year after the effective date of the revocation, and the person shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 6. Section 321J.12, subsection 5, Code 2003, is amended to read as follows:

5. Upon certification, subject to penalty of perjury, by the peace officer that there existed reasonable grounds to believe that the person had been operating a motor vehicle in violation of section 321J.2A, that there existed one or more of the necessary conditions for chemical testing described in section 321J.6, subsection 1, and that the person submitted to chemical testing and the test results indicated an alcohol concentration ~~as defined in section 321J.1~~ of .02 or more but less than ~~10 .08~~, the department shall revoke the person's driver's license or operating privilege for a period of sixty days if the person has had no previous revocation under this chapter, and for a period of ninety days if the person has had a previous revocation under this chapter.

Sec. 7. Section 321J.20, subsection 6, Code 2003, is amended to read as follows:

6. Following certain minimum periods of ineligibility, a temporary restricted license under this section shall not be issued until such time as the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the applicant, in accordance with section 321J.2, 321J.4, 321J.9, or 321J.12. Installation of an ignition interlock device under this section shall be required for the period of time for which the temporary restricted license is issued.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 24, 2003

CHAPTER 61

COMMUNITY DEVELOPMENT BLOCK GRANTS — ADMINISTRATIVE EXPENSES

H.F. 397

AN ACT relating to community development block grants to the department of economic development and including effective and retroactive applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. 2002 Iowa Acts, chapter 1170, section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 17 of this Act, relating to the procedure

⁴ See chapter 179, §123 herein

for proration of federal funds received in excess of the amount appropriated in this section, the department may expend up to two percent of eligible program income received for the purposes of administration.

Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2002.

Approved April 24, 2003

CHAPTER 62

HUMAN SERVICES PROGRAMS AND SERVICES — MISCELLANEOUS PROVISIONS

H.F. 489

AN ACT relating to programs and services under the purview of the department of human services, and providing for retroactive applicability and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 235A.13, subsection 8, Code 2003, is amended to read as follows:

8. "Multidisciplinary team" means a group of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, nursing, public health, substance abuse, domestic violence, mental health, social work, child development, education, law, juvenile probation, or law enforcement, or a group established pursuant to section 235B.1, subsection 1.

Sec. 2. Section 249A.3, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XIII), individuals with disabilities, who are less than sixty-five years of age, who are members of families whose income is less than two hundred fifty percent of the most recently revised official poverty line guidelines published by the ~~federal office of management and budget~~ United States department of health and human services for the family, who have earned income and who are eligible for medical assistance or additional medical assistance under this section if earnings are disregarded. As allowed by 42 U.S.C. § 1396a(r)(2), unearned income shall also be disregarded in determining whether an individual is eligible for assistance under this paragraph. For the purposes of determining the amount of an individual's resources under this paragraph and as allowed by 42 U.S.C. § 1396a(r)(2), a maximum of ten thousand dollars of available resources shall be disregarded and any additional resources held in a retirement account, in a medical savings account, or in any other account approved under rules adopted by the department shall also be disregarded. Individuals eligible for assistance under this paragraph, whose individual income exceeds one hundred fifty percent of the official poverty line guidelines published by the ~~federal office of management and budget~~ United States department of health and human services for an individual, shall pay a premium. The amount of the premium shall be based on a sliding fee schedule adopted by rule of the department and shall be based on a percentage

of the individual's income. The maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty ~~line guidelines~~ shall be commensurate with ~~premiums charged for private~~ the cost of state employees' group health insurance in this state. ~~This paragraph shall be implemented no later than March 1, 2000.~~

Sec. 3. Section 249A.5, subsection 2, paragraph b, Code 2003, is amended to read as follows:

b. ~~If the collection of all or part of a debt is waived pursuant to subsection 2, paragraph "a", the amount waived shall be a debt due from the estate of the recipient's surviving spouse, child who is blind or has a disability, or the recipient of a hardship waiver under subsection 2, paragraph "a", subparagraph (2), upon the death of such spouse, child, or recipient, or due from a surviving child, who was under twenty-one years of age at the time of the recipient's death, upon the child reaching age twenty-one, to the extent the recipient's estate is received by such spouse, child, or recipient to the extent the medical assistance recipient's estate was received by the following persons, the amount waived shall be a debt due from one of the following, as applicable:~~

(1) The estate of the medical assistance recipient's surviving spouse or child who is blind or has a disability, upon the death of such spouse or child.

(2) A surviving child who was under twenty-one years of age at the time of the medical assistance recipient's death, upon the child reaching the age of twenty-one or from the estate of the child if the child dies prior to reaching the age of twenty-one.

(3) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient, or from the hardship waiver recipient when the hardship no longer exists.

Sec. 4. Section 249A.12, subsection 4, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Effective February 1, 2002, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with mental retardation services provided under medical assistance attributable to the assessment fee for intermediate care facilities for individuals with mental retardation, imposed pursuant to section 249A.21. Notwithstanding subsection 2, effective February 1, 2003, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services attributable to the assessment fee.

Sec. 5. NEW SECTION. 249A.26A STATE AND COUNTY PARTICIPATION IN FUNDING FOR REHABILITATION SERVICES FOR PERSONS WITH CHRONIC MENTAL ILLNESS.

The county of legal settlement shall pay for the nonfederal share of the cost of rehabilitation services provided under the medical assistance program for persons with chronic mental illness, except that the state shall pay for the nonfederal share of such costs if the person does not have a county of legal settlement.

Sec. 6. Section 252A.5, subsection 1, Code 2003, is amended to read as follows:

1. Where the petitioner and the respondent are residents of or domiciled or found in this state or where this state may exercise personal jurisdiction over a nonresident respondent under section 252K.201.

Sec. 7. Section 252A.6, subsection 1, Code 2003, is amended to read as follows:

1. A proceeding under this chapter shall be commenced by filing a verified petition in the court in equity in the county where the dependent resides or is domiciled, showing or if the dependent does not reside in or is not domiciled in this state, where the petitioner or respondent resides, or where public assistance has been provided for the dependent. The petition shall show the name, age, residence, and circumstances of the dependent, alleging that the

dependent is in need of and is entitled to support from the respondent, giving the respondent's name, age, residence, and circumstances, and praying that the respondent be compelled to furnish such support. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of the respondent's person, other names and aliases by which the respondent has been or is known, the name of the respondent's employer, the respondent's fingerprints, or social security number.

Sec. 8. RETROACTIVE APPLICABILITY AND EFFECTIVE DATE. Section 4 of this Act, amending section 249A.12, subsection 4, relating to payment of costs for intermediate care facilities for persons with mental retardation, is retroactively applicable to February 1, 2002, and takes effect upon enactment.

Approved April 24, 2003

CHAPTER 63

DEER AND ELK CHRONIC WASTING DISEASE

H.F. 509

AN ACT relating to deer and elk chronic wasting disease by establishing a task force and requiring departmental cooperation in the implementation of a chronic wasting disease administrative strategy, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. CHRONIC WASTING DISEASE — DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Chronic wasting disease" means the animal disease afflicting deer and elk that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain and that belongs to the group of diseases that is known as transmissible spongiform encephalopathies.
2. "Task force" means the chronic wasting disease task force created in section 2 of this Act.

Sec. 2. CHRONIC WASTING DISEASE — TASK FORCE.

1. A chronic wasting disease task force is created to develop a chronic wasting disease administrative strategy as provided in this section. The members shall be as follows:

a. Three members shall be the following state officials:

- (1) The secretary of agriculture, or a designee other than the state veterinarian.
- (2) The director of the department of natural resources or a designee.
- (3) The state veterinarian.

b. The governor shall appoint four members each representing an interested organization from a list of nominees. Each of the following interested organizations shall submit nominations:

- (1) The Iowa whitetail deer association.
- (2) The Iowa elk breeders association.
- (3) The Iowa meat processors association.
- (4) The Iowa conservation alliance.

2. The task force shall study risks and responses associated with chronic wasting disease in deer and elk populations, including farm deer as defined in section 189A.2. As part of its duties, the task force shall develop recommendations for all of the following:

a. Procedures for the inspection and testing of deer, which may include statistical sampling, laboratory testing, and verification protocols.

b. Methods to respond to reported cases of chronic wasting disease, including the preparation of plans required to contain the spread of the disease.

c. Methods to ensure that owners of farm deer may engage in the movement and sale of farm deer for purposes of breeding or slaughter.

d. Methods to compensate owners of farm deer for depopulation.

3. The task force may consult with the United States department of agriculture and the agencies in neighboring states as required in order to provide for the uniform application of a chronic wasting disease strategy.

4. Members of the task force shall prescribe rules and elect a chairperson. A member is not entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A member is not eligible to receive compensation as provided in section 7E.6.

Sec. 3. CHRONIC WASTING DISEASE — DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP AND DEPARTMENT OF NATURAL RESOURCES.

1. The secretary of agriculture, in consultation with the state veterinarian, and the director of the department of natural resources shall act jointly to examine approaches to most effectively implement a chronic wasting disease administrative strategy as provided in section 2 of this Act.

2. The secretary of agriculture and the director of the department of natural resources shall establish definite jurisdictions for their departments and provide mechanisms for cooperation and consultation when implementing the chronic wasting disease administrative strategy.

Sec. 4. CHRONIC WASTING DISEASE — REPORT.

1. The department of agriculture and land stewardship, in cooperation with the department of natural resources, shall submit a report to the governor and general assembly. The report shall include all of the following:

a. Findings and recommendations by the chronic wasting disease task force, including recommendations for a chronic wasting disease administrative strategy and recommended legislative proposals or proposals for administrative rules required to implement the strategy as provided in section 2 of this Act.

b. Findings and recommendations by the secretary of agriculture, in consultation with the state veterinarian and the director of the department of natural resources, regarding approaches to most effectively implement a chronic wasting disease administrative strategy as provided in section 3 of this Act. The recommendations shall include any legislative proposals and proposed and adopted administrative rule changes.

2. The report shall be submitted not later than January 1, 2004.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 2003

CHAPTER 64
ABANDONED PROPERTY AND
PROPERTY PRESUMED ABANDONED

S.F. 180

AN ACT relating to the procedures for handling abandoned property and property presumed to be abandoned.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 556.11, subsection 2, paragraphs a and c, Code 2003, are amended to read as follows:

a. Except with respect to traveler's checks and, money orders, cashier's checks, official checks, or similar instruments, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of ~~twenty-five~~ fifty dollars or more presumed abandoned under this chapter.

c. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ~~twenty-five~~ fifty dollars each may be reported in aggregate.

Sec. 2. Section 556.11, subsection 5, Code 2003, is amended to read as follows:

5. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. A holder is not required to make a due diligence mailing to owners whose property has an aggregate value of less than fifty dollars. The treasurer of state may charge a holder that fails to timely exercise due diligence, as required in this subsection, five dollars for each name and address account reported if thirty-five percent of¹ more of the accounts are claimed within the twenty-four months immediately following the filing of the holder report.

Sec. 3. Section 556.11, Code 2003, is amended by adding the following new subsection after subsection 8:

NEW SUBSECTION. 9. Other than the notice to owners required by subsection 5, published notice required by section 556.12, subsection 1, and other discretionary means employed by the treasurer of state for notifying owners of the existence of abandoned property, all information provided in reports shall be confidential, unless written consent from the person entitled to the property is obtained by the treasurer of state, and may be disclosed only to governmental agencies for the purposes of returning abandoned property to its owners or to those individuals who appear to be the owner of the property or otherwise have a valid claim to the property.

Sec. 4. Section 556.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

10. All agreements to pay compensation to recover or assist in the recovery of property reported under this section, made within twenty-four months after the date payment or delivery is made under section 556.13 are unenforceable. However, such agreements made after twenty-four months from the date of payment or delivery are valid if the fee or compensation agreed upon is not more than fifteen percent of the recoverable property, the agreement is in writing and signed by the owner, and the writing discloses the nature and value of the property and the name and address of the person in possession. A person shall not attempt to collect or collect a fee or compensation for discovering property presumed abandoned under this

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §40 herein

chapter unless the person is licensed as a private investigation business pursuant to chapter 80A. This section does not prevent an owner from asserting, at any time, that an agreement to locate property is based upon excessive or unjust consideration. This section does not apply to an owner who has a bona fide fee contract with a practicing attorney and counselor as described in chapter 602, article 10.

Sec. 5. Section 556.12, subsection 2, paragraph c, Code 2003, is amended by striking the paragraph.

Sec. 6. Section 556.12, subsections 3, 4, 5, and 6, Code 2003, are amended to read as follows:

3. The state treasurer of state is not required to publish in such notice any item of less than ~~twenty-five~~ fifty dollars unless the treasurer deems ~~such the~~ publication to be in the public interest.

4. Within one hundred twenty days from the receipt of the report required by section 556.11, the state treasurer of state shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of ~~twenty-five~~ fifty dollars or more presumed abandoned under this chapter.

5. The mailed notice shall contain:

a. ~~A~~ a statement that, according to a report filed with the state treasurer of state, property is being held to which the addressee appears entitled.

b. The name and address of the person holding the property and any necessary information regarding ~~changes of name and address of the holder.~~

c. ~~A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the state treasurer to whom all further claims must be directed.~~

6. This section is not applicable to sums payable on traveler's checks, ~~or~~ money orders, cashier's checks, official checks, or similar instruments presumed abandoned under section 556.2.

Sec. 7. Section 556.17, subsections 1 and 5, Code 2003, are amended to read as follows:

1. All abandoned property other than money delivered to the state treasurer of state under this chapter which remains unclaimed one year after the delivery to the treasurer may be sold to the highest bidder at public sale in any city in the state that affords in the treasurer's judgment the most favorable market for the property involved. The state treasurer of state may decline the highest bid and reoffer the property for sale if the treasurer considers the price bid insufficient. The treasurer need not offer any property for sale if, in the treasurer's opinion, the probable cost of sale exceeds the value of the property. The treasurer may order destruction of the property when the treasurer has determined that the probable cost of offering the property for sale exceeds the value of the property. If the treasurer determines that the property delivered does not have any substantial commercial value, the treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the treasurer or any officer or against the holder for or on account of an act the treasurer made under this section, except for intentional misconduct or malfeasance.

5. Unless the treasurer of state considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under section 556.5 and delivered to the treasurer of state must be held for at least ~~three years~~ one year before the treasurer of state may sell them. If the treasurer of state sells any securities delivered pursuant to section 556.5 before the expiration of the ~~three-year~~ one-year period, any person making a claim pursuant to this chapter before the end of the ~~three-year~~ one-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to section 556.18, subsection 2. A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the treasurer of state by the holder, if they still remain in the

hands of the treasurer of state, or the proceeds received from the sale, less any amounts deducted pursuant to section 556.18, subsection 2, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the treasurer of state.

Approved April 25, 2003

CHAPTER 65

SEXUAL EXPLOITATION OF A MINOR

S.F. 221

AN ACT relating to the criminal offense of sexual exploitation of a minor.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 728.12, subsections 1 and 2, Code 2003, are amended to read as follows:

1. It shall be unlawful to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system. A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor ~~or what appears to be a minor~~ engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class "D" felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

Sec. 2. Section 728.12, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

It shall be unlawful to knowingly purchase or possess a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or an electronic, magnetic, or optical storage system, or any other type of storage system which depicts a minor ~~or what appears to be a minor~~ engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

Approved April 25, 2003

CHAPTER 66

BUSINESS ENTITIES — MISCELLANEOUS PROVISIONS

S.F. 340

AN ACT relating to business entities, based on revisions related to the Iowa business corporation Act, including addition of a savings clause and addition of provisions related to director and officer liability, duty, and indemnification for certain insurance companies and indemnification for cooperative associations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 490.1701, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A corporation organized under chapter 496C may voluntarily elect to adopt the provisions of this chapter by complying with the provisions prescribed by subsection 3.

Sec. 2. Section 490.1701, subsection 3, paragraph b, Code 2003, is amended to read as follows:

b. The instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office, and, if the corporation was organized under chapter 176, 524, or 533, the instrument shall also be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any biennial report which is then due.

If the county of the initial registered office as stated in the instrument for a corporation organized under chapter 176, 524, or 533 is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the corporation shall forward to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the corporation shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to a copy of the original instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office. The corporation shall, through an officer or director, certify to the secretary of state that a copy has been sent to each applicable county recorder, including the date each copy was sent.

Sec. 3. Section 490.1703, subsection 1, Code 2003, is amended to read as follows:

1. Except as provided in subsection 2, the repeal of a statute by 1989 Iowa Acts, chapter 288, and the amendment or repeal of a statute by 2002 Iowa Acts, chapter 1154, does not affect:

a. The operation of the statute or any action taken under it before its amendment or repeal.

b. Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its amendment or repeal.

c. Any violation of the statute, or any penalty, forfeiture, or punishment incurred because of the violation, before its amendment or repeal.

d. Any proceeding, reorganization, or dissolution commenced under the statute before its amendment or repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been amended or repealed.

Sec. 4. Section 490A.707, Code 2003, is amended to read as follows:

490A.707 LIMITATION OF LIABILITY OF MANAGERS.

The articles of organization may contain a provision eliminating or limiting the personal liability of a manager to the limited liability company or to its members or of the members with

whom the management of the limited liability company is vested pursuant to section 490A.702, to the limited liability company or to its members for ~~monetary money~~ damages for ~~breach of fiduciary duty for any action taken, or any failure to take action,~~ as a manager or a member with whom management of the limited liability company is vested, ~~if the provision does not eliminate or limit the liability of a manager or a member with whom management of the limited liability company is vested for~~ except for liability for any of the following:

1. ~~Breach of the manager's or member's duty of loyalty to the limited liability company or to its members~~ The amount of a financial benefit received by a manager or member to which the manager or member is not entitled.

2. ~~Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law~~ An intentional infliction of harm on the limited liability company or its members.

3. ~~Transaction from which the manager or member derives an improper personal benefit or a wrongful distribution in violation of section~~ A violation of section 490A.807.

4. An intentional violation of criminal law.

A provision shall not eliminate or limit the liability of a manager or member with whom management of the limited liability company is vested for an act or omission occurring prior to the date when the provision in the articles of organization becomes effective.

Sec. 5. Section 491.5, subsection 8, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

8. Any provision eliminating or limiting the personal liability of a director to the corporation or its shareholders or members for money damages as provided in section 490.202, subsection 2, paragraph "d", except that section 490.202, subsection 2, paragraph "d", subparagraph (3), shall have no application.

Sec. 6. Section 491.5, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Any provision permitting or making obligatory indemnification of a director as provided in section 490.202, subsection 2, paragraph "e", except that section 490.202, subsection 2, paragraph "e", subparagraph (3), shall have no application.

Sec. 7. NEW SECTION. 491.16A DIRECTORS AND OFFICERS — DUTIES AND LIABILITIES.

Sections 490.830 through 490.842 apply to corporations organized under or subject to this chapter.

Sec. 8. Section 496C.14, unnumbered paragraph 7, Code 2003, is amended to read as follows:

Notwithstanding the foregoing provisions of this section, purchase by the corporation is not required upon the occurrence of any event other than death of a shareholder if the corporation is dissolved or voluntarily elects to adopt the provisions of the Iowa business corporation Act, as provided in section 490.1701, subsection 2, within sixty days after the occurrence of the event. The articles of incorporation or bylaws may provide that purchase is not required upon the death of a shareholder if the corporation is dissolved within sixty days after the death. Notwithstanding the foregoing provisions of this section, purchase by the corporation is not required upon the death of a shareholder, if the corporation voluntarily elects to adopt the provisions of the Iowa business corporation Act, as provided in section 490.1701, subsection 2, within sixty days after death.

Sec. 9. Section 496C.16, Code 2003, is amended to read as follows:

496C.16 MANAGEMENT.

All directors of a professional corporation and all officers of a professional corporation except assistant officers, shall at all times be individuals who are licensed to practice in this state

a profession which the corporation is authorized to practice. ~~No person who is not licensed shall have any authority or duties in the management or control of the corporation. If any director or any officer ceases to have this qualification, the director or officer shall immediately and automatically cease to hold the directorship or office. However, upon the occurrence of any event that requires the corporation either to be dissolved or to elect to adopt the provisions of the Iowa business corporation Act, as provided in section 496C.19, provided the corporation ceases to practice the profession that the corporation is authorized to practice, as provided in section 496C.19, then individuals who are not licensed to practice in this state a profession that the corporation is authorized to practice may be appointed as officers and directors for the sole purpose of carrying out the dissolution of the corporation or, if applicable, the voluntary election of the corporation to adopt the provisions of the Iowa business corporation Act, as provided in section 496C.19.~~

Sec. 10. Section 496C.19, Code 2003, is amended to read as follows:

496C.19 DISSOLUTION OR LIQUIDATION.

Violation of any provision of this chapter by a professional corporation or any of its shareholders, directors, or officers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court, as provided in the Iowa business corporation Act, chapter 490. Upon the death of the last remaining shareholder of a professional corporation, or whenever the last remaining shareholder is not licensed or ceases to be licensed to practice in this state a profession which the corporation is authorized to practice, or whenever any person other than the shareholder of record becomes entitled to have all shares of the last remaining shareholder of the corporation transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such shares, the corporation shall not practice any profession and it shall either be promptly dissolved or shall promptly elect to adopt the provisions of the Iowa business corporation Act, as provided in section 490.1701, subsection 2. However, if prior to such dissolution all outstanding shares of the corporation are acquired by one or more persons licensed to practice in this state a profession which the corporation is authorized to practice, the corporation need not be dissolved and may practice the profession as provided in this chapter.

Sec. 11. Section 497.33, Code 2003, is amended to read as follows:

497.33 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the corporation is not liable on the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon ~~an act or omission of the person performed any action taken, or any failure to take action~~ in the discharge of the person's duties, ~~except for a breach of the duty of loyalty to the corporation, for acts or omissions not in good faith or which involve the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm on the association or its members, or an intentional misconduct or knowing violation of the criminal law, or for a transaction from which the person derives an improper personal benefit.~~

Sec. 12. Section 498.35, Code 2003, is amended to read as follows:

498.35 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the association's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon ~~an act or omission of the person performed any action taken, or any failure to take action~~ in the discharge of the person's duties, ~~except for a breach of the duty of loyalty to the association, for acts or omissions not in good faith or which involve the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm on the association or its members, or an intentional misconduct or knowing violation of the criminal law, or for a transaction from which the person derives an improper personal benefit.~~

Sec. 13. Section 499.37, Code 2003, is amended to read as follows:

499.37 OFFICERS AND EMPLOYEES.

1. The board of directors of the association shall select from their own number a president, one or more vice presidents, a secretary-treasurer or a secretary and a treasurer the association's officers as provided in its articles of incorporation or bylaws, and shall fill vacancies in such offices. The articles of incorporation or bylaws shall delegate to an officer the responsibility for all of the following:

a. Preparing minutes of meetings of the directors and the shareholders.

b. Authenticating the association's records.

2. Unless the association's articles of incorporation or bylaws otherwise provide, said the association's officers shall be chosen serve for annual terms beginning at the close of the first regular meeting of members in each year.

~~The directors shall also choose and may remove such other officers and employees as they deem proper, or as the articles or bylaws may prescribe.~~

Sec. 14. Section 499.59, Code 2003, is amended to read as follows:

499.59 PERSONAL LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the association's debts or obligations, and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon ~~an act or omission of the person performed~~ any action taken, or any failure to take action in the discharge of the person's duties, except for a ~~breach of the duty of loyalty to the association, for acts or omissions not in good faith or which involve~~ the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm on the association or its members, or an intentional misconduct or knowing violation of the criminal law, or for a transaction from which the person derives an improper personal benefit.

Sec. 15. Section 501.407, Code 2003, is amended to read as follows:

501.407 PERSONAL LIABILITY — INDEMNIFICATION.

1. The articles may contain a provision eliminating or limiting the personal liability of a director, officer, or interest holder of the cooperative for monetary money damages for breach of a fiduciary duty any action taken, or any failure to take action as a director, officer, or interest holder, provided that the provision does not eliminate or limit except liability for any of the following:

1. a. A breach of the duty of loyalty to the cooperative or its interest holders An intentional infliction of harm on the cooperative or its members.

2. b. An act or omission not in good faith or which involves intentional misconduct or a knowing An intentional violation of criminal law.

3. c. A transaction from which the director, officer, or interest holder derives an improper personal benefit The amount of a financial benefit received by the person to which the person is not entitled.

4. d. An act or omission occurring prior to the date when the provision in the articles becomes effective.

2. The articles may contain a provision permitting or making obligatory indemnification of a director or officer for liability, as defined in section 501.411, to any person for any action taken, or any failure to take any action, as a director or officer, except liability for any of the following:

a. Receipt of a financial benefit to which the person is not entitled.

b. An intentional infliction of harm on the corporation or its shareholders.

c. An intentional violation of criminal law.

Sec. 16. Section 501.411, Code 2003, is amended to read as follows:

501.411 DEFINITIONS.

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

1. "Cooperative" includes any domestic or foreign predecessor entity of a cooperative in a

merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

2. "Director" or "officer" means an individual who is or was a director or officer, respectively, of a cooperative or an individual who, while a director or officer of a the cooperative, is or was serving at the cooperative's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic or foreign cooperative, corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise entity. A director or officer is considered to be serving an employee benefit plan at the cooperative's request if the director's or officer's duties to the cooperative also impose duties on, or otherwise involve services by, that director or officer to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

3. "Disinterested director" means a director who at the time of a vote referred to in section 501.414, subsection 3, or a vote or selection referred to in section 501.416, subsection 2 or 3, is not either of the following:

a. A party to the proceeding.

b. An individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

3. 4. "Expenses" includes counsel fees.

4. 5. "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

5. 6. "Official capacity" means:

a. When used with respect to a director, the office of director in a cooperative.

b. When used with respect to an individual other than a director officer, as contemplated in section 501.417, the office in a cooperative held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the cooperative.

"Official capacity" does not include service for any other foreign or domestic or foreign cooperative or any corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise entity.

6. 7. "Party" includes means an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

7. 8. "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

Sec. 17. Section 501.412, Code 2003, is amended to read as follows:

501.412 ~~AUTHORITY TO INDEMNIFY~~ PERMISSIBLE INDEMNIFICATION.

1. Except as otherwise provided in subsection 4 this section, a cooperative may indemnify an individual made who is a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if all either of the following apply:

a. All of the following apply:

a. (1) The individual acted in good faith.

b. (2) The individual reasonably believed either of the following:

(1) (a) In the case of conduct in the individual's official capacity with the cooperative, that the individual's conduct was in the cooperative's best interests of the cooperative.

(2) (b) In all other cases, that the individual's conduct was at least not opposed to the cooperative's best interests of the cooperative.

e. (3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

b. The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of organization as authorized by section 501.407, subsection 2.

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection 1, paragraph "b" ~~"a"~~, subparagraph (2), subparagraph subdivision (b).

3. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

4. ~~A~~ Unless ordered by a court pursuant to section 501.415, subsection 1, paragraph "c", a cooperative shall not indemnify a director ~~under this section~~ in either of the following circumstances:

a. In connection with a proceeding by or in the right of the cooperative, ~~in which the director was adjudged liable to the cooperative except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1, paragraph "a"~~.

b. In connection with any ~~other~~ proceeding ~~charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in with respect to conduct for which the director was adjudged liable on the basis that personal the director received a financial benefit was improperly received by the director to which the director was not entitled, whether or not involving action in the director's official capacity.~~

5. ~~Indemnification permitted under this section in connection with a proceeding by or in the right of the cooperative is limited to reasonable expenses incurred in connection with the proceeding.~~

Sec. 18. Section 501.413, Code 2003, is amended to read as follows:

501.413 MANDATORY INDEMNIFICATION.

~~Unless limited by its articles of association, a~~ A cooperative shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the cooperative ~~against reasonable expenses incurred by the director in connection with the proceeding.~~

Sec. 19. Section 501.414, Code 2003, is amended to read as follows:

501.414 ADVANCE FOR EXPENSES.

1. A cooperative may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding because the person is a director if any of the person delivers all of the following applies to the cooperative:

a. ~~The director furnishes the cooperative a~~ A written affirmation of the director's good faith belief that either the director has met the relevant standard of conduct described in section 501.412 or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of organization as authorized by section 501.407, subsection 1.

b. ~~The director furnishes the cooperative a~~ director's written undertaking, ~~executed personally or on the director's behalf, to repay the advance if any funds advanced if the director is not entitled to mandatory indemnification under section 501.413 and it is ultimately determined that the director did not meet the~~ has not met the relevant standard of conduct described in section 501.412.

c. ~~A determination is made pursuant to section 501.416 that the facts then known to those making the determination would not preclude indemnification under this part.~~

2. The undertaking required by subsection 1, paragraph "b", must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. ~~Determinations and authorizations of payments~~ Authorizations under this section shall be made ~~in the manner specified in section 501.416, according to either of the following:~~

a. By the board of directors, according to one of the following:

(1) If there are two or more disinterested directors, by a majority vote of all the disinterested

directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote.

(2) If there are fewer than two disinterested directors, if a quorum is present when the vote is taken, by the affirmative vote of a majority of the directors present, unless the articles or bylaws require the vote of a greater number of directors, in which authorization directors who do not qualify as disinterested directors may participate.

b. By the members, but voting interests owned by or voted under the control of a director who at the time does not qualify as a disinterested director shall not be voted on the authorization.

Sec. 20. Section 501.415, Code 2003, is amended to read as follows:

501.415 COURT-ORDERED INDEMNIFICATION.

1. Unless a cooperative's articles of association provide otherwise, a director of the cooperative who is a party to a proceeding because the person is a director may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction for indemnification or an advance for expenses. On After receipt of an application, the court and after giving any notice the court considers necessary may order, the court shall proceed according to the following:

a. Order indemnification if it the court determines either of the following: that the

1. The director is entitled to mandatory indemnification under section 501.413, in which case the court shall also order the cooperative to pay the director's reasonable expenses incurred to obtain court-ordered indemnification.

2. The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in section 501.412 or was adjudged liable as described in section 501.412, subsection 4, but if the director was adjudged so liable the director's indemnification is limited to reasonable expenses incurred.

b. Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 501.419, subsection 1.

c. Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to do one of the following:

(1) To indemnify the director.

(2) To advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in section 501.412, subsection 1, failed to comply with section 501.414, or was adjudged liable in a proceeding referred to in subsection 501.412, subsection 4, paragraph "a" or "b", but if the director was adjudged so liable the director's indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

2. If the court determines that the director is entitled to indemnification under subsection 1, paragraph "a", or to indemnification or advance for expenses under subsection 1, paragraph "b", the court shall also order the cooperative to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection 1, paragraph "c", the court may also order the cooperative to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

Sec. 21. Section 501.416, Code 2003, is amended to read as follows:

501.416 DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION.

1. A cooperative shall not indemnify a director under section 501.412 unless authorized in the for a specific case proceeding after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the relevant standard of conduct set forth in section 501.412.

2. The determination shall be made by any one of the following:

a. By the board of directors by majority vote of a quorum consisting of directors not at the

~~time parties to the proceeding If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote.~~

~~b. If a quorum cannot be obtained under paragraph "a", by majority vote of a committee duly designated by the board of directors, in which designation directors who are parties may participate, consisting solely of two or more directors not at the time parties to the proceeding.~~

~~e. b. By special legal counsel.~~

~~(1) The special legal counsel shall be selected by the board of directors or its committee in the manner ~~prescribed~~ described in paragraph "a" ~~or "b".~~~~

~~(2) If a quorum of the board of there are fewer than two disinterested directors cannot be obtained under paragraph "a" and a committee cannot be designated under paragraph "b", the special legal counsel shall be selected by majority vote of the full board of directors, in which selection directors who are parties do not qualify as disinterested directors may participate.~~

~~d. c. By the members, but voting interests owned by or voted under the control of directors a director who are at the time parties to the proceeding does not qualify as a disinterested director shall not be voted on the determination.~~

~~3. Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection 2, paragraph "e" "b", to select special legal counsel.~~

Sec. 22. Section 501.417, Code 2003, is amended to read as follows:

501.417 INDEMNIFICATION OF OFFICERS, EMPLOYEES, AND AGENTS.

Unless a cooperative's articles of association provide otherwise, all of the following apply:

~~1. An officer of the cooperative who is not a director is entitled to mandatory indemnification under section 501.413, and is entitled to apply for court-ordered indemnification under section 501.415, in each case to the same extent as a director.~~

~~2. 1. The A cooperative may indemnify and advance expenses under this part to an officer, employee, or agent of the cooperative who is not a director to a party to the proceeding because the person is an officer, according to both of the following:~~

~~a. To the same extent as to a director.~~

~~3. b. A cooperative may also indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent consistent with law that If the person is an officer but not a director, to such further extent as may be provided by its the articles of association, the bylaws, general or specific action a resolution of its the board of directors, or contract, except for either of the following:~~

~~(1) Liability in connection with a proceeding by or in the right of the cooperative other than for reasonable expenses incurred in connection with the proceeding.~~

~~(2) Liability arising out of conduct that constitutes any of the following:~~

~~(a) Receipt by the officer of a financial benefit to which the officer is not entitled.~~

~~(b) An intentional infliction of harm on the cooperative or the interest holders.~~

~~(c) An intentional violation of criminal law.~~

~~2. The provisions of subsection 1, paragraph "b", shall apply to an officer who is also a director if the basis on which the officer is made a party to a proceeding is an act or omission solely as an officer.~~

~~3. An officer of a cooperative who is not a director is entitled to mandatory indemnification under section 501.413, and may apply to a court under section 501.415 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or an advance for expenses under those provisions.~~

Sec. 23. Section 501.418, Code 2003, is amended to read as follows:
501.418 INSURANCE.

A cooperative may purchase and maintain insurance on behalf of an individual who is ~~or was~~ a director, ~~or officer, employee, or agent~~ of the cooperative, or who, while a director, ~~or officer, employee, or agent~~ of the cooperative, ~~is or was serving~~ serves at the request of the cooperative cooperative's request as a director, officer, partner, trustee, employee, or agent of another ~~foreign or domestic or foreign~~ cooperative, corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise entity, against liability asserted against or incurred by that individual in that capacity or arising from the individual's status as a director, ~~or officer, employee, or agent~~, whether or not the cooperative would have power to indemnify or advance expenses to that individual against the same liability under ~~section 501.412 or 501.413~~ this part.

Sec. 24. Section 501.419, Code 2003, is amended to read as follows:
501.419 VARIATION BY CORPORATE ACTION — APPLICATION OF THIS PART.

~~Except as limited in section 501.412, subsection 4, paragraph "a", and subsection 5 with respect to proceedings by or in the right of the cooperative, the indemnification and advancement of expenses provided by, or granted pursuant to, sections 501.411 through 501.418 are not exclusive of any other rights to which persons seeking indemnification or advancement of expenses are entitled under a provision in the articles of association or bylaws, agreements, vote of the members or disinterested directors, or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding the office. However, such provisions, agreements, votes, or other actions shall not provide indemnification for a breach of a director's duty of loyalty to the cooperative or its interest holders, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person seeking indemnification derives an improper personal benefit.~~

1. A cooperative may, by a provision in its articles of organization or bylaws or in a resolution adopted or a contract approved by its board of directors or members, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 501.412 or advance funds to pay for or reimburse expenses in accordance with section 501.414. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 501.414, subsection 3, and in section 501.416, subsection 3. Any such provision that obligates the cooperative to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the cooperative to advance funds to pay for or reimburse expenses in accordance with section 501.414 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

2. Any provision pursuant to subsection 1 shall not obligate the cooperative to indemnify or advance expenses to a director of a predecessor of the cooperative, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of organization, bylaws, or a resolution of the board of directors or members of a predecessor of the cooperative in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 501.618, subsection 3.

3. A cooperative may, by a provision in its articles of organization, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

4. This part does not limit a cooperative's power to pay or reimburse expenses incurred by a director or an officer in connection with the director's or officer's appearance as a witness in a proceeding at a time when the director or officer is not a party.

5. This part does not limit a cooperative's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

Sec. 25. NEW SECTION. 501.420 EXCLUSIVITY.

A cooperative may provide indemnification or advance expenses to a director or an officer only as permitted by this chapter.

Approved April 25, 2003

CHAPTER 67

CERTIFIED LAW ENFORCEMENT OFFICER TRAINING — APPLICANTS

S.F. 352

AN ACT relating to the training of an individual who intends to become certified as a law enforcement officer.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 80B.11D TRAINING.

1. An individual who is not a certified law enforcement officer may apply for attendance at a short course of study at an approved law enforcement training program if such individual is sponsored by a law enforcement agency. Such individual may be sponsored by a law enforcement agency that either intends to hire or has hired the individual as a law enforcement officer.

2. An individual who submits an application pursuant to subsection 1 shall, at a minimum, meet all minimum hiring standards as established by academy rules, including the successful completion of certain psychological and physical testing examinations. In addition, such individual shall be of good moral character as determined by a thorough background investigation by the hiring law enforcement agency. The academy shall conduct the requisite testing and background investigation for a fee if the law enforcement agency does not do so, and for such purposes, the academy shall be defined as a law enforcement agency and shall have the authority to conduct a background investigation including a fingerprint search of local, state, and national fingerprint files.

3. An individual who submits an application pursuant to subsection 1 shall, at a minimum, submit proof of successful completion of a two-year or four-year police science or criminal justice program at an accredited educational institution in this state approved by the academy.

4. An individual shall not be granted permission to attend an approved law enforcement training program pursuant to subsection 1 if such acceptance would result in the nonacceptance of another qualifying applicant who is a law enforcement officer.

5. This section applies only to individuals who apply for certification through a short course of study as established by rule.

6. An individual who has not been hired by a law enforcement agency must be hired by a law enforcement agency within eighteen months of completing the short course of study in order to obtain certification pursuant to this section.

Approved April 25, 2003

CHAPTER 68

CIVIL COMMITMENT — EMERGENCY PROCEDURES

S.F. 361

AN ACT relating to emergency procedures for the temporary detention and treatment of persons who are incapacitated or impaired due to substance abuse or mental health problems.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 125.91, subsection 2, Code 2003, is amended to read as follows:

2. a. A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable, may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2 or 3. Such an intoxicated or incapacitated person may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the ~~chief medical officer~~ examining physician may order treatment of the person, but only to the extent necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the ~~administrator~~ examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the ~~administrator in consultation with the chief medical officer~~ examining physician has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the ~~administrator~~ examining physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall ~~immediately proceed to the facility where the person is detained, except that if the administrator's communication with the magistrate occurs between the hours of midnight and seven a.m. and the magistrate deems it appropriate under the circumstances described by the administrator,~~ the magistrate may delay going to the facility, and in that case, shall, based upon the circumstances described by the examining physician, give the administrator ~~examining physician~~ verbal oral instructions either directing that the person be released forthwith, or authorizing the person's continued detention at the ~~in an appropriate facility.~~ The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. In the latter case, the magistrate shall:

a. ~~Arrive at the facility where the person is being detained as soon as possible and no later than twelve o'clock noon of the same day on which the administrator's communication occurred.~~

b. ~~By the close of business on the next working day file with the clerk a written report stating the substance of the communication with the administrator on which the person's continued detention was ordered. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a chronic substance abuser likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.~~

Sec. 2. Section 125.91, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 3. Section 229.22, subsection 2, Code 2003, is amended to read as follows:

2. In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section 229.11, subsections 2 and 3. A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the hospital, the ~~chief medical officer~~ examining physician may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the hospital, shall describe the circumstances of the matter to the ~~chief medical officer~~ examining physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the ~~chief medical officer~~ examining physician finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure the person's self or others if not immediately detained, the ~~chief medical officer~~ examining physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the ~~chief medical officer~~ examining physician, give the ~~chief medical officer~~ examining physician ~~verbal oral~~ instructions either directing that the person be released forthwith or authorizing the person's ~~continued~~ detention at that in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility. ~~In the latter case, the magistrate shall:~~

a. ~~By the close of business on the next working day, file with the clerk a written report stating the substance of the information on the basis of which the person's continued detention was ordered; and~~

b. ~~Proceed to the facility where the person is being detained within twenty-four hours of giving instructions that the person be detained. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 229.6. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility, and the grounds supporting the finding of probable cause to believe that the person is seriously mentally impaired and likely to injure the person's self or others if not immediately detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the chief medical officer of the facility to which the person was originally taken, to any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.~~

Sec. 4. Section 229.22, subsection 3, Code 2003, is amended by striking the subsection.

Approved April 25, 2003

CHAPTER 69

REGULATION OF AGRICULTURAL PRODUCTS — GRAIN DEALER AND BARGAINING AGENTS — WAREHOUSES

S.F. 394

AN ACT relating to the regulation of the grain industry, and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

REGULATION OF GRAIN DEALER AND WAREHOUSE OPERATIONS

Section 1. Section 203.1, Code 2003, is amended by adding the following new subsections:
NEW SUBSECTION. 1A. “Check” means a paper instrument used for ordering, instructing, or authorizing a financial institution to make payment or credit a presenter’s account and debit the issuer’s account. “Check” includes instruments commonly referred to as a check, draft, share draft, or other negotiable instrument for the payment of money. An instrument may be a check even though it is described on its face by another term, such as “money order”.

NEW SUBSECTION. 4A. “Electronic funds transfer” means a remote electronic transmission used for ordering, instructing, or authorizing a financial institution to pay money to or credit the account of the payee and debit the account of the payer. The remote electronic transmission may be initiated by telephone, terminal, computer, or similar device.

NEW SUBSECTION. 8A. “Person” means the same as defined in section 4.1 and includes a business association as defined in section 9H.1 or joint or common venture regardless of whether it is organized under a chapter of the Code.

Sec. 2. Section 203.1, subsection 6, paragraph a, Code 2003, is amended to read as follows:
a. ~~The making of a payment by use of a financial instrument which is a check, share draft, draft, or written order on a financial institution or electronic funds transfer, and a financial institution refuses payment on the instrument because of insufficient funds~~ moneys in a grain dealer’s account.

Sec. 3. Section 203.4, Code 2003, is amended to read as follows:
203.4 PARTICIPATION IN INDEMNITY FUND REQUIRED.
~~A person grain dealer licensed or required to be licensed to operate as a grain dealer under this chapter pursuant to section 203.3 shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 203D.~~

Sec. 4. Section 203.8, Code 2003, is amended to read as follows:
203.8 PAYMENT.
1. a. ~~A person grain dealer licensed or required to be licensed as a grain dealer pursuant to section 203.3 shall pay the purchase price to the owner or the owner’s agent seller for grain upon delivery or demand of by the owner or agent seller, but not later than thirty days after delivery by the owner or agent seller unless in accordance with the terms of a credit-sale contract that satisfies the requirements of this chapter. The department shall adopt rules for payment by check and electronic funds transfer.~~
b. ~~A grain dealer licensed or required to be licensed pursuant to section 203.3 shall not hold a check for the purchase of grain more than five days after the grain dealer issues a check to the seller. After that date, the grain dealer shall deliver the check in person or by mail to the seller’s last known address.~~
2. As used in this section, “delivery”:
a. “Delivery” means the transfer of title to and possession of grain by ~~the a~~ seller to ~~the a~~ grain dealer or to another person in accordance with the agreement of the seller and the grain dealer; ~~and “payment”.~~

b. "Payment" means the actual payment or tender of payment by the a grain dealer to the a seller of the agreed purchase price, or in the case of disputes as to sales of grain, the undisputed portion of the purchase price without reduction for any separate claim of the grain dealer against the seller.

Sec. 5. Section 203.9, Code 2003, is amended to read as follows:

203.9 INSPECTION OF PREMISES, BOOKS AND RECORDS — RECONSTRUCTION OF RECORDS.

1. The department may inspect the premises used by any grain dealer in the conduct of the dealer's business at any time, and the. The department may inspect a grain dealer's books, accounts, records, and papers of every grain dealer which that pertain to grain purchases are subject to inspection by the department transactions during ordinary business hours. The department shall cause the business premises and books, accounts, inspect a grain dealer's records, and papers of every grain dealer to be inspected at least once each eighteen-month period without justification. The department shall prioritize inspections based on the system provided in section 203.22. The department may use a risk rating produced by a statistical model provided in section 203.22 as justification to conduct an inspection. The A transporter of grain in transit shall possess bills of lading or other documents covering the grain, and shall present them to any law enforcement officer or to a person designated as an enforcement officer under section 203.13 on demand. If there is justification to believe that a person grain dealer is engaged without a license in the business of a grain dealer in this state as required pursuant to section 203.3, the department may inspect the books, papers, and grain dealer's records of the person which pertain to grain purchases transactions at any time.

2. If the a grain dealer does not maintain a place of business in this state, the department is not required to inspect the business premises of the grain dealer, and the grain dealer's records. A grain dealer shall submit all books, the grain dealer's records and papers relating to grain transactions occurring within this state to the department for purposes of an inspection required or permitted under as provided in this section at any reasonable time and place, including the offices of the department during regular business hours, as ordered by the department or the administrator of the warehouse bureau.

3. A grain dealer shall keep complete and accurate records. A grain dealer shall keep records for the previous six years. If the grain dealer's records are incomplete or inaccurate, the department may reconstruct the grain dealer's records in order to determine whether the grain dealer is in compliance with the provisions of this chapter. The department may charge the grain dealer the actual cost for reconstructing the grain dealer's records, which shall be considered repayment receipts as defined in section 8.2.

Sec. 6. Section 203.10, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

203.10 SUSPENSION OR REVOCATION OF LICENSE.

The department may issue an order to suspend or revoke the license of a grain dealer who violates a provision of this chapter, including a rule adopted under this chapter, as provided in chapter 17A. If a grain dealer fails to consent to a departmental inspection or cooperate with the department during an inspection as provided in section 203.9, the department may issue an order to immediately suspend or revoke the grain dealer's license pursuant to section 17A.18.

Sec. 7. Section 203.11, subsection 2, Code 2003, is amended to read as follows:

2. a. A Except as provided in paragraph "b", a person who engages commits a serious misdemeanor if the person does any of the following:

(1) Engages in business as a grain dealer without obtaining a license, or who refuses to permit as required in section 203.3.

(2) Obstructs an inspection of licensed the person's business premises, or books, accounts,

~~or records, or other documents required to be kept by this chapter, or who uses a grain dealer pursuant to section 203.9.~~

~~(3) Uses a scale ticket, or credit-sale contract that fails to satisfy requirements established by the department commits a serious misdemeanor, except that a in violation of this chapter or a requirement established by the department under this chapter.~~

~~b. A person who commits any of these offenses an offense specified in paragraph "a" after having been found guilty of the same offense commits an aggravated misdemeanor.~~

Sec. 8. Section 203.15, subsections 1 through 4, Code 2003, are amended to read as follows:

1. A grain dealer shall not purchase grain by a credit-sale contract except as provided in this section.

~~1. The grain dealer shall be licensed pursuant to section 203.3. All of the following shall apply to a grain dealer required to be licensed under that section who purchases grain by credit-sale contract:~~

~~2. a. A The grain dealer shall give written notice to the department prior to engaging in the purchase of grain by credit-sale contracts contract. Notice shall be on forms provided by the department. The notice shall contain information required by the department.~~

~~3. b. All credit-sale contract forms in the possession of a the grain dealer shall have been permanently and consecutively numbered at the time of printing of the forms. A The grain dealer shall maintain an accurate record of all credit-sale contract forms and numbers obtained by that dealer. The record shall include the disposition of each numbered form, whether by execution, destruction, or otherwise.~~

~~4. c. A The grain dealer who purchases grain by credit-sale contracts contract shall maintain books, records, and other documents as required by the department to establish in compliance with this section.~~

Sec. 9. Section 203.15, subsection 6, Code 2003, is amended to read as follows:

6. Title to all grain sold by a credit-sale contract is in the purchasing grain dealer as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed and dated by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a the grain dealer dealer's license, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty days after the effective date of the revocation, termination, or cancellation, and the purchase price for all unpriced grain shall be determined as of the effective date of revocation, termination, or cancellation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, credit-sale contracts may be assigned to the purchaser of the business.

Sec. 10. Section 203.15, subsection 8, paragraph f, Code 2003, is amended to read as follows:

~~f. The grain dealer has made payment by use of a financial instrument which is a check, share draft, draft, or written order on a financial institution or electronic funds transfer, and a financial institution refuses payment on the instrument because of insufficient funds in a grain dealer's account.~~

Sec. 11. Section 203.15, subsection 9, Code 2003, is amended to read as follows:

9. A licensed grain dealer who purchases grain by credit-sale contract shall obtain from the seller a signed acknowledgment stating that the seller has received notice that grain purchased by credit-sale contract is not protected by the grain depositors and sellers indemnity fund. The form for the acknowledgment shall be prescribed by the department, and the licensed grain dealer and the seller shall each be provided a copy.

Sec. 12. Section 203.17, subsection 2, Code 2003, is amended by striking the subsection.

Sec. 13. Section 203C.1, subsection 2, Code 2003, is amended to read as follows:

2. "Bond" means a bond issued by a surety company or an irrevocable letter of credit issued by a financial institution ~~described in subsection 25.~~

Sec. 14. Section 203C.1, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Check" means the same as defined in section 203.1.

NEW SUBSECTION. 6A. "Electronic funds transfer" means the same as defined in section 203.1.

Sec. 15. Section 203C.1, subsection 7A, paragraph a, Code 2003, is amended to read as follows:

a. The making of a payment by use of a ~~financial instrument which is a check, share draft, draft, or written order on a financial institution~~ or electronic funds transfer, and a financial institution refuses payment ~~on the instrument~~ because of insufficient funds in the warehouse operator's account.

Sec. 16. Section 203C.1, subsection 18, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

18. "Person" means the same as defined in section 4.1 and includes a business association as defined in section 9H.1 or a joint or common venture regardless of whether it is organized under a chapter of the Code.

Sec. 17. Section 203C.2, Code 2003, is amended to read as follows:

203C.2 DUTIES AND POWERS OF THE DEPARTMENT — OPERATOR RECORDKEEPING.

1. The department shall administer this chapter and may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products.

2. The department may inspect or cause to be inspected any warehouse including warehouse records as provided in this section. Inspections may be made at times and for purposes as the department determines. Except as provided in section 203C.6, the department shall ~~cause inspect every licensed warehouse and its contents to be inspected once in every twelve-month period twelve months.~~ The department shall prioritize inspections based on the system provided in section 203C.40. The department may require the filing of reports relating to a warehouse or its operation.

a. A licensed warehouse operator operating a licensed warehouse shall provide for complete and correct recordkeeping. The records shall account for the storage and withdrawal of all agricultural products handled in each warehouse which the warehouse operator is licensed to operate. The records shall include all original and duplicate receipts issued by, returned to, and canceled by the warehouse operator. A licensed warehouse operator shall keep records for the previous six years. If the licensed warehouse operator's records are incomplete or inaccurate, the department may reconstruct the warehouse operator's records in order to determine whether the warehouse operator is in compliance with the provisions of this chapter. The department may charge the licensed warehouse operator the actual cost for reconstructing the warehouse operator's records.

b. If upon inspection of a warehouse a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouse operator's books and records according to official grain standards, the department may require an employee of the department to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the department at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day.

3. The department may make available to the United States government, or any of its

agencies, including the commodity credit corporation, the results of inspections made and inspection reports submitted to it by employees of the department, upon payment to it of charges as determined by the department, but the charges shall not be less than the actual cost of services rendered, as determined by the department. The department may enter into contracts and agreements for such purpose and shall keep a record of all money thus received. ~~All such money shall be paid over to the treasurer of state as miscellaneous receipts.~~

4. The department may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of a warehouse the only type or types and the quantity of agricultural products which may be stored in the warehouse. The department may prescribe, within the limitations of this chapter, the duties of licensed warehouse operators with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The department may from time to time publish data in connection with the administration of this chapter as may be of public interest. ~~The department shall administer this chapter.~~

5. ~~Moneys received by the department in administering this section shall be considered repayment receipts as defined in section 8.2.~~

Sec. 18. Section 203C.10, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

203C.10 SUSPENSION OR REVOCATION OF LICENSE.

The department may issue an order to suspend or revoke the license of a warehouse operator who violates a provision of this chapter, including a rule adopted under this chapter, as provided in chapter 17A. If a warehouse operator fails to consent to a departmental inspection during an inspection as provided in section 203C.2, the department may issue an order to immediately suspend or revoke the grain dealer's license pursuant to section 17A.18.

Sec. 19. Section 203C.36, subsections 1 and 2, Code 2003, are amended to read as follows:

1. A person who knowingly withholds information from or knowingly submits false information to the department or any of its employees in a ~~document or a book, account, or record~~ required to be ~~submitted or maintained or submitted to the department~~ under this chapter commits a fraudulent practice as provided in chapter 714.

2. ~~a. Except as provided in paragraph "b", a person who engages commits a serious misdemeanor if the person does any of the following:~~

~~(1) Engages in business as a warehouse operator without obtaining a license, or who refuses to permit as required in section 203C.6.~~

~~(2) Obstructs the inspection of licensed the person's business premises, or books, accounts, or records or other documents required to be kept by this chapter, or who uses a licensed warehouse operator pursuant to section 203C.2.~~

~~(3) Uses a scale ticket, warehouse receipt, or other document which fails to satisfy requirements established by the department commits a serious misdemeanor, except that a in violation of this chapter or requirements established by the department under this chapter.~~

~~b. A person who commits any of these offenses an offense specified in paragraph "a" after having been found guilty of the same offense commits an aggravated misdemeanor.~~

Sec. 20. Section 203C.39, subsection 3, Code 2003, is amended to read as follows:

3. A licensed warehouse operator ~~shall not accept~~ may transfer grain for storage ~~from to~~ another licensed warehouse operator while ~~such~~ the warehouse operator receiving such grain has grain stored elsewhere under the provisions of this section.

Sec. 21. Section 203.13, Code 2003, is repealed.

Sec. 22. Section 203C.35, Code 2003, is repealed.

DIVISION II
ELIMINATION OF REGULATIONS FOR GRAIN BARGAINING AGENTS

Sec. 23. Section 159.6, subsection 12, Code 2003, is amended by striking the subsection.

Sec. 24. Section 189.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

For the purpose of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, unless the context otherwise requires:

Sec. 25. Section 189.1, subsections 1 and 6, Code 2003, are amended to read as follows:

1. "Article" includes food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, paint, linseed oil, turpentine, and illuminating oil, in the sense in which they are defined in the various provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

6. "Person" includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

Sec. 26. Section 189.2, subsections 2 through 4, Code 2003, are amended to read as follows:

2. Make and publish all necessary rules, not inconsistent with law, for enforcing the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

3. Provide educational measures and exhibits, and conduct educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, in accordance with the rules adopted pursuant to this subtitle.

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208. These bulletins shall be printed in such numbers as may be approved by the state printing administrator and shall be distributed to the newspapers of the state and to all interested persons.

Sec. 27. Section 189.3, Code 2003, is amended to read as follows:

189.3 PROCURING SAMPLES.

The department shall, for the purpose of examination or analysis, procure from time to time, or whenever the department has occasion to believe any of the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, are being violated, samples of the articles dealt with in these provisions which have been shipped into this state, offered or exposed for sale, or sold in the state.

Sec. 28. Section 189.4, Code 2003, is amended to read as follows:

189.4 ACCESS TO FACTORIES AND BUILDINGS.

The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

Sec. 29. Section 189.5, Code 2003, is amended to read as follows:

189.5 DEALER TO FURNISH SAMPLES.

Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department.

Sec. 30. Section 189.6, Code 2003, is amended to read as follows:
189.6 TAKING OF SAMPLES.

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, in order to secure a sample for analysis or examination, and the sample and damage to container shall be paid for at the current market price out of the contingent fund of the department.

Sec. 31. Section 189.8, Code 2003, is amended to read as follows:
189.8 WITNESSES.

In the enforcement of the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, the department shall have power to issue subpoenas for witnesses, enforce their attendance, and examine them under oath. The witnesses shall be allowed the same fees as witnesses in district court. The fees shall be paid out of the contingent fund of the department.

Sec. 32. Section 189.9, unnumbered paragraph 1, Code 2003, is amended to read as follows:

All articles in package or wrapped form which are required by this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of not less than eight point heavy gothic caps on the principal label with the following items:

Sec. 33. Section 189.13, Code 2003, is amended to read as follows:
189.13 FALSE LABELS — DEFAACEMENT.

A person shall not use any label required by this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

Sec. 34. Section 189.14, subsection 1, Code 2003, is amended to read as follows:

1. A person shall not knowingly introduce into this state, solicit orders for, deliver, transport, or have in possession with intent to sell, any article which is labeled in any other manner than that prescribed by this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, for the label of the article when offered or exposed for sale, or sold in package or wrapped form in this state.

Sec. 35. Section 189.15, Code 2003, is amended to read as follows:
189.15 ADULTERATED ARTICLES.

A person shall not knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208.

Sec. 36. Section 189.16, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Grain by a person regulated under chapter 203, ~~203A~~, 203C, or 203D.

Sec. 37. Section 189.19, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The following provisions apply to all licenses issued or authorized under this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208:

Sec. 38. Section 189.19, subsection 2, Code 2003, is amended to read as follows:

2. REFUSAL AND REVOCATION. For good and sufficient grounds the department may refuse to grant a license to any applicant; and it may revoke a license for a violation of any provision of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, or for the refusal or failure of any licensee to obey the lawful directions of the department.

Sec. 39. Section 189.20, Code 2003, is amended to read as follows:

189.20 INJUNCTION.

Any person engaging in any business for which a license is required by this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure.

Sec. 40. Section 189.21, Code 2003, is amended to read as follows:

189.21 PENALTY.

Unless otherwise provided, any person violating any provision of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, or any rule adopted by the department pursuant to such a provision, is guilty of a simple misdemeanor.

Sec. 41. Section 189.23, Code 2003, is amended to read as follows:

189.23 COMMON CARRIER.

The penalties provided in this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, shall not be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, when the same was received by the carrier for transportation in the ordinary course of its business and without actual knowledge of its true character.

Sec. 42. Section 189.24, Code 2003, is amended to read as follows:

189.24 REPORT OF VIOLATIONS.

When it appears that any of the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, have been violated, the department shall at once certify the facts to the proper county attorney, with a copy of the results of any analysis, examination, or inspection the department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of the department.

Sec. 43. Section 189.28, Code 2003, is amended to read as follows:

189.28 GOODS FOR SALE IN OTHER STATES.

Any person may keep articles specifically set apart in the person's stock for sale in other states which do not comply with the provisions of this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, as to standards, purity, or labeling.

Sec. 44. Section 189.29, Code 2003, is amended to read as follows:

189.29 REPORTS BY DEALERS.

Every person who deals in or manufactures any of the articles dealt with in this subtitle, excluding chapters 203, ~~203A~~, 203C, 203D, 207, and 208, shall make upon blanks furnished by the department such reports and furnish such statistics as may be required by the department and certify to the correctness of the same.

Sec. 45. Section 190.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

For the purpose of this subtitle, except chapters 192, 203, ~~203A~~, 203C, 203D, 207, and 208, the following definitions and standards of food are established:

Sec. 46. Section 203.1, subsection 8, paragraph h, Code 2003, is amended by striking the paragraph.

Sec. 47. Section 203.5, unnumbered paragraph 2, Code 2003, is amended to read as follows:

If an applicant has had a license under chapter 203, ~~203A~~, or 203C revoked for cause within the past three years, or has been convicted of a felony involving violations of chapter 203, ~~203A~~, or 203C, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.

Sec. 48. Section 203C.6, subsection 7, Code 2003, is amended to read as follows:

7. If an applicant has had a license under chapter 203, ~~203A~~ or 203C revoked for cause within the past three years, or has been convicted of a felony involving violations of chapter 203, ~~203A~~ or 203C, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.

Sec. 49. Section 669.14, subsection 11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any claim for financial loss based upon an act or omission in financial regulation, including but not limited to examinations, inspections, audits, or other financial oversight responsibilities, pursuant to chapters 87, 203, ~~203A~~, 203C, 203D, 421B, 486, 487, and 490 through 553, excluding chapters 540A, 542, 542B, 543B, 543C, 543D, 544A, and 544B.

Sec. 50. Chapter 203A, Code 2003, is repealed.

Approved April 25, 2003

CHAPTER 70

MESSAGE THERAPY — MODALITIES — LICENSING EXEMPTION

H.F. 204

AN ACT relating to massage therapy by providing for a study regarding the modalities associated with massage therapy and providing a temporary exemption from licensure requirements.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 152C.5A MESSAGE THERAPY MODALITIES STUDY.

The Iowa department of public health, with input from the board, shall conduct a study regarding the modalities associated with the practice of massage therapy. The study shall be conducted with the input of licensed massage therapists, reflexologists, and unlicensed persons practicing modalities related to massage therapy. The objective of the study shall be to determine which modalities shall be included under the definition of massage therapy and require licensure, and shall include, but not be limited to, a recommendation regarding the licensure of reflexologists. The study shall focus on the health, safety, and welfare of the public regarding each of the modalities reviewed. The department shall submit a report summarizing the results of the study and making recommendations regarding modality inclusion to the general assembly by January 15, 2004.

Sec. 2. NEW SECTION. 152C.7A TEMPORARY EXEMPTIONS.

An individual who is engaged exclusively in the practice of reflexology or an unlicensed individual who is practicing a modality related to massage therapy, and whose professional practice does not incorporate aspects that constitute massage therapy as defined in section 152C.1,

shall not be subject to the licensure provisions of this chapter for a one-year period beginning July 1, 2003, and ending June 30, 2004. Beginning July 1, 2004, an individual who is engaged exclusively in the practice of reflexology or an unlicensed individual who is practicing a modality related to massage therapy shall be subject to licensure pursuant to this chapter unless, based upon the recommendations contained in the massage therapy modalities study as provided in section 152C.5A, the practice of reflexology or an unlicensed individual who is practicing a modality related to massage therapy is permanently exempted from massage therapy licensure.

Approved April 25, 2003

CHAPTER 71

SMALL BUSINESS ASSISTANCE PROGRAMS

H.F. 390

AN ACT relating to economic development programs for targeted small businesses.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.108, subsection 7, paragraph i, Code 2003, is amended by striking the paragraph.

Sec. 2. Section 15.246, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The department shall establish and administer a case management program, contingent upon the availability of funds authorized for the program, and conducted in coordination with ~~the self-employment loan program and~~ other state or federal programs providing financial or technical assistance administered by the department. The case management program shall assist in furnishing information about available assistance to clients seeking to establish or expand small business ventures, furnishing information about available financial or technical assistance, evaluating small business venture proposals, completing viable business start-up or expansion plans, and completing applications for financial or technical assistance under the programs administered by the department. ~~As used in this section, "client" means a low-income person eligible for assistance under the self-employment loan program established in section 15.241.~~

Sec. 3. Section 15.247, subsection 2, Code 2003, is amended to read as follows:

2. A "targeted small business financial assistance program account" is established within the strategic investment fund created in section 15.313, to provide for loans, loan guarantees, revolving loans, loans secured by accounts receivable, or grants to targeted small businesses and to low-income persons establishing or expanding small business ventures. A targeted small business or low-income person in any year shall receive under this program not more than twenty-five fifty thousand dollars in a loan, ~~or grant, and not more than forty thousand dollars in a~~ or guarantee, or a combination of loans, grants, or guarantees. The program shall provide guarantees not to exceed seventy-five percent for loans made by qualified lenders. The department shall establish a financial assistance reserve account from funds allocated to the program account, from which any default on a guaranteed loan under this section shall be paid. In administering the program the department shall not guarantee loan values in excess

of the amount credited to the reserve account and only moneys set aside in the loan reserve account may be used for the payment of a default. The department shall maintain records of all financial assistance approved pursuant to this section and information regarding the effectiveness of the financial assistance in establishing or expanding small business ventures.

Sec. 4. Section 15.313, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. All unencumbered and unobligated funds from ~~the self-employment loan program~~, the targeted small business financial assistance program, the microenterprise development revolving fund, financing rural economic development or successor loan program, and the value-added agricultural products and processes financial assistance fund remaining on June 30, 1992, and all repayments of loans or other awards or recaptures of awards made under these programs.

Sec. 5. Section 15E.120, subsections 5 and 6, Code 2003, are amended to read as follows:

5. Loan repayments received by the Iowa department of economic development shall be deposited into a special account to be used at its discretion as matching funds to attract financial assistance from and to participate in programs with national rural development and finance corporations ~~or as provided in subsection 6~~. Funds in this special account shall not revert to the state general fund at the end of any fiscal year. If the programs for which the funds in the special account are to be used are terminated or expire, the funds in the special account and funds that would be repaid, if any, to the special account shall be transferred or repaid to the community economic betterment account of the strategic investment fund established in section 15.313.

~~6. If the Iowa department of economic development determines that sufficient funds exist in the special account provided in subsection 5 for the purposes provided in subsection 5, up to twenty-five percent of the loan repayments for the fiscal year received by the Iowa department of economic development may be deposited in the revolving loan fund to operate the self-employment loan program as both were established in section 15.241 under the department of economic development. Funds in this revolving loan fund shall not revert to the state general fund at the end of any fiscal year. Loan repayments from the self-employment loan program shall be deposited in the revolving loan fund. Deposits of funds under this subsection may occur for the fiscal years beginning July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989.~~

Sec. 6. Section 15.241, Code 2003, is repealed.

Approved April 25, 2003

CHAPTER 72

ECONOMIC GROWTH — STRATEGIC PLANNING

H.F. 392

AN ACT relating to economic growth strategic planning.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.104, subsections 1 and 2, Code 2003, are amended to read as follows:

1. Prepare a three-year comprehensive strategic plan of specific goals, objectives, ~~and policies, performance measures, and benchmarks~~ for state economic growth. All other state

agencies involved in economic development activities shall include economic growth in their mission statements and shall annually submit to the board for its review and potential inclusion in the strategic plan their specific strategic plans and programs for economic growth. The three-year strategic plan for state economic growth shall be updated annually.

2. Develop a method of evaluation of the attainment of goals and objectives from pursuing the policies of the three-year plan which shall include performance measures and benchmarks. The method of evaluation shall provide for a review of the organizational structure of the state's economic growth efforts.

Approved April 25, 2003

CHAPTER 73

SHELTER ASSISTANCE FUND — PURPOSES

H.F. 480

AN ACT relating to the shelter assistance fund.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.349, Code 2003, is amended to read as follows:
15.349 SHELTER ASSISTANCE FUND.

A shelter assistance fund is created as a revolving fund in the state treasury under the control of the department consisting of any moneys appropriated by the general assembly and received under section 428A.8 for purposes of the ~~construction~~, rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters. Of the moneys in the fund, not less than five hundred forty-six thousand dollars shall be spent annually on homeless shelter projects. Notwithstanding section 8.33, all moneys in the shelter assistance fund which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for subsequent fiscal years.

Approved April 25, 2003

CHAPTER 74

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP — ADMINISTRATIVE DUTIES

H.F. 493

AN ACT relating to the powers and duties of the department of agriculture and land stewardship by providing for the elimination of administrative requirements.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 159.5, subsections 12 and 15, Code 2003, are amended by striking the subsections.

Sec. 2. Section 161A.11, Code 2003, is repealed.

Approved April 25, 2003

CHAPTER 75
UNAUTHORIZED COMPUTER ACCESS —
RURAL WATER DISTRICT OR MUNICIPAL UTILITY DATA
H.F. 505

AN ACT to prohibit unauthorized computer access to operational or support data of a rural water district and a municipal utility and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 716.6B, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. An aggravated misdemeanor if computer data is accessed that contains a confidential record, as defined in section 22.7, operational or support data of a public utility, as defined in section 476.1, operational or support data of a rural water district incorporated pursuant to chapter 357A or 504A, operational or support data of a municipal utility organized pursuant to chapter 388 or 389, operational or support data of a public airport, or a trade secret, as defined in section 550.2.

Approved April 25, 2003

CHAPTER 76
NEWSPAPERS DESIGNATED FOR OFFICIAL PUBLICATIONS
H.F. 545

AN ACT relating to the requirements for newspapers designated for official publication purposes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 618.3, subsection 1, Code 2003, is amended to read as follows:

1. Is a newspaper of general circulation ~~issued at a regular frequency~~ that has been published at least once a week for at least fifty weeks per year within the area and regularly mailed through the post office of entry for at least two years.

Approved April 25, 2003

CHAPTER 77**GAMBLING IN PUBLIC PLACES —
NONPROFIT ORGANIZATIONS CONDUCTING BINGO OCCASIONS***H.F. 603*

AN ACT providing an exception to licensing requirements for certain bingo occasions conducted by nonprofit organizations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 99B.9, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Except as otherwise permitted by section 99B.3, 99B.5, 99B.6, 99B.7, 99B.8, ~~or 99B.11, or 99B.12A~~, it is unlawful to permit gambling on any premises owned, leased, rented, or otherwise occupied by a person other than a government, governmental agency or subdivision, unless all of the following are complied with:

Sec. 2. NEW SECTION. 99B.12A BINGO EXCEPTION.

An organization that is exempt from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3, shall be authorized to conduct a bingo occasion without a license as otherwise required by this chapter if all of the following requirements are met:

1. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.
2. Participants in the bingo occasion are not charged to play.
3. Any prize awarded at the bingo occasion shall be donated.
4. The bingo occasion is conducted as an activity and not for fundraising purposes.

Approved April 25, 2003

CHAPTER 78**PUBLIC HEALTH REGULATION — MISCELLANEOUS PROVISIONS***H.F. 641*

ANACT providing for changes relating to programs under the purview of the Iowa department of public health.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 139A.8, subsection 1, Code 2003, is amended to read as follows:

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella, and varicella according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

Sec. 2. Section 139A.8, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, ~~and rubella, and varicella.~~

Sec. 3. Section 139A.8, subsection 4, paragraph a, Code 2003, is amended to read as follows:

a. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the state board of medical examiners, board of nursing, or board of physician assistant examiners that, ~~in the physician's opinion,~~ the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

Sec. 4. Section 152.1, subsection 5, paragraph b, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The performance of nursing services by an unlicensed student enrolled in a nursing education program if performance is part of the course of study. Individuals who have been licensed as registered nurses or licensed practical or vocational nurses in any state or jurisdiction of the United States are not subject to this exemption.

Sec. 5. Section 152.1, subsection 5, paragraph c, Code 2003, is amended to read as follows:

c. The performance of services by ~~employed unlicensed~~ workers employed in offices, hospitals, or health care facilities, as defined in section 135C.1, under the supervision of a physician or a nurse licensed under this chapter, or employed in the office of a psychologist, podiatric physician, optometrist, chiropractor, speech pathologist, audiologist, or physical therapist licensed to practice in this state, and when acting while within the scope of the employer's license.

Sec. 6. Section 272C.3, subsection 1, paragraph k, Code 2003, is amended to read as follows:

k. Establish a licensee review committee for the purpose of evaluating and monitoring licensees who ~~self-report physical or mental impairments to the board are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, and who self-report the impairment to the committee, or who are referred by the board to the committee.~~ The board shall adopt rules for the establishment and administration of the committee, including but not limited to establishment of the criteria for eligibility for referral to the committee and the grounds for disciplinary action for noncompliance with committee decisions. Information in the possession of the board or the licensee review committee, under this paragraph, shall be subject to the confidentiality requirements of section 272C.6. Referral of a licensee by the board to a licensee review committee shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. A licensee who violates section 272C.10 or the rules of the board while under review by the licensee review committee shall be referred to the board for appropriate action.

Approved April 25, 2003

CHAPTER 79

PUBLIC CHARTER SCHOOLS — PILOT PROJECT

S.F. 172

AN ACT relating to the establishment of a public charter school pilot program and providing effective and applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 256F.3, subsection 1, as enacted by 2002 Iowa Acts, chapter 1124, section 3, is amended to read as follows:

1. ~~Commencing with the school year beginning July 1, 2002, the~~ The state board of education shall ~~apply for a federal grant under Pub. L. No. 107-110, cited as the federal No Child Left Behind Act of 2001 (Title V, Part B, Subpart 1), for purposes of providing financial assistance for the planning, program design, and initial implementation of public charter schools. The department shall~~ initiate a pilot program to test the effectiveness of charter schools and shall implement the applicable provisions of this chapter.

Sec. 2. Section 256F.4, subsections 1 and 3, as enacted by 2002 Iowa Acts, chapter 1124, section 4, are amended to read as follows:

1. Within fifteen days after approval of a charter school application submitted in accordance with section 256F.3, subsection 2, a school board shall report to the department the name of the charter school applicant ~~entry~~, the proposed charter school location, and its projected enrollment.

3. A charter school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school may limit admission to students who are within a particular range of age ages or grade level levels or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school.

Sec. 3. Section 256F.11, as enacted by 2002 Iowa Acts, chapter 1124, section 11, is amended to read as follows:

SEC. 11. NEW SECTION. 256F.11 FUTURE REPEAL.

This chapter is repealed effective July 1, ~~2010~~ 2011.

Sec. 4. 2002 Iowa Acts, chapter 1124, section 12, is amended by striking the section and inserting in lieu thereof the following:

SEC. 12. Section 257.31, subsection 5, paragraph d, Code 2003, is amended to read as follows:

d. The closing of a nonpublic school, wholly or in part, or the opening or closing of a pilot charter school.

Sec. 5. 2002 Iowa Acts, chapter 1124, section 13, is amended by striking the section and inserting in lieu thereof the following:

SEC. 13. Section 282.18, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. For purposes of this section, “good cause” means a change in a child’s residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child’s parents’ marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, a change in the status of a child’s resident district such as removal of accreditation by the state board, surrender of accreditation, or

permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.

Sec. 6. 2002 Iowa Acts, chapter 1124, section 14, as amended by 2002 Iowa Acts, chapter 1175, section 96, is amended to read as follows:

SEC. 14. EXPEDITED APPLICATION PROCEDURE. The state board of education shall develop an expedited charter school application procedure ~~for the fiscal year beginning not later than July 1, 2002~~ 2004, for purposes of ~~receiving~~ distributing federal planning funds issued pursuant to the federal Elementary and Secondary Education Act of 1965, Title X, Part C, as codified in 20 U.S.C. §§ 8061-8067.

Sec. 7. 2002 Iowa Acts, chapter 1124, section 16, is amended by striking the section and inserting in lieu thereof the following:

SEC. 16. APPLICABILITY DATE. This Act applies on the date by which the department of education initiates implementation in accordance with the provisions of section 256F.3, subsection 1. The department of education shall notify the Code editor upon initiating implementation in accordance with this section and section 256F.3, subsection 1.

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 2003

CHAPTER 80

CITY COUNCILS — REDUCTIONS IN MEMBERSHIP

S.F. 230

AN ACT relating to the procedure for reducing the number of members of a city council from five to three in certain cities and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 372.4, Code 2003, is amended to read as follows:

372.4 MAYOR-COUNCIL FORM.

1. A city governed by the mayor-council form has a mayor and five council members elected at large, unless the council representation plan is changed pursuant to section 372.13, subsection 11. The council may, by ordinance, provide for a city manager and prescribe the manager's powers and duties, and as long as the council contains an odd number of council members, may change the number of wards, abolish wards, or increase the number of council members at large without changing the form.

However, a city governed, on July 1, 1975, by the mayor-council form composed of a mayor and a council consisting of two council members elected at large, and one council member

from each of four wards, or a special charter city governed, on July 1, 1975, by the mayor-council form composed of a mayor and a council consisting of two council members elected at large and one council member elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of council members, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the council alone, and in a special charter city operating with ten council members under this section, the mayor may vote to break a tie vote on all measures.

2. The mayor shall appoint a council member as mayor pro tem, and shall appoint and dismiss the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection or as otherwise provided in section 400.13. However, the appointment and dismissal of the marshal or chief of police are subject to the consent of a majority of the council. Other officers must be selected as directed by the council. The mayor is not a member of the council and shall not vote as a member of the council.

3. In a city having a population of ~~between five hundred and~~ five thousand ~~or less~~, the city council may, or shall upon petition of the electorate meeting the numerical requirements of section 372.2, subsection 1, submit a proposal at the next regular or special city election to reduce the number of council members to three. If a majority of the voters voting on the proposal approves it, the proposal is adopted. If the proposal is adopted, the new council shall be elected at the next regular or special city election. The council shall determine by ordinance whether the three council members are elected at large or by ward.

4. In a city having a population of less than five hundred, the city council may adopt a resolution of intent to reduce the number of council members from five to three and shall call a public hearing on the proposal. Notice of the time and place of the public hearing shall be published as provided in section 362.3, except that at least ten days' notice must be given. At the public hearing, the council shall receive oral and written comments regarding the proposal from any person. Thereafter, the council, at the same meeting as the public hearing or at a subsequent meeting, may adopt a final resolution to reduce the number of council members from five to three or may adopt a resolution abandoning the proposal. If the council adopts a final resolution to reduce the number of council members from five to three, a petition meeting the same requirements specified in section 362.4 for petitions authorized by city code may be filed with the clerk within thirty days following the effective date of the final resolution, requesting that the question of reducing the number of council members from five to three be submitted to the registered voters of the city. Upon receipt of a petition requesting an election, the council shall direct the county commissioner of elections to put the proposal on the ballot for the next regular city election. If the ballot proposal is adopted, the new council shall be elected at the next following regular city election. If a petition is not filed, the council shall notify the county commissioner of elections by July 1 of the year of the regular city election and the new council shall be elected at that regular city election. If the council notifies the commissioner of elections after July 1 of the year of the regular city election, the change shall take effect at the next following regular city election. The council shall determine by ordinance whether the three council members are elected at large or by ward.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 2003

CHAPTER 81

CHILD CARE — MISCELLANEOUS PROVISIONS

S.F. 351

AN ACT relating to child care requirements involving prohibitions against involvement with child care, record checks and evaluations performed by the department of human services, eligibility for state assistance, and child care fraud program sanctions, and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 237A.1, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 10A. “Involvement with child care” means licensed or registered under this chapter, employed in a child care facility, residing in a child care facility, receiving public funding for providing child care, or providing child care as a child care home provider, or residing in a child care home.

Sec. 2. Section 237A.2, subsection 5, Code 2003, is amended to read as follows:

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of twelve months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the twelve-month period. The applicant or person shall be prohibited from involvement with child care unless the involvement is specifically permitted by the department.

Sec. 3. Section 237A.3, Code 2003, is amended to read as follows:

237A.3 CHILD CARE HOMES.

1. A person or program providing child care to five children or fewer at any one time is a child care home provider and is not required to register under section 237A.3A as a child development home. However, the person or program may register as a child development home.

2. If a person or program has been prohibited by the department from involvement with child care, the person or program shall not provide child care as a child care home provider and is subject to penalty under section 237A.19 or injunction under section 237A.20 for doing so.

Sec. 4. Section 237A.3A, subsection 2, Code 2003, is amended to read as follows:

2. REVOCATION OR DENIAL OF REGISTRATION. If the department has denied or revoked a certificate of registration because a person has continually or repeatedly failed to operate a registered or licensed child care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not operate or establish a registered child development home for a period of twelve months from the date the registration or license was denied or revoked. The department shall not act on an application for registration submitted by the person during the twelve-month period. The applicant or person shall be prohibited from involvement with child care unless the involvement is specifically permitted by the department.

Sec. 5. Section 237A.5, subsection 2, Code 2003, is amended to read as follows:

2. a. If a For the purposes of this section, unless the context otherwise requires:

(1) “Person subject to an evaluation” means a person who has committed a transgression and who is described by any of the following:

(a) The person is being considered for licensure or registration or is registered or licensed under this chapter, or,

~~(b) The person is being considered by a child care facility for employment involving direct responsibility for a child or with access to a child when the child is alone, by a child care facility subject to licensure or registration under this chapter, or if a or is employed with such responsibilities.~~

~~(c) The person will reside or resides in a child care facility, and if the person has been convicted of a crime or has a record of founded child abuse, the department shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, registration, employment, or residence in the facility.~~

~~(d) The person has applied for or receives public funding for providing child care.~~

~~(e) The person will reside or resides in a child care home that is not registered under this chapter but that receives public funding for providing child care.~~

~~(2) "Transgression" means the existence of any of the following in a person's record:~~

~~(a) Conviction of a crime.~~

~~(b) A record of having committed founded child or dependent adult abuse.~~

~~(c) Listing in the sex offender registry under chapter 692A.~~

~~(d) A record of having committed a public or civil offense.~~

~~(e) The department has revoked a child care facility registration or license due to the person's continued or repeated failure to operate the child care facility in compliance with this chapter and rules adopted pursuant to this chapter.~~

~~b. The department shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The In addition, the department may conduct dependent adult abuse, sex offender registry, and other public or civil offense record checks in this state or in other states. If the department identifies an individual as a person subject to an evaluation, an evaluation shall be performed to determine whether prohibition of the person's involvement with child care is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.~~

~~b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee or registrant or registered under this chapter, or resides in a licensed or registered facility Prior to performing an evaluation, the department shall notify the affected person, licensee, or registrant, or child care home applying for or receiving public funding for providing child care, that an evaluation will be conducted to determine whether prohibition of the person's licensure, registration, employment, or residence involvement with child care is warranted.~~

~~c. In an evaluation, the department shall consider the nature and seriousness of the crime or founded child abuse transgression in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse transgression, the circumstances under which the crime or founded child abuse transgression was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse transgression again, and the number of crimes or founded child abuses transgressions committed by the person involved. In addition to record check information, the department may utilize information from the department's case records in performing the evaluation. The department may permit a person who is evaluated to be licensed, registered, employed, or to reside, or to continue to be licensed, registered, employed, or to reside in a licensed facility maintain involvement with child care, if the person complies with the department's conditions and corrective action plan relating to the person's licensure, registration, employment, or residence, which may include completion of additional training involvement with child care. The department has final authority in determining whether prohibition of the person's licensure, registration, employment, or residence involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.~~

~~d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, registration, employment, or residence, the person shall not be licensed or registered under this chapter to operate a child care facility and shall not be employed by a licensee or registrant or reside in a facility licensed or registered under this chapter.~~

d. (1) A person subject to an evaluation shall be prohibited from involvement with child care if the person has a record of founded child or dependent adult abuse that was determined to be sexual abuse, the person is listed on the sex offender registry under chapter 692A, or the person has committed any of the following felony-level offenses:

(a) Child endangerment or neglect or abandonment of a dependent person.

(b) Domestic abuse.

(c) A crime against a child including but not limited to sexual exploitation of a minor.

(d) A forcible felony.

(2) If, within five years prior to the date of application for registration or licensure under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been convicted of a controlled substance offense under chapter 124 or has been found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of conviction or founded abuse. After the five-year prohibition period, the person may submit an application for registration or licensure under this chapter, or to receive public funding for providing child care or may request an evaluation, and the department shall perform an evaluation and, based upon the criteria in paragraph "c", shall determine whether prohibition of the person's involvement with child care continues to be warranted.

e. If the department determines, through an evaluation of a person's transgression, that the person's prohibition of involvement with child care is warranted, the person shall be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed. A person who continues involvement with child care in violation of this subsection is subject to penalty under section 237A.19 or injunction under section 237A.20.

f. If it has been determined that a child receiving child care from a child care facility or a child care home which receives public funding for providing child care is the victim of founded child abuse committed by an employee, license or registration holder, child care home provider, or resident of the child care facility or child care home for which a report is placed in the central registry pursuant to section 232.71D, the administrator shall provide notification at the time of the determination to the parents, guardians, and custodians of children receiving care from the facility or child care home. A notification made under this paragraph shall identify the type of abuse but shall not identify the victim or perpetrator or circumstances of the founded abuse.

Sec. 6. Section 237A.5, subsections 3 and 6, Code 2003, are amended by striking the subsections.

Sec. 7. Section 237A.13, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. The child's parent, guardian, or custodian is absent for a limited period of time due to hospitalization, physical illness, or mental illness, or is present but is unable to care for the child for a limited period as verified by a physician.

Sec. 8. Section 237A.13, subsection 4, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A child in a family that is eligible for state child care assistance and that receives a state adoption subsidy for the child.

Sec. 9. Section 237A.19, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person who establishes, conducts, manages, or operates a child care home in violation of section 237A.3, subsection 2, or a person or program that has been prohibited by the department from involvement with child care but continues that involvement commits a simple misdemeanor. Each day of continuing violation after conviction, or notice

from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

Sec. 10. Section 237A.20, Code 2003, is amended to read as follows:
237A.20 INJUNCTION.

A person who establishes, conducts, manages, or operates a center without a license or a child development home without a certificate of registration, if registration is required under section 237A.3A, may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person, or a person with a record of founded child abuse, ~~or a person who has been prohibited by the department from involvement with child care~~ may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child care ~~or from other involvement with child care~~. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

Sec. 11. Section 237A.29, subsection 2, paragraph b, Code 2003, is amended to read as follows:

b. A child care provider that has been found ~~by the department of inspections and appeals~~ in an administrative ~~proceeding~~ or in a judicial proceeding to have obtained, or has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the child care provider has obtained, by fraudulent means, public funding for provision of child care in an amount equal to or in excess of the minimum amount for a fraudulent practice in the second degree under section 714.10, subsection 1, shall be subject to sanction in accordance with this subsection. Such child care provider shall be subject to a period during which receipt of public funding for provision of child care is conditioned upon no further violations and to one or more of the following sanctions as determined by the department ~~and imposed in an administrative proceeding of human services~~:

Sec. 12. Section 237A.29, subsection 3, paragraphs a and b, Code 2003, are amended to read as follows:

a. If a child care provider is subject to sanctions under subsection 2, ~~within five business days of the date the sanctions were imposed~~, the provider shall submit to the department the names and addresses of children receiving child care from the provider. The department shall send information to the parents of the children regarding the provider's actions leading to the imposition of the sanctions and the nature of the sanctions imposed. ~~If the provider fails to submit the names and addresses within five business days of the department notifying the provider, the department shall suspend the provider's registration or license under this chapter until the names and addresses are provided.~~

b. ~~In addition to applying the suspension~~ ~~If the child care provider fails to submit the names and addresses within the time period required by paragraph "a",~~ the department ~~may~~ shall request that the attorney general file a petition with the district court of the county in which the provider is located for issuance of a temporary injunction enjoining the provider from providing child care until the names and addresses are submitted to the department. The attorney general may file the petition upon receiving the request from the department. Any temporary injunction may be granted without a bond being required from the department.

Approved April 28, 2003

CHAPTER 82

AGRICULTURAL LIENS

S.F. 379

AN ACT relating to certain agricultural liens.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

AGRICULTURAL SUPPLY DEALERS LIEN

Section 1. Section 570A.1, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Agricultural supply" means an agricultural chemical, seed, feed, or a petroleum product that is used for an agricultural purpose.

NEW SUBSECTION. 3A. "Agricultural supply dealer lien" or "lien" means the agricultural supply dealer lien created in section 570A.3.

Sec. 2. Section 570A.1, subsections 3, 4, 11, and 12, Code 2003, are amended to read as follows:

3. "Agricultural supply dealer" or "dealer" means a person engaged in the retail sale of agricultural chemicals, seed, feed, or petroleum products used for an agricultural purpose.

4. "Certified request" means a request delivered by certified mail or registered or certified mail, or a request delivered in person if in writing and signed and dated by the respective parties, or in the manner provided by the Iowa rules of civil procedure for the personal service of original notice.

11. "Livestock" means cattle, sheep, swine, an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, poultry, or other animals or fowl fish or shellfish.

12. "Petroleum product" means a motor fuel or special fuel which is used in the production of crops and or livestock, including but not limited to motor fuel as defined in section 452A.2.

Sec. 3. Section 570A.2, subsection 1, Code 2003, is amended to read as follows:

1. Upon the receipt of a certified request of an agricultural supply dealer, prior to or upon a sale on a credit basis of ~~agricultural chemicals, seed, feed, or petroleum products~~ an agricultural supply to a farmer, a financial institution which has either a security interest in collateral owned by the farmer or an outstanding loan to the farmer for an agricultural purpose shall issue within four business days a memorandum which states whether or not the farmer has a sufficient net worth or line of credit to assure payment of the purchase price on the terms of the sale. The certified request submitted by the agricultural supply dealer shall state the amount of the purchase and the terms of sale and shall be accompanied by a waiver of confidentiality signed by the farmer, and a fifteen dollar fee. The waiver of confidentiality and the certified request may be combined and submitted as one document. If the financial institution states in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the memorandum is an irrevocable and unconditional letter of credit to the benefit of the agricultural supply dealer for a period of thirty days following the date on which the final payment is due for the amount of the purchase price which remains unpaid. If the financial institution does not state in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the financial institution shall transmit the relevant financial history which it holds on the person. This financial history shall remain confidential between the financial institution, the agricultural supply dealer, and the farmer.

Sec. 4. Section 570A.3, Code 2003, is amended to read as follows:

570A.3 LIEN CREATED.

~~1. An agricultural supply dealer furnishing who provides an agricultural chemical, seed, or a petroleum product supply to a farmer has a lien shall have an agricultural lien as provided in section 554.9102. The agricultural supply dealer is a secured party and the farmer is a debtor for purposes of chapter 554, article 9. The amount of the lien shall be the amount owed to the agricultural supply dealer for the retail cost of the agricultural chemical, seed, or petroleum product supply, including labor furnished provided. The lien attaches applies to all crops of the following:~~

~~1. Crops which are produced upon the land to which the agricultural chemical was applied, or produced from the seed furnished provided, or produced using the petroleum product furnished, for a period of sixteen months following the date of perfection of the lien pursuant to section 570A.4. However, the lien does not attach to that portion of the crops of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of provided. The lien shall not apply to any crops so produced upon the land after four hundred ninety days from the date that the farmer purchased the agricultural chemical, seed, or petroleum product provided supply.~~

~~2. An agricultural supply dealer furnishing feed to a farmer has a lien for the unpaid amount of the retail cost of the feed, including labor. The lien attaches to all livestock Livestock consuming the feed. However, the lien does not attach apply to that portion of the livestock of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of the feed.~~

Sec. 5. Section 570A.4, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

570A.4 PERFECTING THE LIEN — FILING REQUIREMENTS.

Except as provided in this section, a financing statement filed to perfect an agricultural supply dealer lien shall be governed by chapter 554, article 9, part 5, in the same manner as any other financing statement.

1. The lien becomes effective at the time that the farmer purchases the agricultural supply.

2. In order to perfect the lien, the agricultural supply dealer must file a financing statement in the office of the secretary of state as provided in section 554.9308 within thirty-one days after the date that the farmer purchases the agricultural supply. The financing statement shall meet the requirements of section 554.9502, subsection 1, and include all applicable information described in section 554.9516. Filing a financing statement as provided in this subsection satisfies all requirements for perfection of an agricultural lien as provided in chapter 554, article 9.

Sec. 6. Section 570A.5, Code 2003, is amended to read as follows:

570A.5 PRIORITY OF LIEN.

~~1. A Except as provided in this section, an agricultural supply dealer's lien that is effective or perfected under this chapter is superior to a lien or security interest which attaches subsequent to the time the lien statement is filed with the secretary of state, except liens which arise under this chapter or under chapters 570 and 571 as provided in section 570A.4 shall be subject to the rules of priority as provided in section 554.9322. For an agricultural supply dealer's lien that is perfected under section 570A.4, all of the following shall apply:~~

~~2. 1. A The lien shall have priority over a lien perfected under this chapter is equal to a lien or security interest which is of record or which is perfected prior to the time the lien statement is filed with the secretary of state except as provided in section 570A.2, subsection 3 that applies subsequent to the time that the agricultural supply dealer's lien is perfected.~~

~~3. 2. A Except as provided in section 570A.2, subsection 3, the lien perfected under this chapter for the purposes of feed will continue to be perfected in the livestock and takes shall have equal priority to a lien or security interest which is perfected prior to the time that the agricultural supply dealer's lien is perfected. However, a landlord's lien that is perfected~~

pursuant to section 570.1 shall have priority over a conflicting agricultural supply dealer's lien as provided in section 570.1, and a harvester's lien that is perfected pursuant to section 571.3 shall have priority over a conflicting agricultural supply dealer's lien as provided in section 571.3A.

3. A lien in livestock feed shall have priority over an earlier perfected lien or security interest to the extent of the difference between the acquisition price of the livestock and the fair market value of the livestock at the time the lien attaches or the sale price of the livestock, whichever is greater.

Sec. 7. Section 570A.6, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

570A.6 ENFORCEMENT OF LIEN.

An agricultural supply dealer may enforce an agricultural supply dealer's lien in the manner provided for agricultural liens pursuant to chapter 554, article 9, part 6.

Sec. 8. Sections 570A.7 through 570A.11, Code 2003, are repealed.

DIVISION II
HARVESTER'S LIEN

Sec. 9. NEW SECTION. 571.1A DEFINITIONS.

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

1. "Crop" includes but is not limited to corn, soybeans, hay, straw, and crops produced on trees, vines, or bushes.
2. "Harvester" means a person who performs harvesting services.
3. "Harvesting services" means baling, chopping, combining, cutting, husking, picking, shelling, stacking, threshing, or winnowing a crop, regardless of the means or method employed.
4. "Harvester's lien" or "lien" means the harvester's lien created in section 571.1B.

Sec. 10. NEW SECTION. 571.1B LIEN CREATED.

A harvester shall have an agricultural lien as provided in section 554.9102 for the reasonable value of harvesting services. The harvester is a secured party and the person for whom the harvester renders such harvesting services is a debtor for purposes of chapter 554, article 9. The lien applies to crops harvested by the harvester.

Sec. 11. Section 571.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

571.3 PERFECTING THE LIEN — FILING REQUIREMENTS.

Except as provided in this section, a financing statement filed to perfect a harvester's lien shall be governed by chapter 554, article 9, part 5, in the same manner as any other financing statement.

1. The lien becomes effective at the time that the harvesting services provided under section 571.1B are rendered.
2. In order to perfect the lien, the harvester must file a financing statement in the office of the secretary of state as provided in section 554.9308 within ten days after the last date that the harvesting services were rendered. The financing statement shall meet the requirements of section 554.9502, subsection 1, and include all applicable information described in section 554.9516. Filing a financing statement as provided in this subsection satisfies all requirements for perfection of an agricultural lien as provided in chapter 554, article 9.

Sec. 12. NEW SECTION. 571.3A PRIORITY OF LIEN.

Except as provided in this section, section 554.9322 shall govern the priority of a harvester's lien that is effective or perfected as provided in section 571.3.

1. A harvester's lien that is effective but not perfected under section 571.3 shall have priority as provided in section 554.9322.

2. A harvester's lien that is perfected under section 571.3 shall have priority over a conflicting security interest in harvested crops regardless of when such security interest is perfected. A perfected harvester's lien shall have priority over a conflicting landlord's lien as provided in chapter 570, regardless of when such landlord's lien is perfected.

Sec. 13. Section 571.5, Code 2003, is amended to read as follows:

571.5 ENFORCEMENT OF LIEN.

A harvester may enforce a harvester's lien as provided in this chapter ~~may be enforced in the manner provided for agricultural liens pursuant to the uniform commercial code, chapter 554, article 9, part 6.~~

Sec. 14. Sections 571.1, 571.2, 571.4, and 571.6, Code 2003, are repealed.

DIVISION III VETERINARIAN'S LIEN

Sec. 15. NEW SECTION. 581.1A DEFINITIONS.

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

1. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, poultry, or fish or shellfish.
2. "Veterinarian" means a person who practices veterinary medicine under a valid license or temporary permit as provided in chapter 169.
3. "Veterinarian's lien" or "lien" means a veterinarian's lien created under section 581.2A.

Sec. 16. Section 581.2, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

581.2 PRIORITY.

Except as provided in this section, section 554.9322 shall govern the priority of a veterinarian's lien that is effective or perfected as provided in section 581.3.

1. A veterinarian's lien that is effective but not perfected under section 581.3 shall have priority as provided in section 554.9322.
2. A veterinarian's lien that is perfected under section 581.3 shall have priority over any conflicting security interest or lien in livestock treated by a veterinarian, regardless of when such security interest or lien is perfected.

Sec. 17. NEW SECTION. 581.2A LIEN CREATED.

A veterinarian shall have an agricultural lien as provided in section 554.9102 for the actual and reasonable value of treating livestock, including the cost of any product used and the actual and reasonable value of any professional service rendered by the veterinarian. The veterinarian is a secured party and the owner of the livestock is a debtor for purposes of chapter 554, article 9. The lien applies to the livestock treated by the veterinarian.

Sec. 18. Section 581.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

581.3 PERFECTING THE LIEN — FILING REQUIREMENTS.

Except as provided in this section, a financing statement filed to perfect a veterinarian's lien shall be governed by chapter 554, article 9, part 5, in the same manner as any other financing statement.

1. The lien becomes effective at the time that the veterinarian treats the livestock.
2. In order to perfect the lien, the veterinarian must file a financing statement in the office of the secretary of state as provided in section 554.9308 within sixty days after the day that the veterinarian treats the livestock. The financing statement shall meet the requirements of section 554.9502, subsection 1, and include all applicable information described in section

554.9516. Filing a financing statement as provided in this subsection satisfies all requirements for perfection of an agricultural lien as provided in chapter 554, article 9.

Sec. 19. Section 581.4, Code 2003, is amended to read as follows:

581.4 ENFORCEMENT.

The lienholder A veterinarian may enforce the a veterinarian's lien by a suit in equity in the manner provided for agricultural liens pursuant to the uniform commercial code, chapter 554, article 9, part 6.

Sec. 20. Section 602.8102, subsection 82, Code 2003, is amended to read as follows:

82. Carry out duties relating to liens as provided in chapters 249A, 570, 571, 572, 574, 580, 581, 582, and 584.

Sec. 21. Section 581.1, Code 2003, is repealed.

Approved April 28, 2003

CHAPTER 83

SCHOOL HEALTH INSURANCE — STUDY

S.F. 386

AN ACT requiring the insurance division of the department of commerce to establish a school health insurance reform team study and to make recommendations to the general assembly.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. SCHOOL HEALTH INSURANCE REFORM TEAM STUDY. The insurance division of the department of commerce shall establish a school health insurance reform team. The school health insurance reform team shall conduct a study to review the availability of affordable health insurance coverage for school district employees, insurance ratings practices, the establishment of continuity of coverage for school districts and their employees, and methods to improve the efficiency and fairness of the health insurance marketplace for school districts and their employees. The study shall include a comparison of health insurance coverage that is offered to school district employees, to other public employees, and to employees in the private sector. The school health insurance reform team shall examine the feasibility of the following:

1. Establishing a premium rating system based on the statewide health status, claims experience, and other demographic characteristics of school district employees.
2. Establishing basic or standard health benefit plans with benefit levels, cost-sharing levels, exclusions, and limitations available to all school districts and their employees.
3. Establishing uniform coverage plans with benefit coverages that may be added to the basic or standard plans, at the option of a school district.
4. Establishing restrictions on premium rates and rate increases.
5. Establishing a school district health reinsurance program.

The commissioner of insurance shall select the members of the school health insurance reform team which shall include a representative of a school district with fewer than six hundred students, a representative of a school district with six hundred to nine hundred ninety-nine

students, a representative of a school district with one thousand or more students, a representative of the Iowa association of school boards, a representative of a collective bargaining organization that represents school district employees, a representative of a health insurance carrier, a representative of a health insurance provider, a representative of an area education agency, and others, who, in the opinion of the commissioner, have expertise that would assist the team in accomplishing its purpose.

The commissioner shall submit a report to the general assembly on or before January 15, 2004, regarding the team's findings and recommendations, including proposed legislation, concerning health insurance coverage for school districts and their employees.

Approved April 28, 2003

CHAPTER 84

ANIMAL FEEDING OPERATIONS — CONSTRUCTION STANDARDS

S.F. 392

AN ACT relating to the animal agriculture compliance Act, providing for penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 459.307, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The department shall adopt rules establishing construction design standards for formed manure storage structures that are part of confinement feeding operations other than small animal feeding operations. However, the construction design standards shall apply to a formed manure storage structure that is part of a small animal feeding operation as provided in section 459.310.

Sec. 2. Section 459.308, subsection 3, Code 2003, is amended to read as follows:

3. A person shall not construct an unformed manure storage structure on karst terrain or on an area that drains into a known sinkhole. However, a person may construct an unformed manure storage structure, if there is a twenty-five foot vertical separation distance between the bottom of the unformed manure storage structure and underlying limestone, dolomite, or other soluble rock.

Sec. 3. Section 459.310, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Except as provided in ~~subsection subsections 3 and 3A~~, the following shall apply:

Sec. 4. Section 459.310, subsection 2, Code 2003, is amended to read as follows:

2. A Except as provided in subsection 3A, a confinement feeding operation structure shall not be constructed on land that is part of a one hundred year floodplain as designated by rules adopted by the department pursuant to section 459.301.

Sec. 5. Section 459.310, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A separation distance required in subsection 1 or the prohibition against construction of a confinement feeding operation structure on a one hundred year floodplain as provided in subsection 2 shall not apply to a confinement feeding operation that

includes a confinement feeding operation structure that was constructed prior to March 1, 2003, if any of the following apply:

a. One or more unformed manure storage structures that is part of the confinement feeding operation is replaced with one or more formed manure storage structures on or after the effective date of this Act, and all of the following apply:

(1) The animal weight capacity or animal unit capacity, whichever is applicable, is not increased for that portion of the confinement feeding operation that utilizes all replacement formed manure storage structures.

(2) The use of each replaced unformed manure storage structure is discontinued within one year after the construction of the replacement formed manure storage structure.

(3) The capacity of all replacement formed manure storage structures does not exceed the amount required to store manure produced by that portion of the confinement feeding operation utilizing the formed manure storage structures during any eighteen-month period.

(4) No portion of the replacement formed manure storage structure is closer to the location or object from which separation is required under subsection 1 than any other confinement feeding operation structure which is part of the operation.

(5) The formed manure storage structure meets or exceeds the requirements of section 459.307.

b. A formed manure storage structure that is part of the confinement feeding operation is constructed on or after the effective date of this Act pursuant to a variance granted by the department. In granting the variance, the department shall make a finding of all of the following:

(1) The replacement formed manure storage structure replaces the confinement feeding operation's existing manure storage and handling facilities.

(2) The replacement formed manure storage structure complies with standards adopted pursuant to section 459.307.

(3) The replacement formed manure storage structure more likely than not provides a higher degree of environmental protection than the confinement feeding operation's existing manure storage and handling facilities.

If the formed manure storage structure will replace any existing manure storage structure, the department shall, as a condition of granting the variance, require that the replaced manure storage structure be properly closed.

Sec. 6. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 2003

CHAPTER 85

DEER HUNTING

S.F. 397

AN ACT relating to the issuance of hunting licenses for antlerless deer, providing for the disposition of harvested deer meat to public institutions, requiring a report, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 483A.8, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 6. The commission shall provide, by rule, for the issuance to a nonres-

ident, of a nonresident antlerless deer hunting license that is valid for use only during the period beginning on December 24, 2003, and ending at sunset on January 2, 2004, and costs fifty dollars. A nonresident hunting deer with a license issued under this subsection shall be otherwise qualified to hunt deer in this state and shall have a nonresident hunting license and pay the wildlife habitat fee. Pursuant to this subsection, the commission shall make available for issuance only the remaining nonresident antlerless deer hunting licenses allocated under subsection 3 that have not yet been issued for the 2003-2004 antlerless deer hunting seasons.

Sec. 2. NEW SECTION. 483A.24A HARVESTED DEER.

1. INTENT. It is the intent of the general assembly in enacting this section, to express its concern to the natural resource commission about the burgeoning deer population in this state, by requiring the natural resource commission to make additional antlerless deer hunting licenses available to encourage hunters in this state to assist the commission in bringing the state's deer population under control.

2. DEFINITIONS. As used in this section:

a. "Department of corrections" means the Iowa department of corrections.

b. "Establishment" means an establishment as defined in section 189A.2 where animals or poultry are prepared for food purposes or where wild deer may be processed or dressed for human consumption.

c. "Public institution" means a state institution listed under section 904.102, subsections 1 through 10, that is administered by the department of corrections.

3. The natural resource commission shall provide, by rule, for the distribution of antlerless deer hunting licenses, annually to resident hunters and to applicants qualified under section 483A.24. The licenses shall be in addition to deer hunting licenses otherwise allocated in this chapter to resident hunters and applicants qualified under section 483A.24 and shall be equivalent to the least restrictive license issued pursuant to section 481A.38. Pursuant to this section, the department shall make available for issuance at least an additional eighteen thousand antlerless deer hunting licenses for resident hunters for 2003-2004 antlerless deer hunting seasons than were available for the 2002-2003 antlerless deer hunting seasons.

4. A resident hunter or an applicant qualified under section 483A.24, who receives an antlerless deer hunting license under this section may deliver the deer harvested with the license to an establishment designated by the department of corrections for processing, packaging, and delivery to locations designated by the department of corrections. Each antlerless deer hunting license issued under this section shall be accompanied by a list of establishments that will accept deer harvested with the license.

5. Each resident hunter or applicant qualified under section 483A.24 shall be otherwise qualified to hunt deer in this state. A wildlife habitat fee shall not be required. The commission shall establish, by rules adopted pursuant to chapter 17A, the procedures for allocating the antlerless deer hunting licenses.

6. The department of corrections, may, in cooperation with the commission, contract with one or more establishments to receive, process, package, and deliver the harvested deer meat to the public institutions in the manner specified by the department of corrections and at a cost to the department of corrections that is competitive with the cost of obtaining similar meat products in the private sector.

7. A person violating a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor punishable as a scheduled violation as provided in section 483A.42.

Sec. 3. REPORT. The natural resource commission, in consultation with the department of corrections, shall evaluate the results of the deer harvesting program created in section 483A.24A, and shall make recommendations suggesting improvements to the program and whether the program should be expanded to allow receipt of harvested deer meat by other governmental agencies and nonprofit entities. The natural resource commission and the depart-

ment of corrections shall file a joint report containing their findings and recommendations with the legislative service bureau by February 1, 2004, for distribution to the general assembly.

Approved April 28, 2003

CHAPTER 86

COMMERCIAL PESTICIDE APPLICATORS — FINANCIAL RESPONSIBILITY

H.F. 547

AN ACT providing for evidence of financial responsibility filed by commercial pesticide applicators, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 206.2, Code 2003, is amended by adding the following new subsections:
NEW SUBSECTION. 8A. "Department" means the department of agriculture and land stewardship.

NEW SUBSECTION. 10A. "Financial institution" means a bank or savings and loan association authorized by this state or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation.

Sec. 2. Section 206.13, Code 2003, is amended to read as follows:

206.13 ~~SURETY BOND OR INSURANCE EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED OF BY COMMERCIAL APPLICATOR.~~

The ~~secretary~~ department shall not issue a commercial applicator's license as required in section 206.6 until the applicant has furnished evidence of financial responsibility with the ~~secretary~~ department ~~consisting either of department. The evidence of financial responsibility shall consist of a surety bond, or a liability insurance policy, or an irrevocable letter of credit issued by a financial institution. The department may accept a certification thereof of the evidence of financial responsibility. Such surety bond or liability insurance policy. The evidence of financial responsibility shall provide coverage to pay on behalf of the insured all sums which the insured shall become amount that the beneficiary is legally obligated to pay as damages as a result of caused by the pesticide operations of the applicant. However, the surety bond or liability insurance policy will evidence of financial responsibility does not apply to damages or an injury which are either is expected or intended from the standpoint of the insured beneficiary. Any such A liability insurance policy shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance. The surety bond or liability insurance policy submitted as evidence of financial responsibility need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicant.~~

The amount of the ~~surety bond or liability insurance~~ evidence of financial responsibility as provided for in this section shall be not less than fifty thousand dollars for property damage and public liability insurance, each separately. ~~Such surety bond or liability insurance. The evidence of financial responsibility shall be maintained at not less than that sum amount at all times during the licensed period. The secretary~~ department shall be notified ten days prior to

any reduction in the surety bond or liability insurance made at the request of the applicant or cancellation of ~~such the~~ surety bond by the surety or the liability insurance by the ~~surety or~~ insurer. The department shall be notified ninety days prior to any reduction of the amount of the irrevocable letter of credit at the request of the applicant or the cancellation of the irrevocable letter of credit by the financial institution. The total and aggregate liability of the surety, ~~and insurer, or financial institution~~ for all claims shall be limited to the face of the surety bond, or liability insurance policy, or irrevocable letter of credit.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 28, 2003

CHAPTER 87

CERTIFIED LAW ENFORCEMENT OFFICERS — TRAINING — TRIBAL GOVERNMENT POLICE

H.F. 548

AN ACT relating to law enforcement officer training at the Iowa law enforcement academy, and providing for a fee.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 80B.3, subsection 3, Code 2003, is amended to read as follows:

3. "Law enforcement officer" means an officer appointed by the director of the department of natural resources, a member of a police force or other agency or department of the state, county, ~~or city,~~ or tribal government regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state and all individuals, as determined by the council, who by the nature of their duties may be required to perform the duties of a peace officer.

Sec. 2. Section 80B.11, subsections 1 and 2, Code 2003, are amended to read as follows:

1. Minimum entrance requirements, course of study, attendance requirements, and equipment and facilities required at approved law enforcement training schools. Minimum age requirements for entrance to approved law enforcement training schools shall be eighteen years of age. Minimum course of study requirements shall include a separate domestic abuse curriculum, which may include, but is not limited to, outside speakers from domestic abuse shelters and crime victim assistance organizations. Minimum course of study requirements shall also include a sexual assault curriculum.

2. Minimum basic training requirements law enforcement officers employed after July 1, 1968, must complete in order to remain eligible for continued employment and the time within which such basic training must be completed. Minimum requirements shall mandate training devoted to the topic of domestic abuse and sexual assault. The council shall submit an annual report to the general assembly by January 15 of each year relating to the continuing education requirements devoted to the topic of domestic abuse, including the number of hours required, the substance of the classes offered, and other related matters.

Sec. 3. Section 80B.11B, subsection 2, Code 2003, is amended to read as follows:

2. The Iowa law enforcement academy may also charge the department of natural resources or other agency or department of the state, a member of a police force of a city or county, or any political subdivision of the state not more than one-half of the cost of providing the basic training course which is designed to meet the minimum basic training requirements for a law enforcement officer. All other candidates to the law enforcement academy, including a candidate from a tribal government, shall pay the full costs of providing the basic training requirements for a law enforcement officer.

Sec. 4. NEW SECTION. 80B.18 LAW ENFORCEMENT OFFICER — TRIBAL GOVERNMENT.

A law enforcement officer who is a member of a police force of a tribal government and who becomes certified through the Iowa law enforcement academy shall be subject to the certification and revocation of certification rules and procedures as provided in this chapter. The certified law enforcement officer shall be subject to the jurisdiction of the courts of this state if an agreement exists between the tribal government and the state or between the tribal government and a county, which grants authority to the law enforcement officer to act in a law enforcement capacity off a settlement or reservation.

Approved April 28, 2003

CHAPTER 88

INMATES OF CORRECTIONAL INSTITUTIONS — FEES — TRANSPORT FOR MEDICAL OR DENTAL CARE

H.F. 551

AN ACT providing for a fee for transporting an inmate for medical or dental care.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 904.108, subsection 6, Code 2003, is amended to read as follows:

6. The director may charge an inmate a correctional fee for custodial expenses incurred or which may be incurred while the inmate is in the custody of the department. The custodial expenses may include, but are not limited to, board and room, medical and dental fees including any necessary transportation fee not to exceed five dollars per visit, education costs, clothing costs, and the costs of supervision, services, and treatment to the inmate. The correctional fee shall not exceed the actual cost of keeping the inmate in custody. The correctional fees collected pursuant to this subsection shall be credited as a reimbursement to the appropriate correctional institution. This subsection does not limit the right of the director to obtain any other remedy authorized by law.

Approved April 28, 2003

CHAPTER 89**VOLUNTEER HEALTH CARE PROVIDER
PROGRAM PARTICIPANTS — LIABILITY***H.F. 557*

AN ACT relating to liability of certain health care facilities and health care providers participating in the volunteer health care provider program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135.24, Code 2003, is amended to read as follows:

135.24 VOLUNTEER HEALTH CARE PROVIDER PROGRAM ESTABLISHED — IMMUNITY FROM CIVIL LIABILITY.

1. The director shall establish within the department a program to provide to eligible hospitals, clinics, free clinics, or other health care facilities, health care referral programs, or charitable organizations, free medical, dental, and chiropractic services given on a voluntary basis by health care providers. A participating health care provider shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, free clinics, or other health care facilities, health care referral programs, or charitable organizations.

2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer health care provider program which shall include the following:

a. Procedures for registration of health care providers deemed qualified by the board of medical examiners, the board of physician assistant examiners, the board of dental examiners, the board of nursing, ~~and the board of chiropractic examiners, the board of psychology examiners, the board of social work examiners, the board of behavioral science examiners, and the board of pharmacy examiners.~~

b. Procedures for registration of free clinics.

b. c. Criteria for and identification of hospitals, clinics, free clinics, or other health care facilities, health care referral programs, or charitable organizations, eligible to participate in the provision of free medical, dental, or chiropractic services through the volunteer health care provider program. A free clinic, health care facility, a health care referral program, a charitable organization, or a health care provider participating in the program shall not bill or charge a patient for any health care provider service provided under the volunteer health care provider program.

e. d. Identification of the services to be provided under the program. The services provided may include, but shall not be limited to, obstetrical and gynecological medical services, psychiatric services provided by a physician licensed under chapter 148, 150, or 150A, or services provided under chapter 151.

3. A health care provider providing free care under this section shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21, provided that the health care provider has done all of the following:

a. Registered with the department pursuant to subsection 1.

b. Provided medical, dental, or chiropractic services through a hospital, clinic, free clinic, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.

4. A free clinic providing free care under this section shall be considered a state agency solely for the purposes of this section and chapter 669 and shall be afforded protection under chapter 669 as a state agency for all claims arising from the provision of free care by a health care provider registered under subsection 3 who is providing services at the free clinic in accordance with this section, if the free clinic has registered with the department pursuant to subsection 1.

4. 5. For the purposes of this section, “charitable organization” means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality,

awareness, and availability of chiropractic, dental, or medical services to children and to serve as a funding mechanism for provision of chiropractic, dental, or medical services, including but not limited to immunizations, to children in this state.

5. ~~6.~~ For the purposes of this section, “health:

a. “Free clinic” means a facility, other than a hospital or health care provider’s office which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and which has as its sole purpose the provision of health care services without charge to individuals who are otherwise unable to pay for the services.

b. “Health care provider” means a physician licensed under chapter 148, 150, 150A, or 151, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, a registered nurse, or a dentist, dental hygienist, or dental assistant registered or licensed to practice under chapter 153, a psychologist licensed pursuant to chapter 154B, a social worker licensed pursuant to chapter 154C, a mental health counselor licensed pursuant to chapter 154D, or a pharmacist licensed pursuant to chapter 155A.

Approved April 28, 2003

CHAPTER 90

SWINE DEALERS — FINANCIAL RESPONSIBILITY

H.F. 617

AN ACT requiring that dealers of certain swine file evidence of financial responsibility with the department of agriculture and land stewardship.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 163.30, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

~~No A person shall not act as a dealer without first securing unless the department issues the person a dealer’s license from the department. The person must be licensed as a dealer regardless of whether the swine originate in this state or another jurisdiction or the person resides in this state or another jurisdiction. The jurisdiction may be in another state or a foreign nation.~~

a. ~~The fee for a dealer’s license shall be is five dollars per annum and all licenses shall expire each year. A license expires on the first day of July following the date of issue. Licenses A license shall be numbered and the dealer shall retain the number from year to year.~~

~~3A. To secure be issued a license, the an applicant must file a surety bond with the department a bond in the sum of. The applicant shall file a standard surety bond of ten thousand dollars with the secretary named as trustee, for the use and benefit of anyone damaged by a violation of this section, except that the bond shall not be required for dealers who are bonded in the same or a greater amount than required pursuant to the federal Packers and Stockyards Act. In addition, the department may require that a licensee file evidence of financial responsibility with the department prior to a license being issued or renewed as provided in section 202C.2.~~

Sec. 2. NEW SECTION. 202C.1 DEFINITIONS.

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

1. “Dealer” means a person required to be licensed as a dealer pursuant to section 163.30.

However, a dealer does not include a person who operates a livestock market, as defined in section 459.102.

2. "Department" means the department of agriculture and land stewardship.
3. "Feeder pig" means an immature swine fed for purposes of direct slaughter which weighs one hundred pounds or less.
4. "Financial institution" means a bank or savings and loan association authorized by this state or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation.
5. "Purchaser" means the owner or operator of a farm as provided in section 163.30 who is delivered feeder pigs pursuant to a sales agreement in which the owner or operator is a party.
6. "Sales agreement" means an oral or written contract executed between a dealer and a purchaser for the sale of feeder pigs.

Sec. 3. NEW SECTION. 202C.2 EVIDENCE OF FINANCIAL RESPONSIBILITY — REQUIREMENTS.

1. A dealer shall provide the department with evidence of financial responsibility as required by the department. The evidence of financial responsibility shall consist of a surety bond furnished by a surety or an irrevocable letter of credit issued by a financial institution.
2. The evidence of financial responsibility shall be provided to the department before the dealer's license is issued or renewed pursuant to section 163.30.
3. The amount of the evidence of financial responsibility shall be established by rules which shall be adopted by the department. Unless the department otherwise has good cause, the rules shall be based upon the volume of sales reported by the dealer to the United States packers and stockyards administration. However, the evidence of financial responsibility shall not be for less than fifty thousand dollars or for more than three hundred thousand dollars.
4. The evidence of financial responsibility must be conditioned upon the dealer's faithful performance of the terms and conditions of the sales agreement. The surety's or issuer's liability extends to each such sales agreement executed while the surety bond or letter of credit is in force and until performance or the rescission of the sales agreement.
5. The evidence of financial responsibility shall be continuous in nature until canceled by the surety or issuer. The surety or issuer shall provide at least ninety days' notice in writing to the dealer and the department indicating the surety's or issuer's intent to cancel the surety bond or letter of credit and the effective date of the cancellation. The dealer shall have sixty days from the date of receipt of the surety's or issuer's notice of cancellation to file a replacement. However, the surety or issuer remains liable for damages arising from sales agreements which were executed during the effective period of the evidence of financial responsibility.

Sec. 4. NEW SECTION. 202C.3 SURETY OR ISSUER — LIABILITY.

1. The purchaser may bring a legal action arising from the breach of a sales agreement against the surety on the bond or issuer on the irrevocable letter of credit in the purchaser's own name in district court to recover any damages as allowed by law. The purchaser may also be awarded interest as determined pursuant to section 668.13, beginning from the date that the sales agreement was executed. The purchaser may also be awarded court costs and reasonable attorney fees, which shall be taxed as part of the costs of the legal action.
2. The aggregate liability of the surety or issuer due to a breach of a sales agreement shall not exceed the amount of the evidence of financial responsibility.

Sec. 5. NEW SECTION. 202C.4 DEPARTMENTAL RULES.

The department shall adopt rules as required to administer this chapter, including but not limited to rules providing for amounts of evidence of financial responsibility, qualifications for a surety or financial institution, procedures for filing evidence of financial responsibility, including replacement bonds or letters of credit, requirements for the cancellation of the evidence of financial responsibility, and the liability of a surety or issuer after cancellation.

CHAPTER 91

INSURANCE — MISCELLANEOUS PROVISIONS

H.F. 647

AN ACT relating to insurance, including various filing and information privacy requirements throughout the insurance code, calculation of assessments by the Iowa individual health benefit reinsurance association, payment of certain insurance fees, certain self-funded insurance plans by school corporations or political subdivisions, designation of the commissioner of insurance as process agent for various entities conducting insurance business in this state, notification provisions relating to the effective date of cancellation of insurance, beneficial stock ownership filings, funding agreements, creating an insurable interest in active or retired employee lives for the benefit of an employer, providing for an interstate insurance product regulation compact, and providing for retroactive applicability and an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. Section 29A.43, Code 2003, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED — LEAVE OF ABSENCE — CONTINUATION OF HEALTH COVERAGE.

1. A person shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States because of that membership. An employer, or agent of an employer, shall not discharge a person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or enlisted person from performing any military service the person is called upon to perform by proper authority. A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, subsection 1, 3, or 11, for any purpose is entitled to a leave of absence during the period of the duty or service, from the member's private employment, other than employment of a temporary nature, and upon completion of the duty or service the employer shall restore the person to the position held prior to the leave of absence, or employ the person in a similar position. However, the person shall give evidence to the employer of satisfactory completion of the training or duty, and that the person is still qualified to perform the duties of the position. The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. A person violating a provision of this section is guilty of a simple misdemeanor.

2. An officer or enlisted person of the national guard or organized reserves of the armed forces of the United States who is insured as a dependent under a group policy for accident or health insurance as a full-time student less than twenty-five years of age, whose coverage under the group policy would otherwise terminate while the officer or enlisted person was on a leave of absence during a period of temporary duty or service, as defined for members of the national guard in section 29A.1, subsection 1, 3, or 11, or as a member of the organized reserves called to active duty from a reserve component status, shall be considered to have been continuously insured under the group policy for the purpose of returning to the insured dependent status as a full-time student who is less than twenty-five years of age. This subsection does not apply to coverage of an injury suffered or a disease contracted by a member of the national guard or organized reserves of the armed forces of the United States in the line of duty.

Sec. 2. Section 505.8, subsection 6, Code 2003, is amended to read as follows:

6. a. Notwithstanding chapter 22, the commissioner shall keep confidential both informa-

tion obtained in the course of an investigation and information submitted to the insurance division pursuant to chapters 514J and 515D.

b. The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.

c. However, notwithstanding paragraphs “a” and “b”, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other regulatory authorities or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter. Such information may be redacted so that personally identifiable information is not made available.

d. The commissioner may adopt rules protecting the privacy of information submitted to the insurance division consistent with this section.

Sec. 3. NEW SECTION. 505.24 SALE OF POLICY TERM INFORMATION BY CONSUMER REPORTING AGENCY.

1. For purposes of this section, unless the context otherwise requires, “consumer reporting agency” means any person that for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

2. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer’s credit information or a request for a credit report or insurance score. Information submitted in conjunction with an insurance inquiry about a consumer includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer’s insurance may expire and the terms and conditions of the consumer’s insurance coverage.

3. The restrictions provided in subsection 2 do not apply to data or lists supplied by a consumer reporting agency to an insurance producer from whom information was received, the insurer on whose behalf such producer acted, or such insurer’s affiliates or holding companies.

4. This section shall not be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

Sec. 4. Section 507A.4, subsection 9, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. When not otherwise provided, a foreign or domestic multiple employee¹ welfare arrangement doing business in this state shall pay to the commissioner of insurance the fees as required in section 511.24.

Sec. 5. Section 507B.3, Code 2003, is amended to read as follows:

507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

1. A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or an unfair or deceptive act or practice in the business of insurance. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

2. The commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this section. The commissioner shall keep confidential the infor-

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §39 herein

mation submitted to the insurance division, or obtained by the insurance division in the course of an investigation pursuant to section 505.8, subsection 6.

Sec. 6. Section 508.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The president or vice president and secretary or actuary, or a majority of the directors of each company organized under this chapter, shall annually, by on or before the first day of March, prepare under oath and file in the office of the commissioner of insurance or a deputy designated by the commissioner a statement of its affairs for the year terminating on the thirty-first day of December preceding, showing:

Sec. 7. Section 508.31A, Code 2003, is amended to read as follows:

508.31A FUNDING AGREEMENTS.

1. A life insurance company organized under this chapter may issue funding agreements. The issuance of a funding agreement under this section is deemed to be doing insurance business. For purposes of this section, "funding agreement" means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the person to whom the funding agreement is issued. A funding agreement does not constitute life insurance, an annuity, or other insurance authorized by section 508.29, and does not constitute a security as defined in section 502.102.

2. a. Funding agreements may be issued to the following:

(1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of such business.

(2) A person for the purpose of funding any of the following:

(a) Benefits under an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., maintained in the United States or in a foreign country.

(b) Activities of an organization exempt from taxation pursuant to section 501c of the Internal Revenue Code, or any similar organization in any foreign country.

(c) A program of the United States government, another state government or political subdivision of such state, or of a foreign country, or any agency or instrumentality of any such government, political subdivision, or foreign country.

(d) An agreement providing for periodic payments in satisfaction of a claim.

(e) A program of an institution which has assets in excess of twenty-five million dollars.

(3) A person other than a natural person that has assets of at least twenty-five million dollars.

(4) A person other than a natural person for the purpose of providing collateral security for securities issued by such person and² registered with the federal securities and exchange commission.

b. A funding agreement issued pursuant to³ subparagraph (1), (2), or (3) shall be for a total amount of not less than one million dollars.

c. An amount under a funding agreement shall not be guaranteed or credited except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. Such funding agreements shall not provide for payments to ~~or~~ by the insurer based on mortality or morbidity contingencies.

d. Amounts paid to the insurer pursuant to a funding agreement, and proceeds applied under optional modes of settlement, may be allocated by the insurer to one or more separate accounts pursuant to section 508A.1.

3. A funding agreement is a class 2 claim under section 507C.42, subsection 2.

4. The commissioner may adopt rules to implement funding agreements.

Sec. 8. Section 508.38, subsection 2, unnumbered paragraph 1, Code 2003, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

In the case of contracts issued on or after the operative date of this section as defined in

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §28 herein

³ See chapter 179, §75 herein

subsection 11, no contract of annuity, except as stated in subsection 1, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions that in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

Sec. 9. Section 508.38, subsection 2, paragraphs a and b, Code 2003, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. That upon cessation of payment of considerations under a contract or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9.

b. If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand therefore with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral.

Sec. 10. Section 508.38, subsections 3 and 11, Code 2003, are amended by striking the subsections and inserting in lieu thereof the following:

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

a. The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in paragraph "b" of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of all of the following:

(1) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in paragraph "b".

(2) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in paragraph "b".

(3) The amount of any indebtedness to the company on the contract, including interest due and accrued.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during the contract year.

b. The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and all of the following, which shall be specified in the contract if the interest rate will be reset:

(1) The five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under subparagraph (4).

(2) The result of subparagraph (1) shall be reduced by one hundred twenty-five basis points.

(3) The resulting interest guarantee shall not be less than one percent.

(4) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subparagraph (2), by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date and at each redetermination date thereafter of the additional

reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

The commissioner may adopt rules to implement the provisions of subparagraph (4), and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

11. After the effective date of this Act, a company may elect either to apply the provisions of this section as it existed prior to the effective date of this Act or to apply the provisions of this section as enacted by this Act to annuity contracts on a contract form-by-form basis before the second anniversary of the effective date of this Act. In all other instances, this section shall become operative with respect to annuity contracts issued by the company two years after the effective date of this Act.

Sec. 11. Section 509.19, subsection 1, paragraphs a and c, Code 2003, are amended to read as follows:

a. A person issuing a policy or contract providing group health benefit coverages to a group of fifty-one or more eligible employees as defined in chapter 513B shall provide to the policyholder, contract holder, or sponsor of the group health benefit plan, upon request, annually, but not more than three months prior to the policy renewal date, the total amount of actual claims identified as paid or incurred and paid, and the total amount of premiums by line of coverage. If premiums are not billed for each line of coverage, it is not necessary to artificially separate premiums for each line of coverage and will be acceptable to supply total premiums for the period.

c. The information required by paragraph "a" shall be provided by the carrier separately for the current policy year to date and for the prior policy year two separate years, either policy years or rolling twelve-month periods.

Sec. 12. Section 509A.15, subsection 4, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

4. One or more political subdivisions of the state or one or more school corporations maintaining self-insured plans with yearly claims that do not exceed one percent of each entity's general fund budget shall be exempt from the requirements of this section where the plan insures employees for all or part of a deductible, coinsurance payments, drug costs, short-term disability benefits, vision benefits, or dental benefits.

The yearly claim amount shall be determined annually on the policy renewal date, or an alternative date established by rule, by a plan administrator or political subdivision or school corporation employee to be designated by the plan administrator. The exemption shall not apply for the year following a year in which yearly claims are determined to exceed one percent of the political subdivision's or school corporation's general fund budget.

Sec. 13. Section 510A.2, subsections 3, 4, and 5, Code 2003, are amended to read as follows:

3. "Controlled insurer" means a licensed insurer ~~which~~ that is controlled, directly or indirectly, by a an insurance producer.

4. "Controlling producer" means ~~a~~ an insurance producer who, directly or indirectly, controls an insurer.

5. "Independent casualty actuary" means a casualty actuary who is a member of the American academy of actuaries and who is not an employee, principal, the direct or indirect owner of, affiliated with, or in any way controlled by the insurer or insurance producer.

Sec. 14. Section 510A.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

Sec. 15. Section 510A.2, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 16. Section 510A.4, subsection 1, paragraph b, subparagraph (2), Code 2003, is amended to read as follows:

(2) The controlled insurer, except for insurance business written through a residual market facility, accepts insurance business only from the controlling producer, a producer controlled by the controlled insurer, or a an insurance producer that is a subsidiary of the controlled insurer.

Sec. 17. Section 510A.4, subsection 2, paragraph g, Code 2003, is amended to read as follows:

g. The controlled insurer shall provide the controlling producer with its underwriting standards, rules, and procedures manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a an insurance producer other than the controlling producer.

Sec. 18. Section 510A.4, subsection 4, Code 2003, is amended to read as follows:

4. REPORTING REQUIREMENTS.

a. In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or another independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end on business placed by the insurance producer, including incurred but not reported losses.

b. The controlled insurer shall annually report to the commissioner the amount of commissions paid to the insurance producer, the percentage such amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

Sec. 19. Section 510A.5, Code 2003, is amended to read as follows:

510A.5 DISCLOSURE.

The insurance producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the insurance producer and the controlled insurer; except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the insurance producer and that the subproducer has notified or will notify the insured.

Sec. 20. Section 511.8, subsection 20, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

Sec. 21. Section 511.27, Code 2003, is amended to read as follows:

511.27 COMMISSIONER AS PROCESS AGENT.

Every life insurance company and association ~~organized under the laws of another state or country~~ shall, before receiving a certificate to do business in this state or any renewal thereof ~~of a certificate to do business in this state~~, file in the office of the commissioner of insurance a power of attorney and an agreement in writing that thereafter service of notice or process of any kind may be made on the commissioner, ~~and when so made that~~ shall be as valid, binding, and effective for all purposes as if served upon the company according to the laws of this

or any other state, and waiving all claim or right of error by reason of such acknowledgment of service due to the filing of the power of attorney and the agreement regarding service of notice or process.

Sec. 22. NEW SECTION. 511.40 EMPLOYER — INSURABLE INTEREST.

1. As used in this section, “employees” includes officers, managers, and directors of an employer, and the shareholders, partners, members, proprietors, or other owners of the employer.

2. An employer and a trust established by the employer for the benefit of the employer or for the benefit of the employer’s active or retired employees has an insurable interest in each of the lives of the employer’s active or retired employees and may insure their lives on an individual or group basis.

3. The amount of coverage on the lives of nonmanagement or nonkey employees shall be reasonably related to the benefit provided to the employees.

4. On and after July 1, 2003, an employer or trust shall obtain the written consent of each employee being insured by an employer and trust pursuant to this section before insuring the employee’s life. The consent shall include an acknowledgment by the employee that the employer or trust may maintain the life insurance after the employee is no longer employed by the employer. An employer shall not retaliate in any manner against an employee who refuses to consent.

Sec. 23. Section 512B.33, Code 2003, is amended to read as follows:

512B.33 SERVICE OF PROCESS.

1. A ~~foreign or alien~~ society authorized to do business in this state shall ~~appoint in writing file in the office of the commissioner to be its true and lawful a power of attorney upon whom all lawful and an agreement in writing that service of process in any action or proceeding against it shall be served, and shall agree in the written consent to process that any lawful process against it which is the society may be served on the commissioner and shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the appointment power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original may be admitted.~~

2. Service of process shall only be made upon the commissioner, or if absent, upon the person in charge of the commissioner’s office. Service shall be made in ~~duplicate~~ triplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, the commissioner shall ~~forthwith~~ promptly forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer of the society. ~~Service shall not require a~~ A society shall not be required to file its answer, pleading, or defense in less than thirty days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section.

Sec. 24. Section 513C.7, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. A carrier or an organized delivery system shall waive any time period applicable to a pre-existing condition exclusion or limitation period with respect to particular services in an individual health benefit plan for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage. For purposes of this section, periods of coverage under medical assistance provided pursuant to chapter 249A or 514I, or Medicare coverage provided pursuant to Title XVIII of the federal Social Security Act shall not be counted with respect to the sixty-three day requirement.

Sec. 25. Section 513C.10, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. All persons that provide health benefit plans in this state including insurers providing accident and sickness insurance under chapter 509, 514, or 514A, whether on an individual or group basis; fraternal benefit societies providing hospital, medical, or nursing benefits under chapter 512B; and health maintenance organizations, organized delivery systems, and all other entities providing health insurance or health benefits subject to state insurance regulation shall be members of the association.

Sec. 26. Section 513C.10, subsection 6, Code 2003, is amended to read as follows:

6. The assessable loss plus necessary operating expenses for the association, plus any additional expenses as provided by law, shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums or payments for subscriber contracts received in Iowa during the second preceding calendar year, or with paid losses in the year, coinciding with or ending during the calendar year, or on any other equitable basis as provided in the plan of operation. In sharing losses, the association may abate or defer any part of the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for an initial or interim assessment against the members of the association to meet the operating expenses of the association until the next calendar year is completed. For purposes of this subsection, "total health insurance premiums" and "payments for subscriber contracts" include, without limitation, premiums or other amounts paid to or received by a member for individual and group health plan care coverage provided under any chapter of the Code or Acts, and "paid losses" includes, without limitation, claims paid by a member operating on a self-funded basis for individual and group health plan care coverage provided under any chapter of the Code or Acts. For purposes of calculating and conducting the assessment, the association shall have the express authority to require members to report on an annual basis each member's total health insurance premiums and payments for subscriber contracts and paid losses. A member is liable for its share of the assessment calculated in accordance with this section regardless of whether it participates in the individual insurance market.

Sec. 27. NEW SECTION. 514.2A SERVICE OF PROCESS.

A nonprofit health service corporation authorized to do business in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the corporation may be served on the commissioner and shall be of the same legal force and validity as if served upon the corporation, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original.

Sec. 28. Section 514B.3, subsection 10, Code 2003, is amended to read as follows:

10. A power of attorney executed by any applicant ~~who is not domiciled in this state~~ appointing the commissioner, the commissioner's successors in office, and deputies ~~as the true and lawful attorney of the applicant for this state upon whom all lawful~~ to receive process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state ~~may be served~~.

Sec. 29. Section 514B.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A health maintenance organization shall annually on or before the first day of March file with the commissioner or a depository designated by the commissioner a report verified by at least two of its principal officers and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

Sec. 30. Section 514B.33, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. When not otherwise provided, a foreign or domestic limited service organization doing business in this state shall pay the commissioner the fees as required in section 511.24.

Sec. 31. Section 514J.7, subsection 8, Code 2003, is amended to read as follows:

8. The confidentiality of any medical records submitted shall be maintained pursuant to applicable state and federal laws. Other than the sharing of information required by this chapter and the rules adopted pursuant to this chapter, the commissioner shall keep confidential the information obtained in the external review process pursuant to section 505.8, subsection 6.

Sec. 32. Section 514J.10, Code 2003, is amended to read as follows:

514J.10 REPORTING.

~~Each carrier and organized delivery system shall file~~ The commissioner shall prepare an annual report with the commissioner containing all of the following:

1. The number of external reviews requested.
 2. The number of the external reviews certified by the commissioner.
 3. The number of coverage decisions which were upheld by an independent review entity.
- The commissioner shall prepare a the report by January 31 of each year.

Sec. 33. Section 514J.13, Code 2003, is amended to read as follows:

514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

1. The review decision by the independent review entity conducting the review is binding upon the carrier or organized delivery system. The external review process shall not be considered a contested case under chapter 17A, the Iowa administrative procedure Act.

2. The enrollee or the enrollee's treating health care provider acting on behalf of the enrollee may appeal the review decision by the independent review entity conducting the review by filing a petition for judicial review either in Polk county district court or in the district court in the county in which the enrollee resides. The petition for judicial review must be filed within fifteen business days after the issuance of the review decision. The petition shall name the enrollee or the enrollee's treating health care provider as the petitioner. The respondent shall be the carrier or the organized delivery system. The petition shall not name the independent review entity as a party. The commissioner shall not be named as a respondent unless the petitioner alleges action or inaction by the commissioner under the standards articulated in section 17A.19, subsection 10. Allegations against the commissioner under section 17A.19, subsection 10, must be stated with particularity. The commissioner may, upon motion, intervene in the judicial review proceeding. The findings of fact by the independent review entity conducting the review are conclusive and binding on appeal.

3. The carrier or organized delivery system shall follow and comply with the review decision of the independent review entity conducting the review, or the decision of the court on appeal. The carrier or organized delivery system and the enrollee's treating health care provider shall not be subject to any penalties, sanctions, or award of damages for following and complying in good faith with the review decision of the independent review entity conducting the review or decision of the court on appeal.

4. The enrollee or the enrollee's treating health care provider may bring an action in Polk county district court or in the district court in the county in which the enrollee resides to enforce the review decision of the independent review entity conducting the review or the decision of the court on appeal.

Sec. 34. Section 515.35, subsection 4, paragraph m, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

Sec. 35. Section 515.63, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The president or the vice president and secretary of each company organized or authorized to do business in the state shall annually on or before the first day of March of each year prepare under oath and file with the commissioner of insurance or a depository designated by the commissioner a full, true, and complete statement of the condition of such company on the last day of the preceding year, which shall exhibit the following items and facts:

Sec. 36. Section 515.73, Code 2003, is amended to read as follows:
515.73 COMMISSIONER AS PROCESS AGENT.

Any ~~foreign~~ company desiring to transact the business of insurance under this chapter, ~~by an agent or agents in the state,~~ shall file with the commissioner of insurance a power of attorney and a signed written instrument, ~~duly signed and sealed,~~ authorizing such the commissioner to acknowledge accept service of notice or process ~~for and in~~ on behalf of such company ~~in this state, and consenting that service of notice or process may be made upon the said commissioner, and when so made that shall be taken and held as valid as if served upon the company according to the laws of this or any other state, and waiving all claim, or right, of error, by reason of such acknowledgment of service due to the filing of the power of attorney and the agreement regarding service of notice or process.~~

Sec. 37. Section 515.92, Code 2003, is amended to read as follows:
515.92 STATEMENT OF CAPITAL AND SURPLUS.

1. Every advertisement or public announcement, and every sign, circular, or card issued or published by a foreign company transacting the business of casualty insurance in the state, or by an officer, agent, or representative thereof, that purports to disclose the company's financial standing, shall exhibit the capital actually paid in cash, and the amount of net surplus of assets over all its liabilities actually held and available for the payment of losses by fire and for the protection of holders of fire policies, and shall also exhibit the amount of net surplus of assets over all liabilities in the United States actually available for the payment of losses by fire and held in the United States for the protection of holders of fire policies in the United States, including in such liabilities the fund reserved for reinsurance of outstanding risks, ~~and the same.~~ The amounts stated for capital and net surplus shall correspond with the latest verified statement made by the company or association to the commissioner of insurance.

2. The company shall not write, place, or cause to be written or placed, a policy or contract for insurance upon property situated or located in this state except through its resident agent or agents a licensed producer authorized to do business in this state.

Sec. 38. Section 515.133, Code 2003, is amended to read as follows:
515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

1. The commissioner of insurance is authorized to ~~summon before the commissioner, issue a subpoena~~ for examination under oath, any officer, agent, or employee of any such company suspected of violating any of the provisions of section 515.131, ~~and, on.~~

2. Upon the filing of a written, verified complaint to with the commissioner ~~in writing~~ by two or more residents of this state ~~charging such alleging that a~~ company ~~under oath upon their knowledge or belief with violating the provisions of said has violated~~ section 515.131, the commissioner shall ~~summon~~ issue a subpoena for examination under oath to any officer, agent, or employee of said the company ~~before the commissioner for examination under oath.~~

Sec. 39. Section 515.134, Code 2003, is amended to read as follows:
515.134 REVOCATION OF AUTHORITY.

If upon ~~such~~ examination, and that of any other witness produced and examined, the commissioner ~~shall determine~~ determines that ~~such a~~ company ~~is guilty of a violation of any of the provisions of has violated~~ section 515.131, or if any such officer, agent, or employee after being ~~duly summoned shall fail~~ fails to appear or submit to examination after receiving a subpoena,

the commissioner shall ~~forthwith~~ promptly issue an order revoking the authority of ~~such the~~ the company to transact business within this state, and ~~if the company~~ shall not thereafter be permitted to do the business of fire insurance in this state ~~at any time within for~~ one year ~~therefrom~~.

Sec. 40. Section 515B.2, subsection 2, Code 2003, is amended to read as follows:

2. "Claimant" means an insured making a first party claim or any person instituting a liability claim against the insured of an insolvent insurer. "Claimant" does not include a person who is an affiliate of an insolvent insurer.

Sec. 41. Section 515B.8, subsection 1, Code 2003, is amended to read as follows:

1. Any person recovering under this chapter shall be deemed to have assigned the person's rights under the policy to the association to the extent of the person's recovery from the association. Every insured or claimant seeking the protection of this chapter shall co-operate with the association to the same extent as such person would have been required to co-operate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except causes of action the insolvent insurer would have had if the sums had been paid by the insolvent insurer.

Sec. 42. Section 515B.9, subsection 1, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

1. Any person having a claim under an insurance policy, and the claim under such other policy alleges the same damages or arises from the same facts, injury, or loss that gives rise to a covered claim against the association, shall be required to first exhaust all coverage provided by that policy, whether such coverage is on a primary, excess, or pro rata basis and any obligation of the association shall not be considered other insurance.

Any amount payable on a covered claim shall be reduced by the full applicable limits of such other insurance policy and the association shall receive full credit for such limits or where there are no applicable limits, the claim shall be reduced by the total recovery.

a. A policy providing liability coverage to a person who may be jointly and severally liable with, or a joint tortfeasor with, the person covered under the policy of the insolvent insurer shall be first exhausted before any claim is made against the association and the association shall receive credit for the same as provided above.

b. For purposes of this section, an insurance policy means a policy issued by an insurance company, whether or not a member insurer, which policy insures any of the types of risks insured by an insurance company authorized to write insurance under chapter 515, 516A, or 520, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.

Sec. 43. Section 515B.16, Code 2003, is amended to read as follows:

515B.16 ACTIONS AGAINST THE ASSOCIATION.

Any action against the association shall be brought against the association in the association's own name. The Polk county district court shall have exclusive jurisdiction and venue of such actions. Service of the original notice in actions against the association may be made on any officer of the association or upon the commissioner of insurance on behalf of the association. The commissioner shall promptly transmit any notice so served upon the commissioner to the association. Any action against the association shall be commenced within three years after the date of the order of liquidation.

Sec. 44. Section 515D.5, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Notwithstanding the provisions of sections 515.80 through 515.81A, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least ~~twenty~~ thirty days prior to the effective date of cancellation, or, where the cancellation

is for nonpayment of premium notwithstanding the provisions of sections 515.80 and 515.81A at least ten days prior to the date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided in this chapter.

Sec. 45. Section 515D.10, Code 2003, is amended to read as follows:
515D.10 HEARING BEFORE COMMISSIONER.

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within fifteen days of the receipt or delivery of a statement of reason, request a hearing before the commissioner of insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence used by the insurer in its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. Other than the sharing of information required by this chapter and the rules adopted pursuant to the provisions of this chapter, the commissioner shall keep confidential the information obtained from the insured or in the hearing process, pursuant to section 505.8, subsection 6. The commissioner of insurance shall adopt rules for carrying out the provisions of this section.

Sec. 46. Section 515E.3, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A risk retention group organized in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the society may be served on the commissioner and shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original.

Sec. 47. Section 518.23, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least ~~twenty~~ thirty days before the effective date of cancellation.

Sec. 48. Section 518A.29, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least ~~twenty~~ thirty days before the effective date of cancellation.

Sec. 49. Section 521C.3, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. ~~If the applicant for a A~~ reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process, and also shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of a change of the designated agent for service of process, and the change becomes effective upon acknowledgment by the commissioner.

Sec. 50. Section 523.7, Code 2003, is amended to read as follows:

523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH COMMISSIONER.

1. Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance ~~within ten days after the person becomes such beneficial owner, director or officer~~ as prescribed by rule a statement, in ~~such a~~ form as the commissioner may prescribe, of the amount of all equity securities of ~~such the~~ company of which the person is the beneficial owner, ~~and within ten days after the close of each calendar month thereafter~~

2. ~~Within the time frame prescribed by rule, if there has been a change in such the ownership during such month a time period prescribed by rule, a person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner a statement, in such a form as the commissioner may prescribe, indicating the person's ownership at the close of the calendar month time period prescribed by rule and such any changes in the person's ownership as have occurred during such calendar month the time period prescribed by rule.~~

Sec. 51. Sections 511.30, 515.78, and 518A.43, Code 2003, are repealed.

Sec. 52. INDIVIDUAL HEALTH INSURANCE TASK FORCE. The insurance division of the department of commerce shall establish an individual health insurance task force. The individual health insurance task force shall conduct a study to review the individual health insurance market reform under chapter 513C and the Iowa comprehensive health insurance association under chapter 514E. The study shall include review of the following:

1. The premium rating system for the guaranteed basic and standard plans regulated under chapter 513C and the comprehensive health insurance plans under chapter 514E.

2. The availability of and qualifications for coverage under the guaranteed basic and standard plans regulated under chapter 513C and the comprehensive health insurance plans under chapter 514E.

3. The cost-sharing and assessment mechanisms under sections 513C.10 and 514E.2.

4. Any other matters as agreed upon by the task force which affect the individual health insurance market.

The commissioner of insurance shall select the members of the task force which shall include representatives from the Iowa comprehensive health insurance association, the public employee governing bodies subject to chapter 509A, and other health insurance-related parties or experts as deemed appropriate by the commissioner.

The commissioner shall submit a report from the task force to the general assembly on or before January 15, 2004, regarding the task force's findings and recommendations including proposed legislation concerning individual health insurance.

Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This section and the sections of this Act amending sections 513C.10, subsection 1, paragraph "a", and subsection 6, being deemed of immediate importance, take effect upon enactment, and apply retroactively to July 1, 1995.

DIVISION II

Sec. 54. NEW SECTION. 505A.1 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.

The interstate insurance product regulation compact is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I — PURPOSES

The purposes of this compact are, through means of joint and cooperative action among the compacting states:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products.
2. To develop uniform standards for insurance products covered under this compact.
3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states.
4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard.
5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under this compact.
6. To create the interstate insurance product regulation commission.
7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II — DEFINITIONS

For purposes of this compact, unless the context otherwise requires:

1. "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the rules and operating procedures of the commission.
2. "Bylaws" means those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct.
3. "Commission" means the interstate insurance product regulation commission established by this compact.
4. "Commissioner" means the chief insurance regulatory official of a state including, but not limited to, commissioner, superintendent, director, or administrator.
5. "Compacting state" means any state that has enacted this compact legislation and that has not withdrawn pursuant to article XIV, section 1, or been terminated pursuant to article XIV, section 2.
6. "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.
7. "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this compact.
8. "Member" means the person chosen by a compacting state as its representative to the commission, or the person's designee.
9. "Noncompacting state" means any state which is not at the time a compacting state.
10. "Operating procedures" means procedures promulgated by the commission implementing a rule, uniform standard, or a provision of this compact.
11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.
12. "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to article VII, designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.
13. "State" means any state, district, or territory of the United States of America.

14. "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

15. "Uniform standard" means a standard adopted by the commission for a product line, pursuant to article VII, and shall include all of the product requirements in aggregate, provided that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product, and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

ARTICLE III — ESTABLISHMENT OF THE COMMISSION AND VENUE

1. The compacting states hereby create and establish an entity known as the interstate insurance product regulation commission. Pursuant to article IV, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards, provided it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance, and any such filing shall be subject to the laws of the state where filed.

2. The commission is a body corporate comprising each compacting state.

3. The commission is a not-for-profit entity, separate and distinct from the individual compacting states.

4. The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

5. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

ARTICLE IV — POWERS OF THE COMMISSION

The commission shall have the following powers:

1. To promulgate rules, pursuant to article VII, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

2. To exercise its rulemaking authority and establish reasonable uniform standards for products covered under this compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided that a compacting state shall have the right to opt out of such uniform standard pursuant to article VII, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the national association of insurance commissioners' long-term care insurance model act and long-term care insurance model regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the long-term care insurance model act or long-term care insurance model regulation adopted by the national association of insurance commissioners require amending of the uniform standards established by the commission for long-term care insurance products.

3. To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law, and be binding on the compacting states to the extent and in the manner provided in the compact.

4. To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this article shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

5. To exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission.

6. To promulgate operating procedures, pursuant to article VII, which shall be binding in the compacting states to the extent and in the manner provided in this compact.

7. To bring and prosecute legal proceedings or actions in its name as the commission, provided that the standing of any state insurance department to sue or be sued under applicable law shall not be affected.

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

9. To establish and maintain offices.

10. To purchase and maintain insurance and bonds.

11. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state.

12. To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of this compact, and determine their qualifications, and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety.

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety.

15. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

16. To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures.

17. To enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws.

18. To provide for dispute resolution among compacting states.

19. To advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact.

20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments.

21. To establish a budget and make expenditures.

22. To borrow money.

23. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws.

24. To provide and receive information from, and to cooperate with, law enforcement agencies.

25. To adopt and use a corporate seal.

26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

ARTICLE V — ORGANIZATION OF THE COMMISSION

1. MEMBERSHIP, VOTING, AND BYLAWS.

a. Each compacting state shall have and be limited to one member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which the member is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

b. Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds of the members vote in favor thereof.

c. The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the compact, including, but not limited to:

- (1) Establishing the fiscal year of the commission.
- (2) Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee.
- (3) Providing reasonable standards and procedures:
 - (a) For the establishment of other committees.
 - (b) Governing any general or specific delegation of any authority or function of the commission.
- (4) Providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each such meeting.
- (5) Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the commission.
- (6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission.
- (7) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

a. A management committee comprising no more than fourteen members shall be established as follows:

(1) One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products, determined from the records of the national association of insurance commissioners for the prior year.

(2) Four members from those compacting states with at least two percent of the market based on the premium volume described in subparagraph (1), other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws.

(3) Four members from those compacting states with less than two percent of the market, based on the premium volume described⁴ subparagraph (1), with one selected from each of the four zone regions of the national association of insurance commissioners as provided in the bylaws.

b. The management committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

⁴ See chapter 179, §74 herein

(1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission.

(2) Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard, provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee.

(3) Overseeing the offices of the commission.

(4) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

c. The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.

d. The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

3. LEGISLATIVE AND ADVISORY COMMITTEES.

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee, provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

b. The commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.

4. CORPORATE RECORDS OF THE COMMISSION. The commission shall maintain its corporate books and records in accordance with the bylaws.

5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

a. The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to, or loss of, property, personal injury, or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

b. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and, provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

c. The commission shall indemnify and hold harmless any member, officer, executive direc-

tor, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

ARTICLE VI — MEETINGS AND ACTS OF THE COMMISSION

1. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

2. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

ARTICLE VII — RULES AND OPERATING PROCEDURES — RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

1. **RULEMAKING AUTHORITY.** The commission shall promulgate reasonable rules, including uniform standards and operating procedures, in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, such an action by the commission shall be invalid and have no force and effect.

2. **RULEMAKING PROCEDURE.** Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the model state administrative procedure act, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee or committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard.

3. **EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD.** A uniform standard shall become effective ninety days after its promulgation by the commission or such later date as the commission may determine, provided, however, that a compacting state may opt out of a uniform standard as provided in this article. "Opt out" means any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

4. **OPT-OUT PROCEDURE.** A compacting state may opt out of a uniform standard, either by legislation or regulation duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, it must do all of the following:

a. Give written notice to the commission no later than ten business days after the uniform standard is promulgated, or at the time the state becomes a compacting state.

b. Find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state.

The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following

factors and find that the conditions in the state and needs of the citizens of the state outweigh both of the following:

(1) The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this compact.

(2) The presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt out shall be effective at the time of enactment of this compact by the compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

5. EFFECT OF OPT OUT. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time the opt-out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a uniform standard by a compacting state becomes effective, as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under article XIV for withdrawals.

ARTICLE VIII — COMMISSION RECORDS AND ENFORCEMENT

1. The commission shall promulgate rules to establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records, and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further provided that, except as otherwise expressly provided in this compact, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.

3. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in article XIV.

4. The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise the commissioner's authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

a. With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, no activity of an insurer shall constitute a violation

of the provisions, standards, or requirements of this compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

b. Before a commissioner may bring an action for violation of any provision, standard, or requirement of this compact relating to the use of an advertisement not approved or certified to the commission, the commissioner, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

5. **STAY OF UNIFORM STANDARD.** If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least fifteen days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety days, unless affirmatively extended by the commission, provided a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

6. Not later than thirty days after a rule or operating procedure is adopted, any person may file a petition for judicial review of the rule or operating procedure, provided that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

ARTICLE IX — DISPUTE RESOLUTION

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues which are subject to this compact and which may arise between two or more compacting states, or between compacting states and noncompacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

ARTICLE X — PRODUCT FILING AND APPROVAL

1. Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this compact shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.

2. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.

3. Any product approved by the commission may be sold or otherwise issued in those compacting states in which the insurer is legally authorized to do business.

ARTICLE XI — REVIEW OF COMMISSION DECISIONS
REGARDING FILINGS

1. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall adopt rules to establish procedures for appointing such review panels and provide for notice and hearing. The decision of the review panel shall be the final action of the commission and not subject to review by any court. Notwithstanding the foregoing, an allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with article III, section 5.

2. The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in section 1.

ARTICLE XII — FINANCE

1. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the national association of insurance commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

2. The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

3. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in article VII.

4. The commission shall be exempt from all taxation in and by the compacting states.

5. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

6. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports, including the system of internal controls and procedures of the commission, shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts, any work papers related to any internal audit, and any work papers related to the independent audit, shall be confidential, provided that such materials may be shared with the commissioner of any compacting state and shall remain confidential pursuant to article VII.

7. A compacting state shall not have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

ARTICLE XIII — COMPACTING STATES,
EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a compacting state.

2. This compact shall become effective and binding upon legislative enactment of this compact into law by two compacting states, provided the commission shall become effective for purposes of adopting uniform standards for reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than forty percent of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the national association of insurance commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of this compact into law by that state.

3. Amendments to this compact may be proposed by the commission for enactment by the compacting states. An amendment shall not become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

ARTICLE XIV — WITHDRAWAL, DEFAULT, AND TERMINATION

1. WITHDRAWAL.

a. Once effective, this compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from this compact by enacting a statute specifically repealing the statute which enacted the compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in paragraph “e”.

c. The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

d. The commission shall notify the other compacting states of the introduction of such legislation within ten days after its receipt of notice.

e. The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission’s approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

2. DEFAULT.

a. If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state’s suspension, pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from this compact and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

b. Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to section 1.

c. Reinstatement following termination of any compacting state requires a reenactment of this compact.

3. DISSOLUTION OF COMPACT.

a. This compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in this compact to one compacting state.

b. Upon the dissolution of this compact, this compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XV — SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this compact shall be enforceable.

2. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XVI — BINDING EFFECT OF COMPACT AND OTHER LAWS

1. OTHER LAWS.

a. Nothing herein prevents the enforcement of any other law of a compacting state, except as provided in paragraph “b”.

b. For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission’s authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, action taken by the commission shall not abrogate or restrict:

(1) The access of any person, including the attorney general, to state courts.

(2) Remedies available under state law related to breach of contract, tort, general consumer protection laws, or general consumer protection regulations that apply to the sale or advertisement of the product or other laws not specifically directed to the content of the product.

(3) State law relating to the construction of insurance contracts.

c. All insurance products filed with individual states shall be subject to the laws of those states.

2. BINDING EFFECT OF THIS COMPACT.

a. All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are binding upon the compacting states.

b. All agreements between the commission and the compacting states are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

CHAPTER 92

STATE ARCHIVES AND RECORDS

H.F. 648

AN ACT relating to the consolidation of the management of state archives and records and making conforming changes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 14B.102, subsection 2, paragraph e, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

e. Developing and maintaining an electronic repository for public access to reference copies of agency mandated reports, newsletters, and publications in conformity with section 304B.10, subsection 1, paragraph "h". The department shall develop technical standards for an electronic repository in consultation with the state librarian and the state archivist.¹

Sec. 2. Section 163.37, subsection 3, Code 2003, is amended to read as follows:

3. Such records shall be maintained for a length of time as required by and pursuant to chapter ~~304~~ 304B and at the point of concentration and shall be made available for inspection by the department at reasonable times.

Sec. 3. Section 303.2, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. Administer the state archives and records program in accordance with ~~sections 303.12 through 303.15, and 304.6~~ chapter 304B.

Sec. 4. NEW SECTION. 304B.1 CITATION.

This chapter shall be known and may be cited as the "State Archives and Records Act".

Sec. 5. NEW SECTION. 304B.2 DEFINITIONS.

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

1. "Agency" means any department, office, commission, board, or other unit of state government except as otherwise provided by law.

2. "Archives" means records that have been appraised by the state records commission as having sufficient historical, research, evidential, or informational value to warrant permanent preservation and that have been transferred to the custody of the state archives.

3. "Commission" means the state records commission created in section 304B.3.

4. "Custody" means guardianship or control of records, including both physical possession, referred to as physical custody, and legal responsibility, referred to as legal custody, unless one or the other is specified.

5. "Designee" means an appointee of a commission member listed in section 304B.3, who is a year-round, full-time state employee, appointed to regularly represent the commission member in the activities of the commission for a period of at least two years.

6. "Government records program" means a systematic state government program for the creation, organization, administrative use, maintenance, security, public availability, and final disposition of records.

7. "Guideline" means a suggested method of operation for specific activities.

8. "Policy" means a basic statement describing the boundaries within which activities are to take place.

9. "Record" means a document, book, paper, electronic record, photograph, sound recording, or other material, regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government. "Record" does not include library and museum material made or acquired and

¹ See chapter 179, §§3, 84 herein

preserved solely for reference or exhibition purposes or stocks of publications and unprocessed forms.

10. "Records series retention and disposition schedule" means a timetable established by the state records commission that describes the length of time a records series of an agency or multiple agencies must be retained in active and inactive status and provides authorization for a final disposition of the records series by destruction or permanent retention.

11. "Records inventory" means a detailed listing of the volume, scope, and complexity of an agency's records that is compiled for the purpose of creating records series retention and disposition schedules.

12. "Records officer" means a year-round, full-time agency official who possesses a broad understanding of programs and records of an agency and who is designated by the agency head to coordinate the records program or programs within the agency.

13. "Standard" means a specific rule or principle established to measure quality or value.

14. "Vital operating record" means a record containing information essential to continue or to reestablish an agency in the event of a natural or other disaster, allowing the re-creation of the state's legal and financial status, and the determination of the rights and obligations of the state and its citizens.

Sec. 6. NEW SECTION. 304B.3 COMMISSION CREATED — DUTIES.

A state records commission is created. The commission shall consist of the following officials or their designees:

1. The secretary of state.
2. The director of the department of cultural affairs.
3. The treasurer of state.
4. The director of revenue and finance.
5. The director of the department of management.
6. The state librarian.
7. The auditor of state.
8. The director of the department of general services.
9. The director of the information technology department.²

Sec. 7. NEW SECTION. 304B.4 COMMISSION PURPOSE.

The commission shall adopt government information policies, standards, and guidelines to do all of the following:

1. Provide for economy and efficiency in the creation, organization, maintenance, administrative use, security, public availability, and final disposition of government records.
2. Ensure creation of proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of state government agencies to protect the legal and financial rights of the state and of persons directly affected by the government's activities.
3. Identify and preserve state government records that document the history and development of the state.

Sec. 8. NEW SECTION. 304B.5 EXPENSES.

Members of the commission shall serve without compensation but may receive their actual expenses incurred in the performance of their duties.

Sec. 9. NEW SECTION. 304B.6 MEETINGS.

The commission shall have its offices at the seat of government but may hold meetings in other locations. The commission shall meet quarterly and at the call of the chairperson.

Sec. 10. NEW SECTION. 304B.7 ADMINISTRATION.

The department of cultural affairs, through the state archives and records program, is the primary agency responsible for providing administrative personnel and services for the commission.

² See chapter 179, §70, 84 herein

Sec. 11. NEW SECTION. 304B.8 COMMISSION RESPONSIBILITIES.

1. The commission shall do all of the following:
 - a. Develop and adopt government information policies, standards, and guidelines for the creation, storage, retention, and disposition of records.
 - b. In consultation with the emergency management division of the department of public safety, establish policies, standards, and guidelines for the identification, protection, and preservation of records essential for the continuity or reestablishment of governmental functions in the event of an emergency arising from a natural or other disaster.
 - c. Provide planning, policy development, and review for the government records program.
 - d. Adopt rules pursuant to chapter 17A that provide government information policies and standards.
 - e. Adopt and maintain an interagency records manual containing the rules governing records management, as well as records series retention and disposition schedules, guidelines, and other information relating to implementation of this chapter.
 - f. Make recommendations, in consultation with the information technology department, to the governor and the general assembly for the continued reduction of printed reports throughout state government in a manner that protects the public's right to access such reports.
 - g. Provide advice, counsel, and services to the legislative, judicial, and executive branch agencies subject to this chapter on the care and management of state government records.
 - h. Report to the governor and the general assembly on the status of the government records program.
 - i. Perform any act necessary and proper to carry out its duties.
2. The commission may do all of the following:
 - a. Examine records in the possession, constructive possession, or control of state agencies to carry out the purposes of this chapter.
 - b. Enter into agreements and contracts.
 - c. Secure appropriations, grants, or other outside funding.
 - d. Appoint advisory committees of citizens, public officials, or professional consultants to secure advice on records issues.
 - e. Make, or cause to be made, preservation duplicates of records, which may include existing copies of original state records. Any preservation duplicate record shall be durable, accurate, complete, and clear, and shall be made by means designated by the commission.
 - f. Develop appropriate charges for services provided for the convenience of state agencies, the judicial and legislative branches, political subdivisions, or the public.
 - g. Provide advice and counsel to political subdivisions on the care and management of local government records.
 - h. Establish a centralized records storage facility.

Sec. 12. NEW SECTION. 304B.9 DEPARTMENT OF CULTURAL AFFAIRS RESPONSIBILITIES.

1. The department of cultural affairs shall do all of the following:
 - a. Provide administrative support to the state records commission through the state archives and records program.
 - b. Appoint a state archivist to head the state archives and records program.
 - c. Maintain all official records of the state records commission.
 - d. Provide training, advice, and counsel to agencies on government information policies, standards, and guidelines.
 - e. Recommend records series retention and disposition schedules to the commission for consideration.
 - f. Recommend plans, policies, standards, and guidelines on records issues to the commission for consideration.
 - g. Compile, update, and distribute the state records manual as adopted by the commission.
 - h. Manage any centralized records storage facility established by the commission for the

temporary storage of agency records prior to their final disposition by destruction or permanent preservation in accordance with the records series retention and disposition schedules.

i. Develop and distribute operating procedures for agencies to use to implement the plans, policies, standards, and guidelines adopted by the commission.

j. Provide advice, counsel, and services to the legislative, judicial, and executive branch agencies subject to this chapter on the care and management of state government records.

k. Manage the state archives and develop operating procedures for the transfer, accessioning, arrangement, description, preservation, protection, and public access of those records the commission identifies as having permanent value.

l. Maintain physical custody and legal custody of archives that have been transferred and delivered to the state archives.

(1) Upon receipt by the state archivist, the archives shall not be removed without the state archivist's consent except in response to a subpoena of a court of record or in accordance with approved records series retention and disposition schedules or after review and approval of the commission.

(2) Upon request, the state archivist shall make a certified copy of any record in the legal custody or in the physical custody of the state archivist, or a certified transcript of any record if reproduction is inappropriate because of legal or physical considerations. If a copy or transcript is properly authenticated, it has the same legal effect as though certified by the officer from whose office it was transferred or by the secretary of state. The department of cultural affairs shall establish reasonable fees for certified copies or certified transcripts of records in the legal custody or physical custody of the state archivist.

2. The department of cultural affairs may:

a. Upon written consent of the state archivist, accept records of political subdivisions that are voluntarily transferred to the state archives.

b. Provide advice and counsel to political subdivisions on the care and management of local government records.

Sec. 13. NEW SECTION. 304B.10 AGENCY HEAD RESPONSIBILITIES.

1. Each agency head shall do all of the following:

a. Make and maintain records containing adequate and proper documentation of the agency organization, functions, policies, decisions, procedures, and essential transactions designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.

b. Designate one or more agency officials with broad understanding of agency programs and records to be an agency records officer to coordinate records programs within the agency and to be the point of contact with the state archives and records program.

c. Cooperate with the state records commission and the state archives and records program in the development and implementation of government information policies, standards, and guidelines, and in the development and implementation of records series retention and disposition schedules.

d. Comply with requests from the state records commission or the state archives and records program to examine records in the possession, constructive possession, or control of the agency in order to carry out the purposes of this chapter.

e. Inventory agency records in accordance with state records commission policies to draft records series retention and disposition schedules.

f. Identify vital operating records in accordance with the policies, standards, and guidelines of the state records commission.

g. Provide for the identification, protection, and preservation of vital operating records in the custody of the agency.

h. Prepare all mandated reports, newsletters, and publications for electronic distribution in accordance with government information policies, standards, and guidelines. A reference copy of all mandated reports, newsletters, and publications shall be located at an electronic

repository for public access to be developed and maintained by the information technology department in consultation with the state librarian and the state archivist.

i. Provide for maximum economy and efficiency in the day-to-day recordkeeping activities of the agency.

j. Provide for compliance with this chapter and the rules adopted by the state records commission.

2. Agency heads may petition the state records commission to create or modify government information policies, standards, and guidelines, and to create or modify records series retention and disposition schedules.

Sec. 14. NEW SECTION. 304B.11 TERMINATION OF STATE AGENCY.

Upon the termination of a state agency whose functions have not been transferred to another agency, custody of the records of the agency shall transfer to the commission.

Sec. 15. NEW SECTION. 304B.12 DUPLICATES.

A preservation duplicate record shall have the same force and effect for all purposes as the original record whether or not the original record is in existence. A certified transcript, exemplification, or copy of a preservation duplicate record shall be deemed for all purposes to be a certified transcript, exemplification, or copy of the original record.

Sec. 16. NEW SECTION. 304B.13 RECORDS STATE PROPERTY.

All records made or received by or under the authority of or coming into the custody, control, or possession of public officials of this state in the course of their public duties are the property of the state and shall not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law or by rule.

Sec. 17. NEW SECTION. 304B.14 LIABILITY PRECLUDED.

No member of the commission or head of an agency shall be held liable for damages or loss, or civil or criminal liability, because of the destruction of public records pursuant to the provisions of this chapter or any other law authorizing their destruction.

Sec. 18. NEW SECTION. 304B.15 EXEMPTIONS — DUTIES OF STATE DEPARTMENT OF TRANSPORTATION AND STATE BOARD OF REGENTS.

The state department of transportation and the agencies and institutions under the control of the state board of regents are exempt from the state records manual and the provisions of this chapter. However, the state department of transportation and the state board of regents shall adopt rules pursuant to chapter 17A for their employees, agencies, and institutions that are consistent with the objectives of this chapter. The rules shall be approved by the state records commission.

Sec. 19. NEW SECTION. 304B.16 IOWA HISTORICAL RECORDS ADVISORY BOARD ESTABLISHED.

An Iowa historical records advisory board is established in accordance with 36 C.F.R. § 1206.36-38.

1. MEMBERSHIP. The board shall consist of nine members appointed by the governor for three-year staggered terms. Members shall be eligible for reappointment. The members shall have experience in a field of research or an activity that administers or makes extensive use of historical records. The majority of the members shall have professional qualifications and experience in the administration of government records, historical records, or archives. The administrator of the historical division of the department of cultural affairs shall serve as an ex officio member of the board.

2. COORDINATOR. The state archivist shall serve as chair of the board and as state historical records coordinator.

3. ADMINISTRATION. The department of cultural affairs, through the state archives and records program, is the primary agency responsible for providing administrative personnel and services for the board.

4. MEETINGS. The board shall meet at least three times annually and at the call of the chair. At least one meeting annually shall be held outside the state capital or in conjunction with a meeting of a relevant statewide professional organization.

5. EXPENSES. Members of the board shall serve without compensation but may receive their actual expenses incurred in the performance of their duties.

6. RESPONSIBILITIES.

a. The board shall do all of the following:

(1) Serve as the central advisory body for historical records planning in the state and as a coordinating body to facilitate cooperation among historical records repositories and other information agencies within the state.

(2) Serve as a state level review body for grant proposals submitted to the national historical publications and records commission.

b. The board may do all of the following:

(1) Serve in an advisory capacity to the state records commission, the state archives and records program, and other statewide archival or records agencies.

(2) Seek funds from the national historical publications and records commission or other grant-funding bodies for sponsoring and publishing surveys of the conditions and needs of historical records in the state; for developing, revising, and distributing funding priorities for historical records projects in Iowa; for implementing projects to be carried out in the state for the preservation of historical records and publications; or for reviewing through reports and otherwise, the operation and progress of records projects in the state.

Sec. 20. Chapter 304, Code 2003, is repealed.

Sec. 21. Sections 303.12, 303.13, 303.14, and 303.15, Code 2003, are repealed.

Approved April 28, 2003

CHAPTER 93

REGULATION OF PHYSICIAN ASSISTANT SERVICES

H.F. 628

AN ACT relating to physician assistant licensure, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 147.74, subsection 16, Code 2003, is amended to read as follows:

16. A physician assistant ~~registered or~~ licensed under chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "P. A." after the person's name.

Sec. 2. Section 147.80, subsection 5, Code 2003, is amended to read as follows:

5. Application for a license to practice as a physician assistant, issuance of a license to practice as a physician assistant issued upon the basis of an examination given or approved by the

board of physician assistant examiners, issuance of a license to practice as a physician assistant issued under a reciprocal agreement, renewal of a license to practice as a physician assistant, temporary license to practice as a physician assistant, registration of a physician assistant, temporary registration of a physician assistant, renewal of a registration of a physician assistant.

Sec. 3. Section 147.107, subsection 5, Code 2003, is amended to read as follows:

5. Notwithstanding subsection 1 and any other provision of this section to the contrary, a physician may delegate the function of prescribing drugs, controlled substances, and medical devices to a physician assistant licensed pursuant to chapter 148C. When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Rules relating to the authority of physician assistants to prescribe drugs, controlled substances, and medical devices pursuant to this subsection shall be adopted by the board of physician assistant examiners, after consultation with the board of medical examiners and the board of pharmacy examiners, as soon as possible after July 1, 1991. ~~The rules shall be reviewed and approved by the physician assistant rules review group created under subsection 7 and shall be adopted in final form by January 1, 1993. However, the rules shall prohibit the prescribing of schedule II controlled substances which are listed as stimulants or depressants pursuant to chapter 124. If rules are not reviewed and approved by the physician assistant rules review group created under subsection 7 and adopted in final form by January 1, 1993, a physician assistant may prescribe drugs as a delegated act of a supervising physician under rules adopted by the board of physician assistant examiners and subject to the rules review process established in section 148C.7. The board of physician assistant examiners shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices, notwithstanding section 148C.6A.~~

Sec. 4. Section 148.13, subsection 1, Code 2003, is amended to read as follows:

1. The board of medical examiners shall adopt rules setting forth in detail its criteria and procedures for determining the ineligibility of a physician to serve as a supervising physician under chapter 148C. ~~The rules shall be adopted as soon as possible after the effective date of this Act and in no event later than December 31, 1988 provide that a physician may serve as a supervising physician under chapter 148C until such time as the board determines, following normal disciplinary procedures, that the physician is ineligible to serve in that capacity.~~

Sec. 5. Section 148.13, subsection 4, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

4. The board of medical examiners shall adopt rules requiring a physician serving as a supervising physician to notify the board of the identity of a physician assistant the physician is supervising, and of any change in the status of the supervisory relationship.

Sec. 6. Section 148C.1, subsection 1, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Approved program" means a program for the education of physician assistants which has been accredited by the American medical association's committee on allied health education and accreditation, by its successor, the commission on accreditation of allied health educational programs, or by its successor, the accreditation review commission on education for the physician assistant, or its successor.

Sec. 7. Section 148C.1, subsection 5, Code 2003, is amended to read as follows:

5. "Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. Notwithstanding this subsection,

a physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

Sec. 8. Section 148C.1, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 9. Section 148C.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

148C.3 LICENSURE.

1. The board shall adopt rules to govern the licensure of physician assistants. An applicant for licensure shall submit the fee prescribed by the board and shall meet the requirements established by the board with respect to each of the following:

a. Academic qualifications, including evidence of graduation from an approved program. A physician assistant who is not a graduate of an approved program, but who passed the national commission on certification of physician assistants' physician assistant national certifying examination prior to 1986, is exempt from this graduation requirement.

b. Evidence of passing the national commission on the certification of physician assistants' physician assistant national certifying examination or an equivalent examination approved by the board.

c. Hours of continuing medical education necessary to become or remain licensed.

2. Rules shall be adopted by the board pursuant to this chapter requiring a licensed physician assistant to be supervised by physicians. The rules shall provide that not more than two physician assistants shall be supervised by a physician at one time. The rules shall also provide that a physician assistant shall notify the board of the identity of their supervising physician, and of any change in the status of the supervisory relationship.

3. A licensed physician assistant shall perform only those services for which the licensed physician assistant is qualified by training or not prohibited by the board.

4. The board may issue a temporary license under special circumstances and upon conditions prescribed by the board. A temporary license shall not be valid for more than one year and shall not be renewed more than once.

5. The board may issue an inactive license under conditions prescribed by rules adopted by the board.

6. The board shall adopt rules pursuant to this section after consultation with the board of medical examiners.

Sec. 10. Section 148C.4, Code 2003, is amended to read as follows:

148C.4 SERVICES PERFORMED BY PHYSICIAN ASSISTANTS.

1. A physician assistant may perform medical services when the services are rendered under the supervision of the a physician or physicians specified in the physician assistant license approved by the board. A trainee physician assistant student may perform medical services when the services are rendered within the scope of an approved program. For the purposes of this section, "medical services when the services are rendered under the supervision of the physician or physicians specified in the physician assistant license approved by the board" a physician" includes making a pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, or a Medicare-certified hospice program or facility, with notice of the death to a physician and in accordance with the directions of a physician.

2. Notwithstanding subsection 1, a physician assistant licensed pursuant to this chapter or authorized to practice in any other state or federal jurisdiction who voluntarily and gratuitously, and other than in the ordinary course of the physician assistant's employment or practice, responds to a need for medical care created by an emergency or a state or local disaster may render such care that the physician assistant is able to provide without supervision as described in this section or with such supervision as is available.

A physician who supervises a physician assistant providing medical care pursuant to this

subsection shall not be required to meet the requirements of rules adopted pursuant to section 148C.3, subsection 2, relating to supervision by physicians. A physician providing physician assistant supervision pursuant to this subsection or a physician assistant, who voluntarily and gratuitously, and other than in the ordinary course of the physician assistant's employment or practice, responds to a need for medical care created by an emergency or a state or local disaster shall not be subject to criminal liability by reason of having issued or executed the orders for such care, and shall not be liable for civil damages for acts or omissions relating to the issuance or execution of the orders unless the acts or omissions constitute recklessness.

Sec. 11. Section 148C.11, Code 2003, is amended to read as follows:
148C.11 PROHIBITION — CRIME.

A person not registered and licensed as required by this chapter who practices as a physician assistant ~~without having obtained the appropriate approval under this chapter~~, is guilty of a serious misdemeanor.

Sec. 12. PHYSICIAN ASSISTANTS — RULES. The board¹ shall adopt new rules pursuant to chapter 17A to administer chapter 148C, after consultation with the board of medical examiners, no later than January 1, 2004. The rules shall be designed to encourage the utilization of physician assistants in a manner that is consistent with the provision of quality health care and medical services for the citizens of Iowa through better utilization of available physicians and the development of sound programs for the education and training of skilled physician assistants well qualified to assist physicians in providing health care and medical services.

Sec. 13. Sections 148C.2, 148C.5A, 148C.6A, and 148C.7, Code 2003, are repealed.

Sec. 14. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 30, 2003

CHAPTER 94

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — CHIEF EXECUTIVE OFFICER

S.F. 102

AN ACT relating to the chief executive officer of the Iowa public employees' retirement system and providing an effective and retroactive applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 97B.3, subsection 1, Code 2003, is amended to read as follows:

1. The administrator of the division is the chief executive officer. The chief executive officer shall be appointed by the governor subject to confirmation by the senate and shall serve a four-year term of office beginning and ending as provided in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office. The investment board, under the pay plan applicable to employees of the division, shall set the salary of the chief executive officer.

¹ The "board of physician assistant examiners" probably intended

Sec. 2. Section 97B.3, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 3. By January 31 of the year in which the term of office of the chief executive officer will end, the investment board and the benefits advisory committee shall submit a written report to the governor and the secretary of the senate concerning the board's and committee's evaluation of the performance of the chief executive officer, together with a recommendation concerning the reappointment of the chief executive officer.

Sec. 3. **IPERS CHIEF EXECUTIVE OFFICER — TERM OF OFFICE.** Notwithstanding any provision of section 97B.3 to the contrary, the term of office for the chief executive officer of the Iowa public employees' retirement system appointed prior to the effective date of this Act shall end April 30, 2008.

Sec. 4. **EFFECTIVE DATE — RETROACTIVE APPLICABILITY.** This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2002, and is applicable on and after that date.

Approved May 1, 2003

CHAPTER 95

ESTATES, GIFTS, TRUSTS, AND RELATED PROPERTY TRANSFERS

S.F. 366

AN ACT relating to the Iowa probate code, including provisions relating to state inheritance, gift taxes, and trusts and including an applicability date provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 450.1, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

450.1 DEFINITIONS — CONSTRUCTION.

1. For purposes of this chapter, unless the context otherwise requires:
 - a. "Internal Revenue Code" means the same as defined in section 422.3.
 - b. "Person" includes plural as well as singular, and artificial as well as natural persons.
 - c. "Personal representative" means an administrator, executor, or trustee as each is defined in section 633.3.
 - d. "Real estate or real property" for the purpose of appraisal under this chapter means real estate which is the land and appurtenances, including structures affixed thereto.
 - e. "Stepchild" means the child of a person who was married to the decedent at the time of the decedent's death, or the child of a person to whom the decedent was married, which person died during the marriage to the decedent.
2. This chapter shall not be construed to confer upon a county attorney authority to represent the state in any case, and the county attorney shall represent the department of revenue and finance only when specially authorized by the department to do so.

Sec. 2. Section 450.2, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

450.2 TAXABLE ESTATES AND PROPERTY.

The following estates and property and any interest in or income from any of the following

estates and property, which pass from the decedent owner in any manner described in this chapter, are subject to tax as provided in this chapter:

1. Real estate and tangible personal property located in this state regardless of whether the decedent was a resident of this state at death.
2. Intangible personal property owned by a decedent domiciled in this state.

Sec. 3. Section 450.3, subsection 2, Code 2003, is amended to read as follows:

2. By deed, grant, sale, gift, or transfer made within three years of the death of the grantor or donor, which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections ~~b~~ (b) and ~~e~~ (e), of the Internal Revenue Code. If both spouses consent, a gift made by one spouse to a person who is not the other spouse is considered, for the purposes of this subsection, as made one half by each spouse under the same terms and conditions provided for in section 2513 of the Internal Revenue Code. The net market value of a transfer described in this subsection shall be the net market value determined as of the date of the transfer.

Sec. 4. Section 450.20, unnumbered paragraph 1, Code 2003, is amended to read as follows:

~~¶~~ The department of revenue and finance shall also keep a separate record of any deferred estate upon which the tax due is not paid within fifteen months from on or before the last day of the ninth month after the death of the decedent, showing substantially the same facts as are required in other cases, and also showing:

Sec. 5. Section 633.527, Code 2003, is amended to read as follows:

633.527 LIMITATION OF APPLICATION.

Sections 633.523, 633.524 and 633.526 shall not apply in the case of wills, living trusts, deeds, or contracts of insurance, or other contracts wherein provision has been made for distribution of property different from the provisions of ~~said~~ those sections.

Sec. 6. Section 633.1102, subsection 3, Code 2003, is amended to read as follows:

3. "Competency" means any one of the following:

- a. In the case of a revocable transfer, "competency" means the degree of understanding required to execute a will.
- b. In the case of an irrevocable transfer, "competency" means ~~the degree of understanding required to execute a contract~~ ability to understand the effect the gift may have on the future financial security of the donor and anyone who may be dependent on the donor.
- ~~c. In other circumstances not clearly relating to a revocable or irrevocable transfer, "competency" means the ability to make rational decisions regarding one's financial affairs.~~

Sec. 7. Section 633.1105, Code 2003, is amended to read as follows:

633.1105 TRUST PROVISIONS CONTROL.

The provisions of a trust shall always control and take precedence over any section of this trust code to the contrary. If a provision of the trust instrument makes any section of this trust code inapplicable to a trust, the common law shall apply to any issues raised by such provision.

Sec. 8. NEW SECTION. 633.1108 GOVERNING LAW.

1. A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which at the time the trust was created the settlor was domiciled, had a place of abode, or was a national.

2. The meaning and effect of the terms of the trust not created by will shall be determined by any of the following:

- a. Except as provided in paragraph "c", the law of the jurisdiction designated in the terms of the trust, on the condition that at the time the trust was created the designated jurisdiction

had a substantial relationship to the trust. A jurisdiction has a substantial relationship to the trust if it is the residence or domicile of the settlor or of any qualified beneficiary, the location of a substantial portion of the assets of the trust, or a place where the trustee was domiciled or had a place of business.

b. Except as provided in paragraph "c", in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction that has the most significant relationship to the matter at issue.

c. As to real property, the law of the jurisdiction where the real property is located.

Sec. 9. Section 633.2102, Code 2003, is amended to read as follows:

633.2102 REQUIREMENTS FOR VALIDITY.

1. A trust is created only if all of the following elements are satisfied:

a. The settlor was competent and indicated an intention to create a trust.

b. The same person is not the sole trustee and sole beneficiary.

c. The trust has a definite beneficiary or a beneficiary who will be definitely ascertained within the period of the applicable rule against perpetuities, unless the trust is a charitable trust, an honorary trust, or a trust for pets.

d. The trustee has duties to perform.

~~2. A definite or definitely ascertainable beneficiary includes a beneficiary or class of beneficiaries designated under a power to select the beneficiaries granted by the terms of the trust to the trustee or another person. A power in a trustee to select a beneficiary from an indefinite class is valid.~~ If the power is not exercised within a reasonable time, the power fails and the property passes to the person or persons who would have taken the property had the power not been conferred.

3. A trust is not merged or invalid because a person, including but not limited to the settlor of the trust, is or may become the sole trustee and the sole holder of the present beneficial interest in the trust, provided that one or more other persons hold a beneficial interest in the trust, whether such interest be vested or contingent, present, or future, and whether created by express provision of the instrument or as a result of reversion to the settlor's estate.

Sec. 10. Section 633.2103, subsections 2 and 3, Code 2003, are amended to read as follows:

2. If an owner of property declares that property is held upon a trust ~~for which a written instrument is required~~, the written instrument evidencing the trust must be signed by the settlor according to one of the following:

a. Before or at the time of the declaration.

b. After the time of the declaration but before the settlor has transferred the property.

3. If an owner of property while living transfers property to another person to hold upon a trust ~~for which a written instrument is required~~, the written instrument evidencing the trust must be signed according to one of the following:

a. By the settlor, concurrently with or before the transfer.

b. By the trustee, concurrently with or before the transfer, or after the transfer but before the trustee has transferred the property to a third person.

Sec. 11. Section 633.2103, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Oral trusts that have not been reduced to writing as specified in this section are not enforceable. This section does not affect the power of a court to declare a resulting or constructive trust in the appropriate case or to order other relief where appropriate.

Sec. 12. Section 633.4105, subsection 2, paragraph b, subparagraph (2), Code 2003, is amended to read as follows:

(2) By a person appointed by the court on petition of an interested person or of a person named as trustee by the terms of the trust. The court, in selecting a trustee, shall consider any nomination made by the adult beneficiaries and representatives of any minor and incompetent beneficiaries as designated in section 633.6303.

Sec. 13. Section 633.4107, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. ee. If the trustee merges with another institution or the location or place of administration of the trust changes.

Sec. 14. Section 633.4207, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

633.4207 DIRECTORY POWERS.

1. While a trust is revocable, the trustee may follow a written direction of the settlor that is contrary to the terms of the trust.

2. If the terms of the trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the trustee knows the attempted exercise violates the terms of the trust or the trustee knows that the person holding the power is incompetent.

3. A person other than a beneficiary who holds a power to direct is presumptively a fiduciary who is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from a breach of a fiduciary duty.

Sec. 15. Section 633.4213, subsections 1, 3, 6, and 7, Code 2003, are amended to read as follows:

1. The trustee shall inform each qualified beneficiary of the beneficiary's right to receive an annual accounting and a copy of the trust instrument. The trustee shall also inform each qualified beneficiary about the process necessary to obtain an annual accounting or a copy of the trust instrument, if not provided. The trustee shall further inform ~~the~~ each qualified beneficiary whether the beneficiary will, or will not, receive an annual accounting if the beneficiary fails to take any action. If a qualified beneficiary has previously been provided the notice required by this section, additional notice shall not be required due to a change of trustees or a change in the composition of the qualified beneficiaries.

3. A trustee of an irrevocable trust shall provide annually to each adult beneficiary and the representative of any minor or incompetent beneficiary who may receive a distribution of income or principal during the accounting time period, an accounting, unless an accounting has been waived specifically for ~~a particular~~ that accounting time period.

6. The format and content of an accounting required by this section shall be within the discretion of the trustee, if as long as sufficient to reasonably inform the beneficiary of the condition and activities of the trust during the accounting period.

7. This section does not apply to any trust created prior to July 1, 2002. This section applies to any trust created on or after July 1, 2002, unless the ~~trustor~~ settlor has specifically waived the requirements of this section in the trust instrument. Waiver of this section shall not bar any beneficiary's common-law right to an accounting, and shall not provide any immunity to a trustee, acting under the terms of the trust, for liability to any beneficiary who discovers facts giving rise to a cause of action against the trustee.

Sec. 16. Section 633.4214, subsection 3, paragraph c, subparagraph (3), Code 2003, is amended to read as follows:

(3) A trust, if contributions to the trust ~~which~~ qualify for an annual exclusion under section 2503(c) of the Internal Revenue Code of 1986.

Sec. 17. Section 633.4506, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. The trustee did not reasonably believe that the beneficiary knew the beneficiary's rights ~~or~~ and that the beneficiary knew material facts known to the trustee or which the trustee should have known.

Sec. 18. Section 633.4701, subsection 5, Code 2003, is amended to read as follows:

5. If both the beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and neither the beneficiary nor the alternate beneficiary has issue who are living on the date the interest becomes possessory, the beneficiary's interest shall be distributed to the takers of the settlor's residuary estate, or, if the trust is the sole taker of the settlor's residuary estate, in accordance with section 633.2106.

Sec. 19. Section 633.4701, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 6. If both the beneficiary of an interest and any alternate beneficiary of that interest named in the trust die prior to the interest becoming possessory, and both the beneficiary and the alternate beneficiary have issue who are living on the date the interest becomes possessory, the issue of the beneficiary succeed to the interest of the beneficiary. The issue of the alternate beneficiary shall not succeed to any part of the interest of the beneficiary.

NEW SUBSECTION. 7. For the purposes of this section, persons appointed under a power of appointment shall be considered beneficiaries under this section and takers in default of appointment designated by the instrument creating the power of appointment shall be considered alternate beneficiaries under this section.

NEW SUBSECTION. 8. Subsections 2, 3, 4, 5, 6, and 7 do not apply to any interest subject to an express condition of survivorship imposed by the terms of the trust. For the purposes of this section, words of survivorship including, but not limited to, "my surviving children", "if a person survives" a named period, and terms of like import, shall be construed to create an express condition of survivorship. Words of survivorship include language requiring survival to the distribution date or to any earlier or unspecified time, whether those words are expressed in condition precedent, condition subsequent, or any other form.

NEW SUBSECTION. 9. If an interest to which this section applies is given to a class, other than a class described as "issue", "descendants", "heirs of the body", "heirs", "next of kin", "relatives", or "family", or a class described by language of similar import, the members of the class who are living on the date on which the class becomes entitled to possession or enjoyment of the interest shall be considered as alternate beneficiaries under this section. However, neither the residuary beneficiaries under the settlor's will nor the settlor's heirs shall be considered as alternate beneficiaries for the purposes of this section.

Sec. 20. Section 633.6105, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the trustee's duty to administer the trust at a place appropriate to its purpose or administration, and the interests of the beneficiaries, may transfer the trust's principal place of administration to another state or to a jurisdiction outside the United States.

Sec. 21. Section 633.6301, subsections 3, 4, and 5, Code 2003, are amended to read as follows:

~~3. Except to the extent the terms of the trust indicate that the procedures specified are not to apply, a person interested in a fiduciary matter may approve a nonjudicial settlement containing such terms and conditions as a court could properly approve and represent and bind other persons interested in the fiduciary matter.~~

~~4.~~ 3. Notice to a person who may represent and bind another person under this chapter trust code has the same effect as if notice were given directly to the person represented.

~~5.~~ 4. The consent of a person who may represent and bind another person under this chapter trust code is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

Sec. 22. NEW SECTION. 633.6308 NONJUDICIAL SETTLEMENT AGREEMENTS.

1. For purposes of this subpart, "interested persons" means persons whose consent would

be required in order to achieve a binding settlement were the settlement to be approved by the court.

2. Except as otherwise provided in subsection 3, or as to a modification or termination of a trust under section 633.2203, interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

3. A nonjudicial settlement is valid only to the extent the settlement does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this trust code or other applicable law.

4. Matters that may be resolved by a nonjudicial settlement agreement include any of the following:

- a. The interpretation or construction of the terms of the trust.
- b. The approval of a trustee's report or accounting.
- c. Direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power.
- d. The resignation or appointment of a trustee and the determination of a trustee's compensation.
- e. The transfer of a trust's principal place of administration.
- f. The liability of a trustee for an action relating to the trust.

5. Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation provided was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

Sec. 23. Section 450.91, Code 2003, is repealed.

Sec. 24. Sections 1, 2, 3, 4, and 23 of this Act apply to estates of decedents dying on or after July 1, 2003.

Approved May 1, 2003

CHAPTER 96

UNIFORM MONEY SERVICES ACT

S.F. 372

AN ACT relating to the licensing of persons providing money transmission and currency exchange services, providing penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

ARTICLE 1 GENERAL PROVISIONS

Section 1. NEW SECTION. 533C.101 SHORT TITLE.
This chapter may be cited as the "Uniform Money Services Act".

Sec. 2. NEW SECTION. 533C.102 DEFINITIONS.

In this chapter:

1. "Applicant" means a person that files an application for a license under this chapter.

2. "Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee.
3. "Bank" means an institution organized under federal or state law which does any of the following:
 - a. Accepts demand deposits or deposits that the depositor may use for payment to third parties and engages in the business of making commercial loans.
 - b. Engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than one hundred thousand dollars, and does not engage in the business of making commercial loans.
4. "Compensation" means any fee, commission, or other benefit.
5. "Conducting the business" means engaging in activities of a licensee or money transmitter more than ten times in any calendar year for compensation.
6. "Control" means any of the following:
 - a. Ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities or voting interests of a licensee or person in control of a licensee.
 - b. Power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee.
 - c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.
7. "Credit union" means a cooperative, nonprofit association incorporated under chapter 533 or the Federal Credit Union Act, 12 U.S.C. § 1751 et seq., that is insured by the national credit union administration and includes an office of a credit union.
8. "Currency exchange" means receipt of compensation from the exchange of money of one government for money of another government.
9. "Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.
10. "Licensee" means a person licensed under this chapter.
11. "Location" means a place of business at which activity conducted by a licensee or money transmitter occurs.
12. "Monetary value" means a medium of exchange, whether or not redeemable in money.
13. "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.
14. "Money services" means money transmission or currency exchange.
15. "Money transmission" means any of the following:
 - a. Selling payment instruments to one or more persons or issuing payment instruments which are sold to one or more persons.
 - b. Conducting the business of receiving money or monetary value for transmission.
 - c. Conducting the business of receiving money for obligors for the purpose of paying obligors' bills, invoices, or accounts.
16. "Outstanding", with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee.
17. "Payment instrument" means a check, draft, money order, traveler's check, stored-value, or other instrument or order for the transmission or payment of money or monetary value, sold to one or more persons, whether or not that instrument or order is negotiable. "Payment instrument" does not include an instrument that is redeemable by the issuer or an affiliate in merchandise or service, a credit card voucher, or a letter of credit.
18. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.
19. "Proceeds" means property acquired or derived directly or indirectly from, produced

through, realized through, or caused by an act or omission and includes any property of any kind.

20. "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible, without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.

21. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

22. "Responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in this state.

23. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

24. "Stored-value" means a monetary value that is evidenced by an electronic record.

25. "Superintendent" means the superintendent of banking for the state of Iowa.

26. "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of any monetary instrument or stored-value, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

27. "Unsafe or unsound practice" means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers.

Sec. 3. NEW SECTION. 533C.103 EXCLUSIONS.

This chapter does not apply to:

1. The United States or a department, agency, or instrumentality thereof.
2. A money transmission by the United States postal service or by a contractor on behalf of the United States postal service.
3. A state, county, city, or any other governmental agency or governmental subdivision of a state.
4. A bank, bank holding company, savings and loan association, savings bank, credit union, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the federal Bank Service Company Act, 12 U.S.C. § 1861-1867, or corporation organized under the federal Edge Act, 12 U.S.C. § 611-633, under the laws of a state or the United States.
5. Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof.
6. A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. § 1-25, or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board.
7. A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.
8. A person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from such registration granted under the federal securities laws to the extent of its operation as such a provider.
9. An operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers.

10. A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer.
11. A delayed deposit services business as defined in chapter 533D.
12. A real estate broker or salesperson as defined in chapter 543B.
13. Pari-mutuel wagering, racetracks, and excursion gambling boats as provided in chapters 99D and 99F.
14. A person engaging in the business of debt management that is licensed or exempt from licensing pursuant to section 533A.2.
15. An insurance company organized under chapter 508, 514, 514B, 515, 518, 518A, or 520, or authorized to do the business of insurance in Iowa to the extent of its operation as an insurance company.
16. An insurance producer as defined in section 522B.1 to the extent of its operation as an insurance producer.

ARTICLE 2 MONEY TRANSMISSION LICENSES

Sec. 4. NEW SECTION. 533C.201 LICENSE REQUIRED.

1. A person shall not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person:
 - a. Is licensed under this article.
 - b. Is an authorized delegate of a person licensed under this article.
2. A license under this article is not transferable or assignable.

Sec. 5. NEW SECTION. 533C.202 APPLICATION FOR LICENSE.

1. In this section, "material litigation" means litigation that according to generally accepted accounting principles is significant to an applicant's or a licensee's financial health and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records.
2. A person applying for a license under this article shall do so in a form prescribed by the superintendent. The application must state or contain:
 - a. The legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business.
 - b. A list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application.
 - c. A description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this state.
 - d. A list of the applicant's proposed authorized delegates and the locations in this state where the applicant and its authorized delegates propose to engage in money transmission or provide other money services.
 - e. A list of other states in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state.
 - f. Information concerning any bankruptcy or receivership proceedings affecting the licensee.
 - g. A sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument upon which stored-value is recorded, if applicable.
 - h. The name and address of any bank through which the applicant's payment instruments and stored-value will be paid.
 - i. A description of the source of money and credit to be used by the applicant to provide money services.
 - j. Any other information the superintendent reasonably requires with respect to the applicant.

3. If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide all of the following:

a. The date of the applicant's incorporation or formation and state or country of incorporation or formation.

b. If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed.

c. A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded.

d. The legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the ten-year period next preceding the submission of the application of each executive officer, manager, director, or person that has control, of the applicant.

e. A list of any criminal convictions and material litigation in which any executive officer, manager, director, or person in control of the applicant has been involved in the ten-year period next preceding the submission of the application.

f. A copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application.

g. A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application.

h. If the applicant is publicly traded, a copy of the most recent report filed with the United States securities and exchange commission under section 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. § 78m.

i. If the applicant is a wholly owned subsidiary of:

(1) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. § 78m.

(2) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States.

j. If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state.

k. Any other information the superintendent reasonably requires with respect to the applicant.

4. A nonrefundable application fee of one thousand dollars and a license fee must accompany an application for a license under this article. The license fee must be refunded if the application is denied. The license fee shall be the sum of five hundred dollars plus an additional ten dollars for each location in this state at which business is conducted through authorized delegates or employees of the licensee, but shall not exceed five thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. If the licensee has no locations in this state at which business is conducted through authorized delegates or employees of the licensee, the license fee shall be set by the superintendent, but shall not exceed five thousand dollars. A license under this article expires on the next September 30 after its issuance. The initial license fee is considered an annual fee and the superintendent shall prorate the license fee, refunding any amount due to a partial license year. However, no refund of a license fee shall be made when a license is suspended, revoked, or surrendered.

5. The superintendent may waive one or more requirements of subsections 2 and 3, or permit an applicant to submit other information in lieu of the required information.

Sec. 6. NEW SECTION. 533C.203 SECURITY.

1. Except as otherwise provided in subsection 2, a surety bond, letter of credit, or other similar security acceptable to the superintendent in the amount of fifty thousand dollars plus ten thousand dollars per location, not exceeding a total addition of three hundred thousand

dollars, must accompany an application for a license. If the licensee has no locations in this state, the superintendent shall set the bond amount not to exceed three hundred thousand dollars.

2. Security must be in a form satisfactory to the superintendent and payable to the state for the benefit of any claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to money transmission.

3. The aggregate liability on a surety bond shall not exceed the principal sum of the bond. A claimant against a licensee may maintain an action on the bond, or the superintendent may maintain an action on behalf of the claimant.

4. A surety bond must cover claims for so long as the superintendent specifies, but for at least five years after the licensee ceases to provide money services in this state. However, the superintendent may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's payment instruments or stored-value obligations outstanding in this state is reduced. The superintendent may permit a licensee to substitute another form of security acceptable to the superintendent for the security effective at the time the licensee ceases to provide money services in this state.

5. In lieu of the security prescribed in this section, an applicant for a license or a licensee may provide security in a form prescribed by the superintendent.

6. The superintendent may increase the amount of security required to a maximum of one million dollars if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant criteria.

Sec. 7. NEW SECTION. 533C.204 ISSUANCE OF LICENSE.

1. When an application is filed under this article, the superintendent shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The superintendent may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The superintendent shall issue a license to an applicant under this article if the superintendent finds that all of the following conditions have been fulfilled:

a. The applicant has complied with sections 533C.202, 533C.203, and 533C.206.

b. The applicant has not been convicted of or pled guilty to a felony or an indictable misdemeanor for financial gain within the past ten years.

c. The applicant has paid a fee set by the department of public safety, division of criminal investigation and bureau of identification, to defray the costs associated with the search of criminal history records of the applicant. If the applicant is a corporation, the applicant shall pay the fee associated with a criminal history record check for the directors and officers of the corporation. If the applicant is a partnership, the applicant shall pay the fee associated with a criminal history record check for each of the partners. The superintendent may require the applicant to provide additional information from the applicant if the department of public safety records indicate that a person with the same name has a criminal history. If the applicant is a publicly traded corporation or a subsidiary or affiliate of a publicly traded corporation, no criminal history record check shall be required.

2. When an application for an original license under this article is complete, the superintendent shall promptly notify the applicant of the date on which the application was determined to be complete and the superintendent shall approve or deny the application within one hundred twenty days after that date.

3. The superintendent may for good cause extend the application period.

4. An applicant whose application is denied by the superintendent under this article may appeal, within thirty days after receipt of the notice of the denial, from the denial and request a hearing. The denial of a license shall not be deemed a contested case.

Sec. 8. NEW SECTION. 533C.205 RENEWAL OF LICENSE.

1. A licensee under this article shall pay an annual renewal fee as determined below by no later than September 1 of the year of expiration. The renewal fee shall be five hundred dollars

plus an additional ten dollars for each location in this state at which business is conducted through authorized delegates or employees of the licensee, but shall not exceed five thousand dollars. Fees for locations added after submission of the renewal application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. If the licensee has no locations in this state at which business is conducted through authorized delegates or employees of the licensee, the license fee shall be set by the superintendent, but shall not exceed five thousand dollars. Licenses issued under chapter 533B, Code 2003, will be initially renewed as provided in section 533C.904.

2. A licensee under this article shall submit a renewal report with the renewal fee, in a form prescribed by the superintendent. The renewal report must state or contain:

a. A copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's most recent audited consolidated annual financial statement.

b. The number and monetary amount of payment instruments sold by the licensee in this state which have not been included in a renewal report, and the monetary amount of payment instruments and stored-value currently outstanding.

c. A description of each material change in information submitted by the licensee in its original license application which has not been reported to the superintendent on any required report.

d. A list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in sections 533C.601 and 533C.602.

e. Proof that the licensee continues to maintain adequate security as required by section 533C.203; and

f. A list of the locations in this state where the licensee or an authorized delegate of the licensee engages in money transmission or provides other money services.

3. If a licensee does not file a renewal report or pay its renewal fee by September 1, or any extension of time granted by the superintendent, the superintendent may assess a late fee of one hundred dollars per day.

Sec. 9. NEW SECTION. 533C.206 NET WORTH.

A licensee under this article shall maintain a net worth of at least one hundred thousand dollars plus ten thousand dollars per authorized delegate not to exceed five hundred thousand dollars determined in accordance with generally accepted accounting principles. If the licensee has no locations in this state at which business is conducted through authorized delegates or employees of the licensee, the minimum net worth, not to exceed five hundred thousand dollars, shall be set by the superintendent.

ARTICLE 3
CURRENCY EXCHANGE LICENSES

Sec. 10. NEW SECTION. 533C.301 LICENSE REQUIRED.

1. A person shall not engage in currency exchange or advertise, solicit, or hold itself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person:

a. Is licensed under this article.

b. Is licensed for money transmission under article 2.

c. Is an authorized delegate of a person licensed under article 2.

2. A license under this article is not transferable or assignable.

Sec. 11. NEW SECTION. 533C.302 APPLICATION FOR LICENSE.

1. A person applying for a license under this article shall do so in a form prescribed by the superintendent. The application must state or contain:

a. The legal name and residential and business addresses of the applicant, if the applicant is an individual, or, if the applicant is not an individual, the name of each partner, executive officer, manager, and director.

b. The location of the principal office of the applicant.

c. The complete addresses of other locations in this state where the applicant proposes to engage in currency exchange, including all limited stations and mobile locations.

d. A description of the source of money and credit to be used by the applicant to engage in currency exchange.

e. Other information the superintendent reasonably requires with respect to the applicant, but not more than the superintendent may require under article 2.

2. A nonrefundable application fee of one thousand dollars and the license fee must accompany an application for a license under this article. The license fee shall be the sum of five hundred dollars plus an additional one hundred dollars for each location at which business is conducted, but not to exceed two thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. The license fee must be refunded if the application is denied. A license under this article expires on the next September 30 of an odd-ending year after its issuance. The initial license fee is considered a biennial fee and the superintendent shall prorate the license fee, refunding any amount due to a partial license period. However, no refund of a license fee shall be made when a license is suspended, revoked, or surrendered.

Sec. 12. NEW SECTION. 533C.303 ISSUANCE OF LICENSE.

1. Upon the filing of an application under this article, the superintendent shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The superintendent may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The superintendent shall issue a license to an applicant under this article if the superintendent finds that all of the following conditions have been fulfilled:

a. The applicant has complied with section 533C.302.

b. The applicant has not been convicted of or pled guilty to any felony or an indictable misdemeanor for financial gain within the past ten years.

c. The applicant has paid a fee set by the department of public safety, division of criminal investigation and bureau of identification, to defray the costs associated with the search of criminal history records of the applicant. If the applicant is a corporation, the applicant shall pay the fee associated with a criminal history record check for the directors and officers of the corporation. If the applicant is a partnership, the applicant shall pay the fee associated with a criminal history record check for each of the partners. The superintendent may require the applicant to provide additional information from the applicant if the department of public safety records indicate that a person with the same name has a criminal history. If the applicant is a publicly traded corporation or a subsidiary or affiliate of a publicly traded corporation, no criminal history record check shall be required.

d. The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.

2. When an application for an original license under this article is complete, the superintendent shall promptly notify the applicant of the date on which the application was determined to be complete and the superintendent shall approve or deny the application within one hundred twenty days after that date.

3. The superintendent may for good cause extend the application period.

4. An applicant whose application is denied a license by the superintendent under this article may appeal, within thirty days after receipt of the notice of the denial, from the denial

and request a hearing. The denial of a license shall not be deemed a contested case.

Sec. 13. NEW SECTION. 533C.304 RENEWAL OF LICENSE.

1. A licensee under this article shall pay a biennial renewal fee no later than September 1 of an odd-ending year. The biennial renewal fee shall be the sum of five hundred dollars plus an additional one hundred dollars for each location at which business is conducted, but shall not exceed two thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2.

2. A licensee under this article shall submit a renewal report with the renewal fee, in a form prescribed by the superintendent. The renewal report must state or contain:

a. A description of each material change in information submitted by the licensee in its original license application that has not been reported to the superintendent on any required report.

b. A list of the locations in this state where the licensee or an authorized delegate of the licensee engages in currency exchange.

3. If a licensee does not file a renewal report and pay its renewal fee by September 1 of an odd-ending year, or any extension of time granted by the superintendent, the superintendent may assess a late fee of one hundred dollars per day.

4. The superintendent for good cause may grant an extension of the renewal date.

ARTICLE 4
AUTHORIZED DELEGATES

Sec. 14. NEW SECTION. 533C.401 RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE.

1. In this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

2. A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter. The licensee shall furnish in a record to each authorized delegate policies and procedures for the operation of the money services business.

3. An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

4. If a license is suspended or revoked or a licensee does not renew its license, the superintendent shall notify all authorized delegates of the licensee whose names are in a record filed with the superintendent of the suspension, revocation, or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.

5. An authorized delegate shall not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is licensed to engage under article 2 or 3. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission.

6. A person operating under a written contract with a licensee as required under subsection 2 shall not be deemed to be conducting unauthorized money services because the licensee has failed to properly designate the person as an authorized delegate under this chapter provided that the person is otherwise operating in full compliance with this chapter.

Sec. 15. NEW SECTION. 533C.402 UNAUTHORIZED ACTIVITIES.

A person shall not provide money services on behalf of another person not licensed under this chapter. A person who engages in that activity provides money services to the same extent as if the person were a licensee.

ARTICLE 5
EXAMINATIONS — REPORTS — RECORDS

Sec. 16. NEW SECTION. 533C.501 AUTHORITY TO CONDUCT EXAMINATIONS.

1. The superintendent may conduct an annual examination of a licensee upon reasonable notice in a record to the licensee. The superintendent may conduct an annual examination of any authorized delegate of a licensee upon reasonable notice in a record to the authorized delegate and the licensee.

2. The superintendent may examine a licensee or its authorized delegate, at any time, without notice, if the superintendent has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a rule adopted or an order issued under this chapter.

3. The licensee shall pay the reasonable cost of the examination.

4. Information obtained during an examination under this chapter may be disclosed only as provided in section 533C.507.

Sec. 17. NEW SECTION. 533C.502 JOINT EXAMINATIONS.

1. The superintendent may conduct an on-site examination of records listed in section 533C.505 in conjunction with representatives of other state agencies or agencies of another state or of the federal government. Instead of an examination, the superintendent may accept the examination report of an agency of this state or of another state or of the federal government or a report prepared by an independent licensed or certified public accountant.

2. A joint examination or an acceptance of an examination report does not preclude the superintendent from conducting an examination as provided by law. A joint report or a report accepted under this section is an official report of the superintendent for all purposes.

Sec. 18. NEW SECTION. 533C.503 REPORTS.

1. A licensee shall file with the superintendent within fifteen business days any material changes in information provided in a licensee's application as prescribed by the superintendent.

2. A licensee shall file with the superintendent within forty-five days after the end of each fiscal quarter a current list of all authorized delegates and locations in this state where the licensee or an authorized delegate of the licensee provides money services. The licensee shall state the name and street address of each location and authorized delegate.

3. A licensee shall file a report with the superintendent within one business day after the licensee has reason to know of the occurrence of any of the following events:

a. The filing of a petition by or against the licensee under the United States bankruptcy code, 11 U.S.C. § 101 et seq., for bankruptcy or reorganization.

b. The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors.

c. The commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed.

d. The cancellation or other impairment of the licensee's bond or other security.

e. A charge or conviction of the licensee or of an executive officer, manager, or director of, or person in control of, the licensee for a felony.

f. A charge or conviction of an authorized delegate for a felony.

Sec. 19. NEW SECTION. 533C.504 CHANGE OF CONTROL.

1. A licensee shall:

a. Request approval from the superintendent of a proposed change of control.

b. Submit a nonrefundable fee of one thousand dollars with the request.

2. After review of a request for approval under subsection 1, the superintendent may require

the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information must be limited to the same types required of the licensee or persons in control of the licensee as part of its original license or renewal application.

3. The superintendent shall approve a request for change of control under subsection 1 if, after investigation, the superintendent determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.

4. When an application for a change of control under this article is complete, the superintendent shall notify the licensee in a record of the date on which the request was determined to be complete and shall approve or deny the request within one hundred twenty days after that date.

5. The superintendent, by rule or order, may exempt a person from any of the requirements of subsection 1, paragraph "b", if it is in the public interest to do so.

6. Subsection 1 does not apply to a public offering of securities.

7. Before filing a request for approval to acquire control of a licensee or person in control of a licensee, a person may request in a record a determination from the superintendent as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the superintendent determines that the person would not be a person in control of a licensee, the superintendent shall enter an order to that effect and the proposed person and transaction is not subject to the requirements of subsections 1 through 3.

Sec. 20. NEW SECTION. 533C.505 RECORDS.

1. A licensee shall maintain the following records for determining its compliance with this chapter for at least three years:

- a. A record of each payment instrument sold.
- b. A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts.
- c. Bank statements and bank reconciliation records.
- d. Records of outstanding payment instruments and stored-value obligations.
- e. Records of each payment instrument and stored-value obligation paid within the three-year period.
- f. A list of the last known names and addresses of all of the licensee's authorized delegates.
- g. Any other records the superintendent reasonably requires by rule.

2. The items specified in subsection 1 may be maintained in any form of record.

3. Records may be maintained outside this state if they are made accessible to the superintendent on seven business-days' notice that is sent in a record.

4. All records maintained by the licensee as required in subsections 1 through 3 shall be open to inspection by the superintendent pursuant to 533C.501.

5. A licensee, authorized delegate, or any officer, employee, agent, or any public official or governmental employee who keeps or files a record pursuant to this section or who communicates or discloses information or records under this section is not liable to its customer, to a state or local agency, or to any person for any loss or damage caused in whole or in part by the making, filing, or governmental use of the record, or any information contained in that record.

6. The licensee shall keep such records as the superintendent may require in order to determine whether such licensee is complying with the provisions of this chapter and with the rules and orders lawfully made by the superintendent under this chapter.

Sec. 21. NEW SECTION. 533C.506 MONEY LAUNDERING REPORTS.

A licensee and an authorized delegate shall file all reports required by federal currency reporting, recordkeeping, and suspicious activity reporting requirements as set forth in 31 U.S.C. § 5311-5330, and 31 C.F.R. § 103.11-103.170.

Sec. 22. NEW SECTION. 533C.507 DISCLOSURE.

1. Except as otherwise provided by this chapter, the records of the superintendent relating to examinations or supervision and regulation of a person licensed pursuant to this chapter, or authorized delegates of a person licensed pursuant to this chapter, are not public records and are not subject to disclosure under chapter 22. Neither the superintendent nor any member of the superintendent's staff shall disclose any information obtained in the discharge of the superintendent's official duties to any person not connected with the department, except that the superintendent or the superintendent's designee may disclose the information:

- a. To representatives of federal agencies insuring accounts in the financial institution.
- b. To representatives of state or federal agencies and foreign countries having regulatory or supervisory authority over the activities of the financial institution or similar financial institutions if those representatives are permitted to and do, upon request of the superintendent, disclose similar information respecting those financial institutions under their regulation or supervision or to those representatives who state in writing under oath that they will maintain the confidentiality of that information.
- c. To the attorney general of this state.
- d. To a federal or state grand jury in response to a lawful subpoena, or pursuant to a county attorney subpoena.
- e. To the auditor of this state for the purpose of conducting audits authorized by law.

2. The superintendent may:

- a. Disclose the fact of filing of applications with the department pursuant to this chapter, give notice of a hearing, if any, regarding those applications, and announce the superintendent's action thereon.
- b. Disclose final decisions in connection with proceedings for the suspension or revocation of licenses or certificates issued pursuant to this chapter.
- c. Prepare and circulate reports reflecting the assets and liabilities of licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information.
- d. Prepare and circulate reports provided by law.

3. Every official report of the department is prima facie evidence of the facts therein stated in any action or proceeding wherein the superintendent is a party.

4. Nothing in this section shall be construed to prevent the disclosure of information that is:

- a. Admissible in evidence in any civil or criminal proceeding brought by or at the request of the superintendent or this state to enforce or prosecute violations of this chapter, chapter 706B, or the rules adopted, or orders issued pursuant to this chapter.
- b. Requested by or provided to a federal agency, including but not limited to the department of defense, department of energy, department of homeland security, nuclear regulatory commission, and centers for disease control and prevention, to assist state and local government with domestic preparedness for acts of terrorism.

5. The attorney general or the department of public safety may report any possible violations indicated by analysis of the reports required by this chapter to any appropriate law enforcement or regulatory agency for use in the proper discharge of its official duties. The attorney general or the department of public safety shall provide copies of the reports required by this chapter to any appropriate prosecutorial or law enforcement agency upon being provided with a written request for records relating to a specific individual or entity and stating that the agency has an articulable suspicion that such individual or entity has committed a felony offense or a violation of this chapter to which the reports are relevant. A person who releases information received pursuant to this subsection except in the proper discharge of the person's official duties is guilty of a serious misdemeanor.

6. Any report, record, information, analysis, or request obtained by the attorney general or department of public safety pursuant to this chapter is not a public record as defined in chapter 22 and is not subject to disclosure.

ARTICLE 6
PERMISSIBLE INVESTMENTS

Sec. 23. NEW SECTION. 533C.601 MAINTENANCE OF PERMISSIBLE INVESTMENTS.

1. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments and stored-value obligations issued or sold and money transmitted by the licensee in the United States.

2. The superintendent, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The superintendent by rule may prescribe or by order allow other types of investments that the superintendent determines to have a safety substantially equivalent to other permissible investments.

3. Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored-value obligations in the event of bankruptcy or receivership of the licensee.

Sec. 24. NEW SECTION. 533C.602 TYPES OF PERMISSIBLE INVESTMENTS.

1. Except to the extent otherwise limited by the superintendent pursuant to section 533C.601, the following investments are permissible under section 533C.601:

a. Cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813.

b. Banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the federal reserve system and is eligible for purchase by a federal reserve bank.

c. An investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities.

d. An investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency, or instrumentality thereof.

e. Receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection if the aggregate amount of receivables under this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not hold at one time receivables under this paragraph in any one person aggregating more than ten percent of the licensee's total permissible investments.

f. A share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission under the federal Investment Companies Act of 1940, 15 U.S.C. § 80a-1-80a-64, and whose portfolio is restricted by the management investment company's investment policy to investments specified in paragraphs "a" through "d".

2. The following investments are permissible under section 533C.601, but only to the extent specified:

a. An interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments under this paragraph in any one person aggregating more than ten percent of the licensee's total permissible investments.

b. A share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company

that is registered with the United States securities and exchange commission under the federal Investment Companies Act of 1940, 15 U.S.C. § 80a-1-80a-64, and whose portfolio is restricted by the management investment company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than ten percent of the licensee's total permissible investments.

c. A demand-borrowing agreement made with a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold principal and interest outstanding under demand-borrowing agreements under this paragraph with any one person aggregating more than ten percent of the licensee's total permissible investments.

d. Any other investment the superintendent designates, to the extent specified by the superintendent.

3. The aggregate of investments under subsection 2 may not exceed fifty percent of the total permissible investments of a licensee calculated in accordance with section 533C.601.

ARTICLE 7 ENFORCEMENT

Sec. 25. NEW SECTION. 533C.701 SUSPENSION AND REVOCATION — RECEIVER-SHIP.

1. The superintendent may suspend or revoke a license, place a licensee in receivership, or order a licensee to revoke the designation of an authorized delegate if:

a. The licensee violates this chapter or a rule adopted or an order issued under this chapter.

b. The licensee does not cooperate with an examination or investigation by the superintendent.

c. The licensee engages in fraud, intentional misrepresentation, or gross negligence.

d. An authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a rule adopted or an order issued under this chapter, as a result of the licensee's willful misconduct or willful blindness.

e. The competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or responsible individual of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services.

f. The licensee engages in an unsafe or unsound practice.

g. The licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors.

h. The licensee does not remove an authorized delegate after the superintendent issues and serves upon the licensee a final order finding that the authorized delegate has violated this chapter.

2. In determining whether a licensee is engaging in an unsafe or unsound practice, the superintendent may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the person involved.

Sec. 26. NEW SECTION. 533C.702 SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATES.

1. The superintendent may issue an order suspending or revoking the designation of an authorized delegate if the superintendent finds that:

a. The authorized delegate violated this chapter or a rule adopted or an order issued under this chapter.

- b. The authorized delegate did not cooperate with an examination or investigation by the superintendent.
 - c. The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence.
 - d. The authorized delegate is convicted of a violation of a state or federal anti-money laundering statute.
 - e. The competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services.
 - f. The authorized delegate is engaging in an unsafe or unsound practice.
2. In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the superintendent may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of this chapter or a rule adopted or order issued under this chapter, and the previous conduct of the authorized delegate.
 3. An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the superintendent.

Sec. 27. NEW SECTION. 533C.703 ORDERS TO CEASE AND DESIST.

1. If the superintendent determines that a violation of this chapter or of a rule adopted or an order issued under this chapter by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the superintendent may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.
2. The superintendent may issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the superintendent.
3. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to section 533C.701 or 533C.702.
4. A licensee or an authorized delegate who is served with an order to cease and desist may petition the appropriate court, for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to section 533C.701 or 533C.702.
5. An order to cease and desist expires unless the superintendent commences an administrative proceeding pursuant to section 533C.701 or 533C.702 within ten days after it is issued.

Sec. 28. NEW SECTION. 533C.704 CONSENT ORDERS.

The superintendent may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a rule adopted or an order issued under this chapter has been violated.

Sec. 29. NEW SECTION. 533C.705 CIVIL PENALTIES.

The superintendent may assess a civil penalty against a person who violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed one thousand dollars per day for each day the violation is outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney fees.

Sec. 30. NEW SECTION. 533C.706 CRIMINAL PENALTIES.

1. A person who intentionally makes a false statement, misrepresentation, or false certifica-

tion in a record filed or required to be maintained under this chapter or who intentionally makes a false entry or omits a material entry in such a record is guilty of a class "D" felony.

2. A person who knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter is guilty of an aggravated misdemeanor.

3. It shall be unlawful for any person to do any of the following:

a. With intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal conduct, to knowingly furnish or provide to a licensee, authorized delegate, financial institution, person engaged in a trade or business, or any officer, employee, agent, or authorized delegate of any of them, or to the attorney general or department of public safety, any false, inaccurate, or incomplete information; or to knowingly conceal a material fact in connection with a transaction for which a report is required to be filed pursuant to this chapter.

b. With the intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal conduct, or with intent to evade the making or filing of a report required under this chapter, or with intent to cause the making or filing of a report that contains a material omission or misstatement of fact, to conduct or structure a transaction or series of transactions by or through one or more licensees, authorized delegates, financial institutions, or persons engaged in a trade or business.

4. A person who violates subsection 3 is guilty of a class "C" felony and is also subject to a civil penalty of three times the value of the property involved in the transaction, or, if no transaction is involved, five thousand dollars.

5. Notwithstanding any other provision of law, each violation of this section constitutes a separate, punishable offense.

Sec. 31. NEW SECTION. 533C.707 UNLICENSED PERSONS.

1. If the superintendent has reason to believe that a person has violated or is violating section 533C.201, 533C.301, 533C.401, or 533C.402, the superintendent may issue an order to show cause why an order to cease and desist should not issue requiring that the person cease and desist from the violation of section 533C.201, 533C.301, 533C.401, or 533C.402.

2. In an emergency, the superintendent may petition the district court for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure.

3. An order to cease and desist becomes effective upon service of it upon the person.

4. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to sections 533C.701 and 533C.702.

5. A person who is served with an order to cease and desist under this section may petition the district court for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to sections 533C.701 and 533C.702.

6. An order to cease and desist expires unless the superintendent commences an administrative proceeding within ten days after it is issued.

Sec. 32. NEW SECTION. 533C.708 INVESTIGATIONS.

1. The attorney general or county attorney may conduct investigations within or outside this state to determine if any licensee, authorized delegate, or person engaged in a trade or business has failed to file a report required by this chapter or has engaged or is engaging in any act, practice, or transaction that constitutes a violation of this chapter.

2. Upon presentation of a subpoena from a prosecuting attorney, all licensees, authorized delegates, and financial institutions shall make their books and records available to the attorney general or county attorney or peace officer during normal business hours for inspection and examination in connection with an investigation pursuant to this section.

ARTICLE 8
ADMINISTRATIVE PROCEDURES

Sec. 33. NEW SECTION. 533C.801 ADMINISTRATIVE PROCEEDINGS.

All administrative proceedings under this chapter must be conducted in accordance with chapter 17A.

Sec. 34. NEW SECTION. 533C.802 HEARINGS.

Except as otherwise provided in sections 533C.703 and 533C.707, the superintendent shall not suspend or revoke a license, place a licensee in receivership, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard. The superintendent shall also hold a hearing when requested to do so by an applicant whose application for a license is denied.

Sec. 35. NEW SECTION. 533C.803 RULES.

The superintendent may adopt pursuant to chapter 17A such reasonable and relevant rules, not inconsistent with this chapter, as may be necessary for the enforcement of the provisions of this chapter.

ARTICLE 9
MISCELLANEOUS PROVISIONS

Sec. 36. NEW SECTION. 533C.901 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

1. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies do not preclude and are not precluded by other provisions of law.

2. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the law and to make the reporting requirements regarding financial transactions under Iowa law uniform with the reporting requirements regarding financial transactions under federal law.

3. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

Sec. 37. NEW SECTION. 533C.902 MONEY SERVICES LICENSING FUND.

1. A financial services licensing fund is created as a separate fund in the state treasury under the authority of the banking division of the department of commerce. Moneys deposited in the fund shall be used to pay for staffing necessary to perform examinations, audits, and other duties required of the superintendent and the banking division under this chapter.

2. The fund shall receive moneys including, but not limited to, any fees, costs, expenses, or penalties collected pursuant to this chapter.

3. Notwithstanding section 8.33, moneys appropriated to the fund and other moneys credited to the fund shall not revert at the close of the fiscal year but shall remain in the financial services licensing fund and shall remain available for expenditure for the purposes designated.

Sec. 38. NEW SECTION. 533C.903 SEVERABILITY CLAUSE.

The provisions of this chapter are severable pursuant to section 4.12.

Sec. 39. NEW SECTION. 533C.904 SAVINGS AND TRANSITIONAL PROVISIONS.

1. A license issued under chapter 533B, Code 2003, that is in effect immediately before October 1, 2003, remains in force as a license under chapter 533B, Code 2003, until the license's expiration date. Thereafter, the licensee is deemed to have applied for and received a license

under this chapter and must comply with the renewal requirements set forth in this chapter. Licenses issued under chapter 533B, Code 2003, will be initially renewed for a period to the next September 30 with the license renewal fee prorated based on a two thousand dollar annual fee.

2. This chapter applies to the provision of money services on or after the effective date of this Act. This chapter does not apply to money transmission provided by a licensee who was licensed to provide money transmission under chapter 533B, Code 2003, and whose license remains in force under this section.

3. A person is not deemed to be in violation of this chapter for operating without a license if the person files an application within three calendar months after the effective date of this Act until the application is denied.

Sec. 40. Section 524.212, Code 2003, is amended to read as follows:

524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY INFORMATION.

The superintendent, deputy superintendent, assistant to the superintendent, examiner, or other employee of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of chapter 533A, ~~533B~~ 533C, 536, or 536A, any affiliate of any state bank, or an affiliate of a person subject to the provisions of chapter 533A, ~~533B~~ 533C, 536, or 536A, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in section 524.215, subsections 1, 2, 3, and 5.

Sec. 41. Chapter 533B, Code 2003, is repealed.

Sec. 42. EFFECTIVE DATE. This Act takes effect October 1, 2003.

Approved May 1, 2003

CHAPTER 97

TOBACCO PRODUCTS REGULATION — MISCELLANEOUS PROVISIONS — APPROPRIATIONS S.F. 375

AN ACT relating to enforcement enhancements relative to certain tobacco product manufacturers, providing appropriations and penalties, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 453D.1 FINDINGS AND PURPOSE.

The general assembly finds that violations of chapter 453C threaten the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health and that establishing procedural enforcement enhancements will aid in the enforcement of chapter 453C and thereby safeguard the master settlement agreement, the fiscal soundness of the state, and the public health.

Sec. 2. NEW SECTION. 453D.2 DEFINITIONS.

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

1. "Brand family" means all styles of cigarettes sold under the same trademark and differen-

tiated from one another by means of additional modifiers or descriptors, including but not limited to “menthol”, “lights”, “kings”, and “100s”, and including any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

2. “Cigarette” means cigarette as defined in section 453C.1.
3. “Department” means the department of revenue and finance.
4. “Director” means the director of revenue and finance.
5. “Distributor” means a person, notwithstanding established residency or location, who purchases non-tax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes.
6. “Master settlement agreement” means master settlement agreement as defined in section 453C.1.
7. “Nonparticipating manufacturer” means any tobacco product manufacturer that is not a participating manufacturer.
8. “Participating manufacturer” means participating manufacturer as defined in section II(jj) of the master settlement agreement and all amendments to the master settlement agreement.
9. “Qualified escrow fund” means qualified escrow fund as defined in section 453C.1.
10. “Stamping agent” means a person authorized to affix tax stamps to packages or other containers of cigarettes pursuant to chapter 453A or any person that is required to pay the tax imposed pursuant to chapter 453A on cigarettes.
11. “Tobacco product manufacturer” means tobacco product manufacturer as defined in section 453C.1.
12. “Units sold” means units sold as defined in section 453C.1.

Sec. 3. NEW SECTION. 453D.3 CERTIFICATIONS, DIRECTORY, TAX STAMPS.

1. CERTIFICATION. A tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a stamping agent, distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form and in the manner prescribed by the attorney general, a certification to the director and the attorney general, no later than April 30 of each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer is either a participating manufacturer or is in full compliance with chapter 453C, including all quarterly installment payments required by rule.

a. A participating manufacturer shall include in the participating manufacturer’s certification a list of the participating manufacturer’s brand families. The participating manufacturer shall update the list thirty calendar days prior to any addition to or modification of the participating manufacturer’s brand families by executing and delivering a supplemental certification to the attorney general and the director.

b. A nonparticipating manufacturer shall include in its certification all of the following:

- (1) A list of all of the nonparticipating manufacturer’s brand families and the number of units sold for each brand family that was sold in the state during the preceding calendar year.
- (2) A list of all of the nonparticipating manufacturer’s brand families that have been sold in the state at any time during the current calendar year.
- (3) An indication, by an asterisk, of any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification.
- (4) Identification by name and address of any other manufacturer of such brand families in the preceding or current calendar year.

The nonparticipating manufacturer shall update the list thirty calendar days prior to any addition to or modification of the nonparticipating manufacturer’s brand families by executing and delivering a supplemental certification to the attorney general and the director.

c. A nonparticipating manufacturer shall also certify all of the following:

- (1) That the nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent for service of process and provided notice as required in section 453D.4.

(2) That the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund and has executed a qualified escrow agreement that has been reviewed and approved by the attorney general and that governs the qualified escrow fund.

(3) That the nonparticipating manufacturer is in full compliance with chapter 453C and this chapter and any rules adopted pursuant to chapter 453C or this chapter.

(4) All of the following:

(a) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required pursuant to chapter 453C and all rules adopted pursuant to chapter 453C.

(b) The account number of the qualified escrow fund and any subaccount number for Iowa.

(c) The amount the nonparticipating manufacturer deposited in the qualified escrow fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification deemed necessary by the attorney general to confirm this information.

(d) The amount and date of any withdrawal or transfer made at any time by the nonparticipating manufacturer from the qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer made escrow payments at any time pursuant to chapter 453C and any rules adopted pursuant to chapter 453C.

d. A tobacco product manufacturer shall not include a brand family in the tobacco product manufacturer's certification unless one of the following applies, as applicable:

(1) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be the participating manufacturer's cigarettes for purposes of calculating the participating manufacturer's payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement.

(2) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be the nonparticipating manufacturer's cigarettes for the purposes of chapter 453C.

This section shall not be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of chapter 453C.

e. Tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for certification for a period of five years, unless otherwise required by law to maintain invoices and documentation for a greater period of time.

2. DIRECTORY OF CIGARETTES APPROVED FOR STAMPING AND SALE. The director shall develop and publish on the department's website a directory listing all tobacco product manufacturers that have provided current and accurate certification conforming to the requirements of subsection 1 and all brand families that are listed in the certification, with the following exceptions:

a. The director shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the attorney general determines is not in compliance with subsection 1, paragraphs "b" and "c", unless the attorney general has determined that the violation has been cured to the satisfaction of the attorney general.

b. A tobacco product manufacturer and a brand family shall not be included or retained in the directory if the attorney general concludes, in the case of a nonparticipating manufacturer, that either of the following applies:

(1) Any escrow payment required pursuant to chapter 453C for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general.

(2) Any outstanding final judgment, including interest on the judgment, for a violation of chapter 453C has not been fully satisfied for the brand family or the nonparticipating manufacturer.

c. The director shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this chapter.

d. Stamping agents and distributors shall provide and update as necessary an electronic mail address to the director for the purpose of receiving any notifications as may be required by this chapter.

3. **PROHIBITION AGAINST STAMPING, SALE, OR IMPORT OF CIGARETTES NOT INCLUDED IN THE DIRECTORY.** It shall be unlawful for any person to do any of the following:

a. Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory.

b. Sell, offer, or possess for sale in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

Sec. 4. **NEW SECTION.** 453D.4 AGENT FOR SERVICE OF PROCESS.

1. A nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having the nonparticipating manufacturer's brand family included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for service of process on whom all process, and any action or proceeding against the nonparticipating manufacturer concerning or arising out of the enforcement of this chapter or chapter 453C, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of the agent to, and to the satisfaction of, the director and the attorney general.

2. The nonparticipating manufacturer shall provide notice to the director and the attorney general thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent at least five calendar days prior to the termination of the existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the director and the attorney general of the termination within five calendar days and shall include proof to the satisfaction of the attorney general of the appointment of a new agent.

3. A nonparticipating manufacturer whose products are sold in this state, who has not appointed or designated an agent as required, shall be deemed to have appointed the secretary of state as agent and may be proceeded against in the courts of this state by service of process upon the secretary of state. However, the appointment of the secretary of state as agent shall not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included or retained in the directory.

Sec. 5. **NEW SECTION.** 453D.5 REPORTING OF INFORMATION — ESCROW INSTALLMENTS.

1. No later than twenty calendar days after the end of each calendar quarter, and more frequently if so directed by the director, each stamping agent and distributor shall submit information as the director requires to facilitate compliance with this chapter, including but not limited to a list by brand family of the total number of cigarettes, or, in the case of roll-your-own tobacco, the equivalent stick count, for which the stamping agent or distributor affixed stamps during the previous calendar quarter or otherwise paid the tax due for the cigarettes. The stamping agent and distributor shall maintain, and make available to the director, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the director for a period of five years. Violations of this subsection are subject to civil penalties as established in section 453A.31, subsection 2.

2. The director may disclose to the attorney general any information received under this chapter and requested by the attorney general for purposes of determining compliance with

and enforcing this chapter. The director and attorney general shall share with each other the information received under this chapter, and may share the information with other federal, state, or local agencies only for purposes of enforcement of this chapter, chapter 453C, or corresponding laws of other states.

3. The attorney general may require at any time from a nonparticipating manufacturer proof from the financial institution in which the nonparticipatory manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 453C, of the amount of money in the qualified escrow fund, exclusive of interest, the amount and date of each deposit into the qualified escrow fund, and the amount and date of each withdrawal from the qualified escrow fund.

4. In addition to the information required to be submitted pursuant to chapter 453C or this chapter, the director or the attorney general may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information including but not limited to samples of the packaging or labeling of each brand family, as necessary to enable the attorney general to determine compliance by the tobacco product manufacturer with this chapter.

5. To promote compliance with this chapter, the attorney general may adopt rules requiring a tobacco product manufacturer subject to the requirements of section 453D.3, subsection 1, paragraph "b", to make the escrow deposits required in quarterly installments during the year in which the sales covered by the deposits are made. The director or the attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit.

Sec. 6. NEW SECTION. 453D.6 PENALTIES AND OTHER REMEDIES.

1. In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that any person has violated section 453D.3, subsection 3, or any rule adopted pursuant to that subsection, the director may revoke or suspend the permit or license of any stamping agent or distributor in the manner provided in chapter 453A. Each stamp affixed and each sale or offer to sell cigarettes in violation of section 453D.3, subsection 3, shall constitute a separate violation. For each violation, the director may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars upon a determination of violation of section 453D.3, subsection 3, or any rules adopted pursuant to section 453D.3, subsection 3. A penalty shall be imposed in the manner provided in chapter 453A.

2. Cigarettes that have been sold, offered for sale, or possessed for sale in this state, or imported for personal consumption in this state in violation of section 453D.3, subsection 3, shall be deemed contraband under section 453A.32 and the cigarettes shall be subject to seizure and forfeiture as provided in that section, and all cigarettes so seized and forfeited shall be destroyed and not resold.

3. The attorney general, on behalf of the director, may seek an injunction to restrain a threatened or actual violation of section 453D.3, subsection 3, or section 453D.5, subsection 1 or 4, by a stamping agent or distributor and to compel the stamping agent or distributor to comply with these sections. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees.

4. It shall be unlawful for a person to sell or distribute cigarettes or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of section 453D.3, subsection 3. A violation of this subsection is a serious misdemeanor.

Sec. 7. NEW SECTION. 453D.7 MISCELLANEOUS PROVISIONS.

1. A determination of the attorney general not to include or to remove from the directory a brand family or tobacco product manufacturer shall be subject to review in a manner prescribed in rules adopted by the director.

2. A person shall not be issued a permit or license or be granted a renewal of a permit or

license to act as a stamping agent or distributor unless the person has certified in writing, under penalty of perjury, that the person will comply fully with this chapter.

3. The director and the attorney general shall adopt rules as necessary to effect the purposes of this chapter.

4. In any action brought by the state to enforce this chapter, the state shall be entitled to recover the costs of the investigation, expert witness fees, costs of the action, and reasonable attorney fees.

5. If a court determines that a person has violated this chapter, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the treasurer of state.

6. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative relative to each other and relative to any other remedies or penalties available under any other law of this state.

Sec. 8. NEW SECTION. 453D.8 STANDING APPROPRIATION.

There is appropriated from the general fund of the state to the department of revenue and finance each fiscal year beginning July 1, 2004, and thereafter, the sum of twenty-five thousand dollars for enforcement of this chapter.

Sec. 9. NEW SECTION. 453D.9 CONSTRUCTION AND SEVERABILITY.

1. If a court of competent jurisdiction finds that the provisions of this chapter and of chapter 453C conflict and cannot be harmonized, the provisions of chapter 453C shall prevail.

2. If any portion of this chapter causes chapter 453C to no longer constitute a qualifying or model statute, as defined in the master settlement agreement, that portion of this chapter shall be void.

3. If any portion of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, the determination shall not affect the validity of the remaining provisions of this chapter or any part of this chapter.

Sec. 10. TRANSITION PROVISIONS. For calendar year 2003, if the effective date of this Act is later than March 16, 2003:

1. The first report of stamping agents and distributors required by section 453D.5, subsection 1, shall be due thirty days after the effective date of this Act.

2. The certifications by a tobacco product manufacturer described in section 453D.3, subsection 1, shall be due forty-five days after the effective date of this Act.

Sec. 11. APPROPRIATION. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to implement this Act:

..... \$ 50,000

Sec. 12. APPROPRIATION — TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION FEES. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, to the treasurer of state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, in addition to any other amount appropriated for the same purpose in the same fiscal year, to be used for the purpose designated:

For payment of litigation fees incurred pursuant to the tobacco master settlement agreement:

..... \$ 646,076.48

Sec. 13. EFFECTIVE AND APPLICABILITY DATES.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The provision in section 453D.3, subsection 2, relating to requiring the director of revenue

and finance to develop and publish on the department of revenue and finance's website a directory listing of all tobacco product manufacturers that have provided current and accurate certification and all brand families listed in the certifications, is applicable no later than ninety days after the effective date of this Act.

Approved May 1, 2003

CHAPTER 98

DEPENDENT ADULT ABUSE — FACILITIES, SERVICES, AND INFORMATION

S.F. 416

AN ACT relating to dependent adult abuse including elder abuse emergency shelter and support services projects.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 231.56A ELDER ABUSE EMERGENCY SHELTER AND SUPPORT SERVICES PROJECTS.

1. Through the state's service contract process adopted pursuant to section 8.47, the department shall identify area agencies on aging that have demonstrated the ability to provide a collaborative response to the immediate needs of elders in the area agency on aging service area for the purpose of implementing elder abuse emergency shelter and support services projects. The projects shall be implemented only in the counties within an area agency on aging service area that have a multidisciplinary team established pursuant to section 235B.1.¹

2. The target population of the projects shall be any elder residing in the service area of an area agency on aging who meets both of the following conditions:

- a. Is the subject of a report of suspected dependent adult abuse pursuant to chapter 235B.
- b. Is not receiving assistance under a county management plan approved pursuant to section 331.439.

3. The area agencies on aging implementing the projects shall identify allowable emergency shelter and support services, state funding, outcomes, reporting requirements, and approved community resources from which services may be obtained under the projects. The area agency on aging shall identify at least one provider of case management services for the project area.

4. The area agencies on aging shall implement the projects and shall coordinate the provider network through the use of referrals or other engagement of community resources to provide services to elders.

5. The department shall award funds to the area agencies on aging in accordance with the state's service contract process. Receipt and expenditures of moneys under the projects are subject to examination, including audit, by the department.

6. This section shall not be construed and is not intended as, and shall not imply, a grant of entitlement for services to individuals who are not otherwise eligible for the services or for utilization of services that do not currently exist or are not otherwise available.

Sec. 2. Section 235B.3, subsection 5, Code 2003, is amended to read as follows:

5. Following the reporting of suspected dependent adult abuse, the department of human

¹ See chapter 179, §67 herein

services or an agency approved by the department shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The assessment shall include interviews with the dependent adult, and, if appropriate, with the alleged perpetrator of the dependent adult abuse and with any person believed to have knowledge of the circumstances of the case. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

Sec. 3. Section 235B.6, subsection 2, paragraph c, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) An employee of an agency requested by the department to provide case management or other services to the dependent adult.

Sec. 4. Section 235B.6, subsection 2, paragraph e, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) The long-term care resident's advocate if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility.

Sec. 5. Section 235B.6, subsection 3, Code 2003, is amended to read as follows:

3. Access to unfounded dependent adult abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2), (5), and (6), and paragraph "e", ~~subparagraph~~ subparagraphs (2) and (10).

Sec. 6. Section 235B.9, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. ~~Dependent adult abuse information relating to a particular case of suspected dependent adult abuse which is determined by a preponderance of the evidence to be founded,~~ shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause is shown why the information should remain open to authorized access. If a subsequent report of ~~a suspected case of~~ founded dependent adult abuse involving the adult named in the initial report as the victim of abuse or a person named in such report as having abused an adult is received by the registry within the ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause is shown why the information should remain open to authorized access.

2. ~~Dependent adult abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of abuse and dependent adult abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged immediately when one year from the date it is determined to be unfounded.~~

3. However, if a correction of dependent adult abuse information is requested under section 235B.10 and the issue is not resolved at the end of one year the information shall be retained until the issue is resolved and if the dependent adult abuse information is not determined to be founded, the information shall be expunged ~~immediately when one year from the date it is determined to be unfounded.~~

Approved May 1, 2003

CHAPTER 99

OFFICE OF GRANTS ENTERPRISE MANAGEMENT

S.F. 438

AN ACT relating to the establishment of the office of grants enterprise management in the department of management to assist the state in receiving more nonstate funds and providing a standing limited appropriation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 8.9 GRANTS ENTERPRISE MANAGEMENT OFFICE.

The office of grants enterprise management is established in the department of management. The function of the office is to develop and administer a system to track, identify, advocate for, and coordinate nonstate grants as defined in section 8.2, subsections 1 and 3. Staffing for the office of grants enterprise management shall be provided by a facilitator appointed by the director of the department of management. Additional staff may be hired, subject to the availability of funding. Funding for the office is from the appropriation to the department pursuant to section 421.17, subsection 33.

Sec. 2. NEW SECTION. 8.10 FACILITATOR'S DUTIES.

The specific duties of the facilitator of the office of grants enterprise management may include the following:

1. Establish a grants network representing all state agencies to assist the grants enterprise management office in an advisory capacity. Each state agency shall designate an employee on the management or senior staff level to serve as the agency's federal funds coordinator and represent the agency on the grants network. An agency may not create a staff position for a federal funds coordinator. The coordinator's duties shall be in addition to the duties of the employee of the agency.
2. Develop a plan for increased state access to funding sources other than the general fund of the state.
3. Develop procedures to formally notify appropriate state and local agencies of the availability of discretionary federal funds and, when necessary, coordinate the application process.
4. Establish an automated information system database for grants applied for and received and to track congressional activity.
5. Provide information and counseling to state agencies and political subdivisions of the state concerning the availability and means of obtaining state, federal, and private grants.
6. Provide grant application writing assistance and training to state agencies and political subdivisions of the state, directly or through interagency contracts, cooperative agreements, or contracts with third-party providers.
7. Monitor the federal register and other federal or state publications to identify funding opportunities, with special emphasis on discretionary grants or other funding opportunities available to the state.
8. Periodically review the funding strategies and methods of those states that rank significantly above the national average in the per capita receipt of federal funds to determine whether those strategies and methods could be successfully employed by this state.

Sec. 3. Section 421.17, subsection 33, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. There is appropriated annually from the increase in indirect cost reimbursements over the amount of indirect cost reimbursements received during the fiscal year beginning July 1, 2002, to the office of grants enterprise management of the department of management the sum of up to one hundred twenty-five thousand dollars. The director of revenue and finance shall transfer the funds appropriated to the department of management

as provided in this paragraph and shall make the funds resulting from the increase in reimbursements available during the fiscal year to the department of management on a monthly basis. If the amount of the increase in indirect cost reimbursements is insufficient to pay the maximum appropriation provided for in this paragraph, the amount appropriated is equal to the amount of such increase.¹

Approved May 1, 2003

CHAPTER 100

UNIFORM COMMERCIAL CODE — DISHONORED CHECKS — WRITTEN DEMAND FOR PAYMENT

H.F. 319

AN ACT permitting written demand via regular mail prior to an action under the uniform commercial code for recovery of civil damages for a dishonored check, draft, or order, when supported by an affidavit of service.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 554.3513, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. The written demand notified the defendant that treble damages would be sought if the face value of the dishonored check was not paid within thirty days of receipt, and was received by the defendant ~~through personal~~ via any of the following methods:

(1) Personal service or restricted.

(2) Restricted certified mail.

(3) Regular mail to at least one of the following addresses, supported by an affidavit of service retained by the payee or holder of the dishonored check, which affidavit shall be presumptive evidence of the receipt of the demand by the maker three days from the date of execution of the affidavit:

(a) The address printed or written on the check.

(b) The address given by the drawer at the time of issuance of the check.

(c) The last known address of the drawer.

Approved May 1, 2003

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §41 herein

CHAPTER 101**MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES
— FACILITIES — PROGRAMS — COMMISSION**

H.F. 387

AN ACT relating to mental health and developmental disabilities by expanding an exemption to health care licensing requirements for certain residential programs that receive funding under a medical assistance home and community-based services waiver and approval from the department of human services, and revising membership requirements for the mental health and developmental disabilities commission, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135C.2, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. The rules adopted for intermediate care facilities for persons with mental retardation shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with mental retardation established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with mental retardation to be licensed, the state fire marshal must certify to the department an intermediate care facility for persons with mental retardation as meeting that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies ~~chapter~~ or the residential board and care ~~chapter~~ occupancies of the life safety code of the national fire protection association, ~~1985~~ 2000 edition. The department shall adopt additional rules for intermediate care facilities for persons with mental retardation pursuant to section 135C.14, subsection 8.

Sec. 2. Section 135C.6, subsection 8, Code 2003, is amended to read as follows:

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A ~~shall not be required to be licensed as a health care facility under this chapter~~. In approving a residential program under this subsection ~~paragraph~~, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this subsection ~~paragraph~~, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. Not more than forty residential care facilities for persons with mental retardation that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals.

c. A residential program approved by the department of human services pursuant to this paragraph "c" to receive moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation may provide care to not more than five individuals. The department shall approve a residential program under this paragraph that complies with all of the following conditions:

(1) Approval of the program will not result in an overconcentration of such programs in an area.

(2) The county in which the residential program is located submits to the department of human services a letter of support for approval of the program.

(3) The county in which the residential program is located provides to the department of human services verification in writing that the program is needed to address one or more of the following:

(a) The quantity of services currently available in the county is insufficient to meet the need.

(b) The quantity of affordable rental housing in the county is insufficient.

(c) Implementation of the program will cause a reduction in the size or quantity of larger congregate programs.

Sec. 3. Section 225C.5, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. One member shall be an active board member of a community mental health center selected from nominees submitted by the Iowa association of community providers.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 2003

CHAPTER 102

NEWBORN AND INFANT HEARING SCREENING

H.F. 454

AN ACT relating to mandatory universal newborn and infant hearing screening.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION XV

UNIVERSAL NEWBORN AND INFANT HEARING SCREENING

Section 1. NEW SECTION. 135.131 UNIVERSAL NEWBORN AND INFANT HEARING SCREENING.

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

a. "Birth center" means birth center as defined in section 135.61.

b. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

2. Beginning January 1, 2004, all newborns and infants born in this state shall be screened for hearing loss in accordance with this section. The person required to perform the screening shall use at least one of the following procedures:

a. Automated or diagnostic auditory brainstem response.

b. Otoacoustic emissions.

c. Any other technology approved by the department.

3. Beginning January 1, 2004, a birthing hospital shall screen every newborn delivered in the hospital for hearing loss prior to discharge of the newborn from the birthing hospital. A birthing hospital that transfers a newborn for acute care prior to completion of the hearing screening shall notify the receiving facility of the status of the hearing screening. The receiving facility shall be responsible for completion of the newborn hearing screening. The birthing

hospital or other facility completing the hearing screening under this subsection shall report the results of the screening to the parent or guardian of the newborn and to the department in a manner prescribed by rule of the department.

4. Beginning January 1, 2004, a birth center shall refer the newborn to a licensed audiologist, physician, or hospital for screening for hearing loss prior to discharge of the newborn from the birth center. The hearing screening shall be completed within thirty days following discharge of the newborn. The person completing the hearing screening shall report the results of the screening to the parent or guardian of the newborn and to the department in a manner prescribed by rule of the department.

5. Beginning January 1, 2004, if a newborn is delivered in a location other than a birthing hospital or a birth center, the physician or other health care professional who undertakes the pediatric care of the newborn or infant shall ensure that the hearing screening is performed within three months of the date of the newborn's or infant's birth. The physician or other health care professional shall report the results of the hearing screening to the parent or guardian of the newborn or infant and to the department in a manner prescribed by rule of the department.

6. A birthing hospital, birth center, physician, or other health care professional required to report information under subsection 3, 4, or 5, shall report all of the following information to the department relating to a newborn's or infant's hearing screening, as applicable:

a. The name, address, and telephone number, if available, of the mother of the newborn or infant.

b. The primary care provider at the birthing hospital or birth center for the newborn or infant.

c. The results of the hearing screening.

d. Any rescreenings and the diagnostic audiological assessment procedures used.

7. The department may share information with agencies and persons involved with newborn and infant hearing screenings, follow-up, and intervention services, including the local birth-to-three coordinator or similar agency, the local area education agency, and local health care providers. The department shall adopt rules to protect the confidentiality of the individuals involved.

8. An area education agency with which information is shared pursuant to subsection 7 shall report all of the following information to the department relating to a newborn's or infant's hearing, follow-up, and intervention services, as applicable:

a. The name, address, and telephone number, if available, of the mother of the newborn or infant.

b. The results of the hearing screening and any rescreenings, including the diagnostic audiological assessment procedures used.

c. The nature of any follow-up or other intervention services provided to the newborn or infant.

9. This section shall not apply if the parent objects to the screening. If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional required to report information under subsection 3, 4, or 5 to the department shall obtain a written refusal from the parent, shall document the refusal in the newborn's or infant's medical record, and shall report the refusal to the department in the manner prescribed by rule of the department.

10. A person who acts in good faith in complying with this section shall not be civilly or criminally liable for reporting the information required to be reported by this section.

Sec. 2. NEW SECTION. 135B.18A UNIVERSAL NEWBORN AND INFANT HEARING SCREENING.

Beginning January 1, 2004, a birthing hospital as defined in section 135.131 shall comply with section 135.131 relating to universal newborn and infant hearing screening.

CHAPTER 103

BIRTH CERTIFICATES — FEES

H.F. 541

AN ACT relating to the fee and use of fee for a certificate of birth.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 144.13A, Code 2003, is amended to read as follows:

144.13A FEES — USE OF FUNDS.

1. The state registrar shall charge the parent a ~~ten-dollar~~ fee for the registration of a certificate of birth ~~and a~~ as follows:

a. Beginning July 1, 2003, and ending June 30, 2005, a fee of fifteen dollars.

b. Beginning July 1, 2005, a fee of twenty dollars.

2. The state registrar shall charge the parent a separate fee established under section 144.46 for a certified copy of the certificate. The certified copy shall be mailed to the parent by the state registrar.

3. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to collect the fee from the parent. The fee shall be remitted to the state registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent.

4. The fees collected by the state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state.

a. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used as follows:

(1) Beginning July 1, 2003, and ending June 30, 2005, ten dollars of each fee for primary and secondary child abuse prevention programs, and five dollars of each fee for the birth defects institute central registry established pursuant to section 136A.6.

(2) Beginning July 1, 2005, ten dollars of each fee for primary and secondary child abuse prevention programs, and ten dollars of each fee for the birth defects institute central registry established pursuant to section 136A.6.

b. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Approved May 1, 2003

CHAPTER 104**ORGANIC AGRICULTURAL PRODUCTS***H.F. 600*

ANACT regulating organic agricultural products, providing for fees and penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 190C.1, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

190C.1 DEFINITIONS.

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

1. "Agricultural product" means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in this state for human or livestock consumption.
2. "Council" means the organic advisory council established pursuant to section 190C.2.
3. "Crop" means a plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.
4. "Department" means the department of agriculture and land stewardship.
5. "Handler" means a person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.
6. "Label" means a display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.
7. "Livestock" means any cattle, sheep, goats, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other nonplant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.
8. "National organic program" means the program administered by the United States department of agriculture pursuant to 7 C.F.R. pt. 205, which implements the federal Organic Food Production Act of 1990, 7 U.S.C. § 6501 et seq.
9. "Organic" means a labeling term that refers to an agricultural product produced in accordance with this chapter.
10. "Organic agricultural product" means an agricultural product that is certified or otherwise qualifies as organic in accordance with the provisions of this chapter as they existed on and after May 20, 1998.
11. "Processing" means cooling, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing in a food container.
12. "Processor" means a person engaged in the business of processing.
13. "Producer" means a person who engages in the business of growing or producing food, fiber, feed, or other agricultural-based consumer products.
14. "Regional organic association" means a corporation authorized pursuant to section 190C.6.
15. "Retailer" means a person who sells agricultural products on a retail basis. "Retailer" includes a food establishment as defined in section 137F.1. "Retailer" also includes a restaur-

rant, delicatessen, bakery, grocery store, or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ready-to-eat food.

16. "Secretary" means the secretary of agriculture who is the director of the department of agriculture and land stewardship.

Sec. 2. NEW SECTION. 190C.1A OTHER DEFINITIONS.

For purposes of this chapter, words and phrases that are not defined in section 190C.1 shall have the same meanings as provided in 7 C.F.R. pt. 205.

Sec. 3. NEW SECTION. 190C.1B GENERAL AUTHORITY.

Any provision in this chapter referring generally to compliance with the requirements of this chapter also includes compliance with requirements in rules adopted by the department pursuant to this chapter, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to any certification made pursuant to this chapter.

Sec. 4. Section 190C.2, subsection 1, Code 2003, is amended to read as follows:

1. An organic ~~standards board~~ advisory council is established within the department. ~~The powers of the board are vested in and shall be exercised by~~ council is composed of eleven members appointed by the governor and secretary, as provided in this section. The governor and secretary shall accept nominations from persons or organizations representing persons who serve on the ~~board~~ council, as determined by the governor and secretary making appointments under this section.

Sec. 5. Section 190C.2, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The members shall serve staggered terms of four years beginning and ending as provided in section 69.19. ~~However, the governor and secretary shall cooperate to appoint initial members to serve for less than four years to ensure members serve staggered terms.~~ Members appointed under this section shall be persons knowledgeable regarding the production, handling, processing, and retailing of organic agricultural products. The members of the ~~board~~ council shall be appointed as follows:

Sec. 6. Section 190C.2, subsections 3, 4, 6, and 7, Code 2003, are amended to read as follows:

3. A vacancy on the ~~board~~ council shall be filled in the same manner as an original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. The governor may remove a member appointed by the governor and the secretary may remove a member appointed by the secretary, if the removal is based on the member's misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.

4. Six members of the ~~board~~ council constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the ~~board~~ council. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the ~~board~~ council.

6. If a member has an interest, either direct or indirect, in a contract to which the ~~board~~ council is or is to be a party, the member shall disclose the interest to the ~~board~~ council in writing. The writing stating the conflict shall be set forth in the minutes of the ~~board~~ council. The member having the interest shall not participate in any action by the ~~board~~ council relating to the contract.

7. The ~~board~~ council shall meet on a regular basis and at the call of the chairperson or upon

the written request to the chairperson of two or more members. The department shall provide administrative support to the ~~board~~ council.

Sec. 7. NEW SECTION. 190C.2A DUTIES OF THE COUNCIL.

The organic advisory council shall assist the department in implementing and administering the provisions of this chapter as requested by the department. Upon request by the department, the council shall do all of the following:

1. Develop rules, policies, and procedures required to implement and administer this chapter.
2. Collect information required by the department in implementing and administering this chapter.
3. Interpret the requirements of this chapter, including rules adopted and orders issued pursuant to this chapter, and requirements of the national organic program.
4. Establish and change fees as provided in section 190C.5.
5. Provide advice regarding the most effective manner to use services provided by regional organic associations as provided in section 190C.6.
6. Provide information and expert opinions relating to organic agricultural products to the department.
7. Provide information relating to organic agricultural products to interested persons.
8. Promote organic agricultural products to consumers.

Sec. 8. NEW SECTION. 190C.2B ESTABLISHMENT AND IMPLEMENTATION OF THIS CHAPTER.

1. The department shall implement and administer the provisions of this chapter for agricultural products that have been produced and handled within this state using organic methods as provided in this chapter. The department may consult with the council in implementing and administering this chapter. The department may certify agricultural products that have been produced and handled outside this state using an organic method as provided in this chapter.

2. The department may establish a state organic program as provided in 7 U.S.C. § 6501 et seq. and 7 C.F.R. pt. 205. The secretary may apply for any approval or accreditation or execute any agreement required under the national organic program in order to implement, administer, and enforce this chapter.

3. Unless prohibited by the national organic program, the attorney general may be joined as a party authorized to enforce the provisions of this chapter.

4. All provisions of this chapter shall be deemed in compliance with the national organic program, unless expressly provided otherwise by the United States department of agriculture.

Sec. 9. Section 190C.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

190C.3 DUTIES AND POWERS OF THE DEPARTMENT.

In implementing the provisions of this chapter consistent with the national organic program, the department shall provide for the administration and enforcement of this chapter, including by adopting rules and issuing orders pursuant to chapter 17A. The department may adopt any part of the national organic program by reference.

1. The department shall be a state certifying agent and the department shall be the certifying agent's operation as provided in the national organic program.

2. The department may request assistance from the council as provided in section 190C.2A or from one or more regional organic associations as provided in section 190C.6.

3. a. The secretary may serve as the state organic program's governing state official. However, no other person shall serve in that position without approval by the secretary.

b. The secretary may designate a person within the department to act on the secretary's behalf in carrying out the duties of the state organic program's governing state official.

4. The department may assume enforcement obligations under the national organic program in this state for the requirements of this chapter. The department shall provide for on-site

inspections. The department and the attorney general may coordinate the enforcement activities as provided in section 190C.21.

Sec. 10. Section 190C.5, Code 2003, is amended to read as follows:

190C.5 STATE FEES — DEPOSIT INTO GENERAL FUND OF THE STATE.

1. ~~a. The board department acting as a state certifying agent shall establish a schedule of state fees under this chapter by rule adopted by the department for persons required to be certified as producers, handlers, and processors of agricultural products labeled, sold, or advertised as organic as provided in section 190C.13. The fees shall be charged to persons who are certified under this chapter, including production operations and handling operations, in a manner that is consistent with the national organic program.~~

~~2. Beginning on July 1, 2000, the board~~ The department shall establish the rate of fees based on an estimate of the amount of revenues from the fees required by the department to administer and enforce this chapter.

~~b. The department shall annually review the estimate and recommend a may change in the rate of fees to the board if the.~~ The fees must be adjusted in order to comply with this subsection. The board may approve an adjustment in the fees by rule adopted by the department at any time in order to comply with this subsection.

~~2. a. The department acting as a state certifying agent may charge additional fees for carrying out the duties of that position to the extent that the fees are consistent with the national organic program.~~

~~b. The secretary acting as the state organic program's governing state official may charge fees for carrying out the duties of that position to the extent consistent with the national organic program.~~

3. The department shall collect state fees under this chapter as provided by the board, which shall be deposited into the general fund of the state.

Sec. 11. Section 190C.6, Code 2003, is amended to read as follows:

190C.6 REGIONAL ORGANIC ASSOCIATIONS.

~~1. Regional organic associations may be established as provided in this section. A regional organic association must be organized as a corporation under chapter 504A which has certified members, elects its own officers and directors, and is independent from the department.~~

~~2. The department, upon approval by the board, may authorize a regional organic association to assist the board department in certifying producers, handlers, and processors of agricultural products under acting as a state certifying agent pursuant to section 190C.13 190C.3. The regional organic association must be registered with the department. The Upon request by the department, a registered regional organic association, upon approval of the board, may administer the provisions of section 190C.13 by doing may do all of the following:~~

~~1. a. Reviewing Review applications and providing provide applicants with technical assistance in completing applications. The department may authorize a regional organic association to process applications, including collecting and forwarding applications to the department.~~

~~2. b. Preparing Prepare a summary of an application, including materials accompanying the application, for review by the department and the organic standards board. A regional organic association may include a recommendation for approval, modification, or disapproval of an application.~~

Sec. 12. Section 190C.21, Code 2003, is amended to read as follows:

190C.21 GENERAL ENFORCEMENT.

~~1. The department and the attorney general acting as a state certifying agent and on behalf of the secretary who elects to act as the state organic program's governing state official shall enforce this chapter.~~

~~2. The To the extent authorized by the national organic program, the attorney general shall assist the department in enforcing this chapter. The department or the attorney general may~~

commence legal proceedings in district court to enforce a provision of this chapter. ~~If the attorney general assists the department under this section, the attorney general may commence the legal proceedings~~ at the request of the department or upon the attorney general's own initiative in order to enforce this chapter, including rules adopted and orders issued by the department pursuant to this chapter.

~~3.~~ This chapter does not require the attorney general or the department ~~or attorney general~~ to institute a proceeding for a minor violation, if the ~~department or~~ attorney general ~~or department~~ concludes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 13. Section 190C.22, Code 2003, is amended to read as follows:

190C.22 INVESTIGATIONS, COMPLAINTS, INSPECTIONS, AND EXAMINATIONS.

~~1. The~~ In enforcing the provisions of this chapter consistent with the national organic program, the department may conduct an investigation to determine if a person is complying with the requirements of this chapter. To the extent consistent with the national organic program, all of the following shall apply:

~~2. 1. Any~~ The department may receive a complaint from any person may file a complaint with the department regarding a violation of this chapter. The department shall adopt procedures for persons filing complaints. The department shall establish procedures for processing complaints including requiring minimum information to determine the verifiability of a complaint.

~~3. 2.~~ The department may conduct inspections at times and places and to an extent that the department determines necessary in order to conclude whether ~~an agricultural product is being produced, handled, processed, or sold in accordance with the provisions~~ there is a violation of this chapter. ~~The department may inspect records required to be maintained pursuant to section 190C.15.~~ The department may enter upon any public or private premises during regular business hours in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States for purposes of carrying out an inspection.

~~4. 3.~~ The department may conduct examinations of agricultural products in order to determine if the ~~agricultural~~ products are ~~produced, handled, processed, and sold~~ in compliance with this chapter. ~~Unless the national organic program otherwise requires, all of the following shall apply:~~

a. The methods for examination shall be the official methods of ~~adopted by~~ the association of official agricultural chemists in all cases where methods have been adopted by the association.

b. A sworn statement by the state chemist or the state chemist's deputy stating the results of an analysis of a sample taken from a lot of agricultural products shall constitute prima facie evidence of the correctness of the analysis of that lot in ~~an administrative hearing a contested case proceeding or court of this state proceeding.~~

Sec. 14. Section 190C.23, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

190C.23 DISCIPLINARY ACTION.

1. The department may take disciplinary action against a person who is certified pursuant to this chapter for noncompliance with a provision of this chapter or a willful violation of this chapter. The procedures of the disciplinary action shall be consistent with the national organic program. The disciplinary action shall proceed as provided in chapter 17A unless contrary to the national organic program. The department may do any of the following:

a. Issue a letter of warning or reprimand.

b. Suspend or revoke the person's certification.

2. Any other disciplinary action provided in the national organic program shall be implemented by the secretary acting as the state organic program's governing state official.

Sec. 15. Section 190C.24, subsection 1, Code 2003, is amended to read as follows:

~~1. If Unless prohibited by the national organic program, the department may issue a stop order to a person who sells, labels, or represents an agricultural product as organic in violation of this chapter, including a rule adopted or an order issued under this chapter, the,~~

1. The department may issue a written order to stop the sale of the agricultural product by a person in control of the agricultural product. The person named in the order shall not sell, label, or represent the item agricultural product as organic until the department determines that the sale of the agricultural product is in compliance with this chapter.

Sec. 16. Section 190C.24, subsection 4, Code 2003, is amended to read as follows:

4. The department shall release the agricultural product when the department issues a release order upon satisfaction that legal requirements compelling the issuance of the stop sale order are satisfied. ~~The board must approve a delay in issuing a release order within three months after requiring that the agricultural product be held.~~ If the person is found to have violated this chapter, the person shall pay all expenses incurred by the department in connection with the agricultural product's removal.

Sec. 17. Section 190C.25, Code 2003, is amended to read as follows:

190C.25 INJUNCTIONS.

~~The attorney general,~~ Unless prohibited by the national organic program, the department, ~~or the attorney general,~~ an individual, a private organization or association, a county, or a city may bring an action in district court to restrain a producer, processor, handler, or retailer from selling an agricultural product by false or misleading advertising claiming that the agricultural product is organic. A petitioner shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, or that irreparable damage or loss will result if the action is brought at law or that unique or special circumstances exist.

Sec. 18. Section 190C.26, Code 2003, is amended to read as follows:

190C.26 SELLING, LABELING, OR REPRESENTING AGRICULTURAL PRODUCTS AS ORGANIC — PENALTIES.

~~A person who violates this chapter is shall not knowingly sell, label, or represent an agricultural product as organic, except in accordance with this chapter. A person who violates this section shall be~~ subject to a civil penalty of not more than ~~five ten~~ thousand dollars. Civil penalties shall be assessed by the district court in an action initiated by the department or attorney general as provided in section 190C.21. ~~Each~~ Unless prohibited by the national organic program, each day that the ~~offense violation~~ continues constitutes a separate ~~offense violation.~~ Civil penalties collected under this section shall be deposited in the general fund of the state.

Sec. 19. DIRECTIONS TO CODE EDITOR. The Code editor is directed to reorganize and renumber the provisions of chapter 190C to enhance its readability. The Code editor may reorganize the provisions in the 2003 Code Supplement or the 2005 Code. Nothing in this section limits the Code editor's authority under section 2B.13.

Sec. 20. Sections 190C.4, 190C.12, 190C.13, 190C.14, and 190C.15, Code 2003, are repealed.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 1, 2003

CHAPTER 105

FIRE FIGHTER MOTOR VEHICLE REGISTRATION PLATES — FEES

H.F. 656

AN ACT relating to fees charged for special fire fighter motor vehicle registration plates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 100B.12 PAUL RYAN MEMORIAL FIRE FIGHTER SAFETY TRAINING FUND.

A Paul Ryan memorial fire fighter safety training fund is created in the state treasury under the control of the department of public safety. The fund shall consist of fees transferred by the treasurer of state from the sale of special fire fighter license plates pursuant to section 321.34, subsection 10. Moneys in the fund shall be used exclusively by the fire service training bureau to offset fire fighter training costs. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund of the state at the end of the fiscal year, but shall remain available for expenditure by the fire service training bureau for fire fighter training in future fiscal years.

Sec. 2. Section 321.34, subsection 10, Code 2003, is amended to read as follows:

10. FIRE FIGHTER PLATES. ~~The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer~~

~~a. An owner referred to in subsection 12 who is a current or former retired member of a paid or volunteer fire department, may, upon written application to the department, order special registration plates, designed by the department in cooperation with representatives designated by the Iowa fire fighters' associations, which plates signify that the applicant is a current or former retired member of a paid or volunteer fire department.~~

~~b. The application shall be approved by the department, in consultation with representatives designated by the Iowa fire fighters' associations, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be is twenty-five dollars which shall be paid in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.~~

~~c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the Paul Ryan memorial fire fighter safety training fund created pursuant to section 100B.12 the amount of the special fees collected in the previous month for the fire fighter plates.~~

~~d. For purposes of this subsection, a person is considered to be retired if the person is recognized by the chief of the fire department where the individual served, and on record, as officially retired from the fire department. Special registration plates with a fire fighter emblem shall be surrendered, as provided in subsection 12, in exchange for regular registration plates upon termination of the motor vehicle owner's membership in the paid or volunteer fire department, unless the person is a retired member in good standing.~~

Approved May 1, 2003

CHAPTER 106

PROPERTY TAX AND TAXATION OF UTILITIES

S.F. 275

AN ACT relating to the taxation of utilities, including establishment of a natural gas delivery tax rate for new electric power generating plants, establishment of a replacement transmission tax for certain municipal utilities, methods of allocation of replacement generation tax incurred by certain new stand-alone electric power generating plants, a formula for determining taxable value for property generating replacement tax annually, extending the task force, and providing for applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 426B.2, subsections 1 and 3, Code 2003, are amended to read as follows:

1. The moneys in the property tax relief fund available to counties for a fiscal year shall be distributed as provided in this section. A county's proportion of the moneys shall be equivalent to the sum of the following three factors:

- a. One-third based upon the county's proportion of the state's general population.
- b. One-third based upon the county's proportion of the state's total taxable property valuation assessed for taxes payable in the previous fiscal year.
- c. One-third based upon the county's proportion of all counties' base year expenditures, as defined in section 331.438.

Moneys provided to a county for property tax relief in a fiscal year, excluding replacement taxes in the property tax relief fund, in accordance with this subsection shall not be less than the amount provided for property tax relief in the previous fiscal year.

3. The director of human services shall draw warrants on the property tax relief fund, payable to the county treasurer in the amount due to a county in accordance with subsection 1 and mail the warrants to the county auditors in July and January of each year. Any replacement generation tax in the property tax relief fund as of November 1 shall be paid to the county treasurers in July and January of the fiscal year beginning the following July 1.

Sec. 2. Section 437A.3, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Cogeneration facility" means a facility with a capacity of two hundred megawatts or less that uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy and, except for ownership, meets the criteria to be a qualifying cogeneration facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

Sec. 3. Section 437A.3, subsection 10, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "New electric power generating plant" means an electric power generating plant that is owned by or leased to an electric company, electric cooperative, or municipal utility, and that initially generates electricity subject to replacement generation tax under section 437A.6 on or after January 1, 2003.

Sec. 4. Section 437A.3, subsection 13, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Local amount" for the purposes of determining the local taxable value for a new electric power generating plant shall annually be determined to be equal up to the first forty-four million four hundred forty-four thousand four hundred forty-five dollars of the taxable value of the new electric power generating plant. "Local amount" for the purposes of determining the local assessed value for a new electric power generating

plant shall be annually determined to be the percentage share of the taxable value of the new electric power generating plant allocated as the local amount multiplied by the total assessed value of the new electric power generating plant.

Sec. 5. Section 437A.3, subsection 21, paragraph a, subparagraph (1), subparagraph subdivision (am), Code 2003, is amended to read as follows:

(am) The city of Waukee in Dallas county and the area within two miles of the city limits of Waukee as of January 1, 1999, not including any part of the cities of Clive, Urbandale, or West Des Moines.

Sec. 6. Section 437A.3, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 27A. "Taxable value" means as defined in section 437A.19, subsection 2, paragraph "f".

Sec. 7. Section 437A.5, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding paragraphs "a" and "b", a natural gas delivery rate of one and eleven-hundredths of a cent (.0111) per therm of natural gas is imposed on all natural gas delivered to or consumed by a new electric power generating plant for purposes of generating electricity within the state during the tax year. However, if a new electric power generating plant is exempt from a replacement generation tax pursuant to section 437A.6, subsection 1, paragraph "b", the natural gas delivery rate for the municipal service area that the new plant serves shall instead apply for deliveries of natural gas by the municipal gas utility.

The provisions of subsection 8, shall not apply to the therms of natural gas subject to the delivery tax set forth in this paragraph.

If the new electric power generating plant is part of a cogeneration facility, the natural gas delivery rate for that plant shall be the lesser of the natural gas delivery rate established in this paragraph or the rate per therm of natural gas as in effect at the time of the initial natural gas deliveries to the plant for the natural gas competitive service area where the new electric power generating plant is located.

Sec. 8. Section 437A.5, subsection 6, Code 2003, is amended to read as follows:

6. Notwithstanding subsection 1, the natural gas delivery tax rate applied to therms of natural gas delivered by a taxpayer to utility property and facilities ~~which that~~ are placed in service on or after January 1, 1999, and ~~which that~~ are owned by or leased to and initially served by such taxpayer shall be the natural gas delivery tax rate in effect for the natural gas competitive service area principally served by such utility property and facilities even though such utility property and facilities may be physically located in another natural gas competitive service area.

This subsection shall not apply to natural gas delivered to or consumed by new electric power generating plants.

Sec. 9. Section 437A.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. In lieu of the replacement transmission tax imposed in subsection 1, a municipal utility whose replacement transmission tax liability for the tax year 1999 was limited to the tax imposed by this section and whose anticipated tax revenues from a taxpayer, as defined in section 437A.15, subsection 4, for the tax year 1999, exceeded its replacement transmission tax by more than one hundred thousand dollars shall be subject to replacement transmission tax on all transmission lines owned by or leased to the municipal utility as of the last day of the tax year 2000 as follows:

a. Three thousand twenty-five dollars per pole mile of transmission line owned or leased by the taxpayer not exceeding one hundred kilovolts.

b. Seven thousand dollars per pole mile of transmission line owned or leased by the taxpayer greater than one hundred fifty kilovolts but not exceeding three hundred kilovolts.

Sec. 10. Section 437A.8, subsection 4, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Notwithstanding paragraph “a”, a taxpayer who owns or leases a new electric power generating plant and who has no other operating property in the state of Iowa except for operating property directly serving the new electric power generating plant as described in section 437A.16, shall pay the replacement generation tax associated with the allocation of the local amount to the county treasurer of the county in which the local amount is located and shall remit the remaining replacement generation tax, if any, to the director according to paragraph “a” for remittance of the tax to county treasurers. The director shall notify each taxpayer on or before August 31 following a tax year of its remaining replacement generation tax to be remitted to the director. All remaining replacement generation tax revenues received by the director shall be deposited in the property tax relief fund created in section 426B.1, and shall be distributed as provided in section 426B.2.

Sec. 11. Section 437A.15, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. All replacement taxes owed by a taxpayer shall be allocated among the local taxing districts in which such taxpayer’s property is located in accordance with a general allocation formula determined by the department of management on the basis of general property tax equivalents. General property tax equivalents shall be determined by applying the levy rates reported by each local taxing district to the department of management on or before June 30 following a tax year to the assessed taxable value of taxpayer property allocated to each such local taxing district as adjusted and reported to the department of management in such tax year by the director pursuant to section 437A.19, subsection 2. The general allocation formula for a tax year shall allocate to each local taxing district that portion of the replacement taxes owed by each taxpayer which bears the same ratio as such taxpayer’s general property tax equivalents for each local taxing district bears to such taxpayer’s total general property tax equivalents for all local taxing districts in Iowa.

When allocating natural gas delivery taxes on deliveries of natural gas to a new electric power generating plant, ten percent of those natural gas delivery taxes shall be allocated over new gas property built to directly serve the new electric power generating plant and ninety percent of those natural gas delivery taxes shall be allocated to the general property tax equivalents of all gas property within the natural gas competitive service area or areas where the new gas property is located.

Sec. 12. Section 437A.15, subsection 3, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Notwithstanding the provisions of this section, if a taxpayer is a municipal utility or a municipal owner of an electric power facility financed under the provisions of chapter 28F or 476A, the assessed value, other than the local amount, of a new electric power generating plant shall be allocated to each taxing district in which the municipal utility or municipal owner is serving customers and has electric meters in operation in the ratio that the number of operating electric meters of the municipal utility or municipal owner located in the taxing district bears to the total number of operating electric meters of the municipal utility or municipal owner in the state as of January 1 of the tax year. If the municipal utility or municipal owner of an electric power facility financed under the provisions of chapter 28F or 476A has a new electric power generating plant but the municipal utility or municipal owner has no operating electric meters in this state, the municipal utility or municipal owner shall pay the replacement generation tax associated with the new electric power generating plant allocation of the local amount to the county treasurer of the county in which the local amount is located and shall remit the remaining replacement generation tax, if any, to the director at the times contained in section 437A.8, subsection 4, for remittance of the tax to the county treasurers. All remaining replacement generation tax revenues received by the director shall be deposited in the property tax relief fund created in section 426B.1, and shall be distributed as provided in section 426B.2.

Sec. 13. Section 437A.15, subsection 7, Code 2003, is amended to read as follows:

7. ~~On or before July 1, 1998, the~~ The department of management, in consultation with the department of revenue and finance, shall ~~initiate and coordinate the establishment of a utility replacement tax~~ task force and provide staffing assistance to the task force. It is the intent of the general assembly that the task force include representatives of the department of management, department of revenue and finance, electric companies, natural gas companies, municipal utilities, electric cooperatives, counties, cities, school boards, and industrial, commercial, and residential consumers, and other appropriate stakeholders.

The task force shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers and the department of management shall report to the general assembly by January 1 of each year through January 1, ~~2003~~ 2005, the results of the study and the specific recommendations of the task force for modifications to the replacement tax, if any, which will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter. The department of management shall also report to the legislative council by November 15 of each year through ~~2002~~ 2004, the status of the task force study and any recommendations.

Sec. 14. Section 437A.19, subsection 2, paragraph f, Code 2003, is amended to read as follows:

f. In the event the base year assessed value of taxpayer property is adjusted as a result of taxpayer appeals, reduce the assessed value of taxpayer property in each local taxing district to reflect such adjustment. The adjustment shall be allocated in proportion to the allocation of the taxpayer's assessed value among the local taxing districts determined without regard to this adjustment. ~~If an An~~ An adjustment to the base year assessed value of taxpayer property is finally determined on or before September 30, 1999, it shall be reflected in the January 1, ~~1999, assessed value. Otherwise, any such adjustment~~ shall be made as of January 1 of the year following the date on which the adjustment is finally determined.

In no event shall the adjustments set forth in this subsection reduce the assessed value of taxpayer property in any local taxing district below zero.

~~The director, on or before October 31, 1999, in the case of January 1, 1999, assessed values, and on or before August 31 of each subsequent assessment year, shall report to the department of management and to the auditor of each county the adjusted assessed value of taxpayer property as of January 1 of such assessment year for each local taxing district, provided that for a taxpayer whose base year as defined in section 437A.3, subsection 1, changed from 1997 to 1998, the director shall, before May 1, 2000, report to the department of management and to the auditor of each county, the assessed values as of January 1, 1999. For purposes of this subsection, the assessed value of taxpayer property in each local taxing district subject to adjustment under this section by the director means the assessed value of such property as of the preceding January 1 as determined and allocated among the local taxing districts by the director.~~

Nothing in this chapter shall be interpreted to authorize local taxing authorities to exclude from the calculation of levy rates the ~~adjusted assessed~~ taxable value of taxpayer property reported to county auditors pursuant to this subsection.

In addition to reporting the assessed values as described in this subsection, the director, on or before October 31, 2003, in the case of January 1, 2003, values, and on or before August 31 of each subsequent assessment year, shall also report to the department of management and to the auditor of each county the taxable value of taxpayer property as of January 1 of such assessment year for each local taxing district. For purposes of this chapter, "taxable value" means the value for all property subject to the replacement tax annually determined by the director, by dividing the estimated annual replacement tax liability for that property by the prior year's consolidated taxing district rate for the taxing district where that property is located, then multiplying the quotient by one thousand. The prior year's replacement tax amounts for that property shall be used to estimate the current tax year's taxable value for that

property. If property not subject to any threshold recalculation is generating replacement tax for the first time, or if a taxpayer's replacement tax will not be changed by any threshold recalculation and the taxpayer believes that the replacement tax will vary more than ten percent from the previous tax year, the taxpayer shall report to the director by July 15 of the current calendar year, on forms prescribed by the director, the estimated replacement tax liability that will be attributable to that property for the current tax year. For the purposes of computing the taxable value of property in a taxing district, the taxing district's share of the estimated replacement tax liability shall be the taxing district's percentage share of the "assessed value allocated by property tax equivalent" multiplied by the total estimated replacement tax. "Assessed value allocated by property tax equivalent" shall be determined by dividing the taxpayer's current year assessed valuation in a taxing district by one thousand, and then multiplying by the prior year's consolidated tax rate.

Sec. 15. RETROACTIVE APPLICABILITY. This bill applies retroactively to tax years beginning on or after January 1, 2003.

Approved May 2, 2003

CHAPTER 107

CHILD PROTECTION ASSISTANCE TEAMS

S.F. 353

†AN ACT requiring establishment of county child protection assistance teams.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.71B, subsection 3, Code 2003, is amended to read as follows:

3. INVOLVEMENT OF LAW ENFORCEMENT. The department shall apply ~~a protocol protocols~~, developed with ~~representatives of law enforcement agencies at the local level~~ the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to child abuse reports and to work jointly with child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse reports in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child. If a report is determined not to constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

Sec. 2. Section 235A.15, subsection 2, paragraph b, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) To the child protection assistance team established in accordance with section 915.35 for the county in which the report was made.

Sec. 3. Section 331.756, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 83B. Establish a child protection assistance team in accordance with section 915.35.

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

Sec. 4. Section 915.35, subsection 4, Code 2003, is amended to read as follows:

4. ~~a. To the greatest extent possible, a multidisciplinary~~ A child protection assistance team involving the county attorney, law enforcement personnel, ~~community-based child advocacy organizations,~~ and personnel of the department of human services shall be established for each county by the county attorney. However, by mutual agreement, two or more county attorneys may establish a single child protection assistance team to cover a multicounty area. ~~A child protection assistance team, to the greatest extent possible, may be consulted in cases involving a forcible felony against a child who is less than age fourteen in which the suspected offender is the person responsible for the care of a child, as defined in section 232.68. A child protection assistance team may also be utilized in investigating and prosecuting cases involving a violation of chapter 709 or 726 or other crime committed upon a victim as defined in subsection 1.~~

~~b. A multidisciplinary child protection assistance team may also consult with or include juvenile court officers, medical and mental health professionals, physicians or other hospital-based health professionals, court-appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of human services for child abuse investigations. A child protection assistance team may work cooperatively with the local community empowerment area board established under section 28.6. The child protection assistance team shall work with the department of human services in accordance with section 232.71B, subsection 3, in developing the protocols for prioritizing the actions taken in response to child abuse reports and for law enforcement agencies working jointly with the department at the local level in processes for child abuse reports. The department of justice may provide training and other assistance to support the activities of a multidisciplinary child protection assistance team referred to in this subsection.~~

Sec. 5. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved May 2, 2003

CHAPTER 108

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 171

AN ACT relating to nonsubstantive Code corrections and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 9H.1, subsection 25, paragraph a, Code 2003, is amended to read as follows:

a. Corporations organized under the provisions of chapter 504, Code 1989, or chapter 504A; or

Sec. 2. Section 9H.1, subsection 33, Code 2003, is amended to read as follows:

33. "Testamentary trust" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Iowa probate code as provided in chapter 633. Testamentary trust includes a revocable trust that has not been revoked prior to the grantor's death.

Sec. 3. Section 9H.4, subsection 2, paragraph c, subparagraph (1), Code 2003, is amended to read as follows:

(1) The corporation or limited liability company must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. The corporation or limited liability company shall not renew a lease. The corporation or limited liability company shall not enter into a lease under this paragraph, if the corporation or limited liability company has ever entered into another lease under this paragraph "c", whether or not the lease is in effect. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or chapter 504A.

Sec. 4. Section 9H.4, subsection 2, paragraph c, subparagraph (4), Code 2003, is amended to read as follows:

(4) The corporation or limited liability company must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or chapter 504A.

Sec. 5. Section 9H.4, subsection 3, Code 2003, is amended to read as follows:

3. Agricultural land, including leasehold interests, acquired by a nonprofit corporation organized under the provisions of chapters 504, Code 1989, and 504A including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporations organized specifically for research, experimental, demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.

Sec. 6. Section 10B.1, subsection 9, paragraph a, Code 2003, is amended to read as follows:

a. A corporation organized under the provisions of ~~former~~ chapter 504, Code 1989, or chapter 504A.

Sec. 7. Section 15E.11, Code 2003, is amended to read as follows:

15E.11 CORPORATION FOR RECEIVING AND DISBURSING FUNDS.

The Iowa development commission is hereby authorized to form a corporation under the provisions of ~~former~~ chapter 504, Code 1989, for the purpose of receiving and disbursing funds from public or private sources to be used to further the overall development and well-being of the state.

Sec. 8. Section 15E.42, subsection 2, Code 2003, is amended to read as follows:

2. "Board" means the Iowa capital investment board, ~~if created in House File 2078 as enacted by the Seventy-ninth General Assembly~~ created in section 15E.63.

Sec. 9. Section 15E.111, subsection 8, Code 2003, is amended to read as follows:

8. The department of economic development and the office of renewable fuels and coproducts shall prepare a report each six months detailing the progress of the department and other agencies provided in this section. The office of renewable fuels and coproducts, the department of natural resources, and Iowa state university may contribute a summary of their activities. The report shall be delivered to the secretary of the senate and the chief clerk of the house; the legislative service bureau; the chairpersons and ranking members of the senate standing committee on agriculture; the senate standing committee on ~~small business~~, economic development, and tourism growth; the house of representatives standing committee on agriculture; and the house of representatives standing committee on economic development growth.

Sec. 10. Section 18.80, Code 2003, is amended to read as follows:

18.80 RESERVE SUPPLY.

The ~~superintendent~~ state printing administrator shall designate, subject to the approval of

the director, the number of copies of reports and publications to be held in reserve, and copies thus held in reserve shall be distributed only upon the written request of the head of the department, approved by the ~~superintendent~~ state printing administrator, and ordered by the director.

Sec. 11. Section 18.81, Code 2003, is amended to read as follows:

18.81 UNUSED DOCUMENTS.

The ~~superintendent~~ state printing administrator shall from time to time report to the director any documents in the ~~superintendent's~~ state printing administrator's custody deemed not needed and which have been printed five years or more, and if the report has the written approval of the head of the department from which the documents were issued, the director may condemn and order the documents sold, and the proceeds turned into the unappropriated funds of the state. If a department no longer exists, approval by the head of the department shall not be required. If the condemned documents cannot be sold the director may order them destroyed.

Sec. 12. Section 18.83, Code 2003, is amended to read as follows:

18.83 INFORMATION AS TO DOCUMENTS.

The ~~superintendent~~ state printing administrator shall advise the public of the publication of reports and documents and of the nature of the material therein, and give information as to the publications that are available for distribution and how to obtain them.

Sec. 13. Section 18.84, Code 2003, is amended to read as follows:

18.84 MAILING LISTS.

The ~~superintendent~~ state printing administrator shall require from officials or heads of departments mailing lists, or addressed labels or envelopes, for use in distribution of reports and documents. The ~~superintendent~~ state printing administrator shall revise such lists, eliminating duplications and adding to the lists libraries, institutions, public officials, and persons having actual use for the material. The ~~superintendent~~ state printing administrator shall arrange the lists so as to reduce to the minimum the postage or other cost for delivery. Requests for publications shall be handled only upon receipt of postage by the ~~superintendent~~ state printing administrator from the requesting agency or department.

Sec. 14. Section 18.85, Code 2003, is amended to read as follows:

18.85 COPIES TO DEPARTMENTS.

The ~~superintendent~~ state printing administrator shall furnish the various officials and departments with copies of their reports needed for office use or to be distributed to persons requesting the reports. Requests for publications shall be handled only upon receipt of postage by the ~~superintendent~~ state printing administrator.

Sec. 15. Section 18.86, Code 2003, is amended to read as follows:

18.86 ASSEMBLY MEMBERS.

The official reports, the miscellaneous documents and other publications upon request, and the completed journals of the general assembly and ten copies of the official register, shall be sent to each member of the general assembly, and, so far as they are available, additional copies upon their request. Requests for publications shall be handled only upon receipt of postage by the ~~superintendent~~ state printing administrator.

Sec. 16. Section 18.88, Code 2003, is amended to read as follows:

18.88 NEWSPAPERS.

The journals of the general assembly and the official register shall be sent to each newspaper of general circulation in Iowa, and editors of newspapers in Iowa shall be entitled to other publications on request when they are available. Requests for publications shall be handled only upon receipt of postage by the ~~superintendent~~ state printing administrator.

Sec. 17. Section 18.92, Code 2003, is amended to read as follows:

18.92 GENERAL DISTRIBUTION.

The ~~superintendent~~ state printing administrator may send additional copies of publications to other state officials, individuals, institutions, libraries, or societies that may request them. Requests for publications shall be handled only upon receipt of postage by the ~~superintendent~~ state printing administrator.

Sec. 18. Section 18.102, Code 2003, is amended to read as follows:

18.102 INDEX TO BILLS.

The secretary of the senate and the chief clerk of the house shall throughout each legislative session compile and cause to be printed a cumulative bulletin of bills and joint resolutions which bulletin shall contain a brief history of each bill, and detailed information as to the status of legislation and shall be conveniently indexed. The bulletin shall be printed and delivered one day before the ~~mid-term~~ midterm recess of each legislature and thereafter twenty-five days after the end of ~~said the~~ recess except as may otherwise be provided by the joint rules of the general assembly. The last issue of each bulletin shall be brought down to the time of final adjournment and shall be promptly furnished to all members of the general assembly and to such others as the ~~superintendent~~ state printing administrator may determine.

Sec. 19. Section 18.103, Code 2003, is amended to read as follows:

18.103 ENROLLING CLERKS TO KEEP RECORDS.

The enrolling clerks of the senate and house shall, under the directions of the secretary of the senate and ~~chief clerk of the~~ house, respectively, keep a daily cumulative record of the information required in section 18.102 and in such manner that the same may be promptly furnished to the ~~superintendent~~ state printing administrator at the close of each week.

Sec. 20. Section 29A.90, subsection 3, Code 2003, is amended to read as follows:

3. "Military service" means full-time active state service or state active duty, as defined in section 29A.1, for a period of at least ninety consecutive days, commencing on or after ~~the effective date of this division of this Act~~ April 22, 2002.

Sec. 21. Section 68B.39, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The supreme court of this state shall prescribe rules ~~by January 1, 1993,~~ establishing a code of ethics for officials and employees of the judicial branch of this state, and the immediate family members of the officials and employees. Rules prescribed under this paragraph shall include provisions relating to the receipt or acceptance of gifts and honoraria, interests in public contracts, services against the state, and financial disclosure which are substantially similar to the requirements of this chapter.

Sec. 22. Section 70A.23, Code 2003, is amended to read as follows:

70A.23 CREDIT FOR ACCRUED SICK LEAVE.

When a state employee, excluding an employee covered under a collective bargaining agreement which provides otherwise, retires under a retirement system in the state maintained in whole or in part by public contributions or payments, the number of accrued days of active and banked sick leave of the employee shall be credited to the employee. When an employee retires, is eligible, and has applied for benefits under a retirement system authorized under chapter 97A or 97B, including the teachers insurance and annuity association (TIAA) and the ~~college association-college~~ retirement equities fund ~~(CREF)~~ (TIAA-CREF), or an employee dies on or after July 1, 1984, while the employee is in active employment but is eligible for retirement benefits under one of the listed chapters, the employee shall receive a cash payment for the employee's accumulated, unused sick leave in both the active and banked sick leave accounts, except when, in lieu of cash payment, payment is made for monthly premiums for health or life insurance or both as provided in a collective bargaining agreement negotiated under chapter 20. An employee of the department of public safety or the department of natural

resources who has earned benefits of payment of premiums under a collective bargaining agreement and who becomes a manager or supervisor and is no longer covered by the agreement shall not lose the benefits of payment of premium earned while covered by the agreement. The payment shall be calculated by multiplying the number of hours of accumulated, unused sick leave by the employee's hourly rate of pay at the time of retirement. However, the total cash payments for accumulated, unused sick leave shall not exceed two thousand dollars per employee and are payable upon retirement or death. Banked sick leave is defined as accrued sick leave in excess of ninety days.

Sec. 23. Section 70A.30, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The phased retirement incentive program is a retirement system for purposes of section 20.9, but is not retirement for purposes of chapter 97A, 97B, or 602 or for the employees who are members of the teachers insurance annuity association-college retirement equity equities fund (TIAA-CREF).

Sec. 24. Section 80.17, subsection 3, Code 2003, is amended to read as follows:

3. Division of criminal investigation and bureau of identification.

Sec. 25. Section 80A.4, subsection 4, Code 2003, is amended to read as follows:

4. The fingerprints required by subsection 1 may be submitted by the department to the federal bureau of investigation through the state central criminal history repository for the purpose of a national criminal history check.

Sec. 26. Section 80A.7, subsection 5, Code 2003, is amended to read as follows:

5. An application for an identification card shall include the submission of fingerprints of the person seeking the identification card, which fingerprints may be submitted to the federal bureau of investigation through the state central criminal history repository for the purpose of a national criminal history background check. Fees associated with the processing of fingerprints shall be assessed to the employing licensee.

Sec. 27. Section 97B.66, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A vested or retired member who was a member of the teachers insurance and annuity association-college association-college retirement equity equities fund (TIAA-CREF) at any time between July 1, 1967, and June 30, 1971, and who became a member of the system on July 1, 1971, upon submitting verification of service and wages earned during the applicable period of service under the teachers insurance and annuity association-college association-college retirement equities fund, may make employer and employee contributions to the system based upon the covered wages of the member and the covered wages and the contribution rates in effect for all or a portion of that period of service and receive credit for membership service under this system equivalent to the applicable period of membership service in the teachers insurance and annuity association-college association-college retirement equities fund for which the contributions have been made. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college association-college retirement equities fund under this section who was a member of the system on June 30, 1967, and withdrew the member's accumulated contributions because of membership on July 1, 1967, in the teachers insurance and annuity association-college association-college retirement equities fund, may make employee contributions to the system for all or a portion of the period of service under the system prior to July 1, 1967. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more calendar quarters.

Sec. 28. Section 97B.73, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. A vested or retired member who has one or more full calendar years of covered wages who was in public employment comparable to employment covered under this chapter in another state or in the federal government, or who was a member of another public retirement system in this state, including but not limited to the teachers insurance and annuity association college association-college retirement equities fund (TIAA-CREF), but who was not retired under that system, upon submitting verification of membership and service in the other public system to the division, including proof that the member has no further claim upon a retirement benefit from that other public system, may make contributions as provided by this section to the system either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more calendar quarters. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the period of service transferred from the other public system.

Sec. 29. Section 99D.8A, subsection 2, Code 2003, is amended to read as follows:

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state central criminal history repository for the purpose of a national criminal history check.

Sec. 30. Section 99E.3, subsection 3, Code 2003, is amended to read as follows:

3. The commissioner may employ, with the approval of the director, clerks, stenographers, inspectors, agents, and other employees pursuant to chapter 19A as necessary to carry out this chapter, except as provided in section 99E.14. The commissioner may require a background investigation to be conducted in connection with the employment of lottery employees. The board shall define, by rule, the employment categories subject to investigation. The background investigation by the division of criminal investigation of the department of public safety may include a national criminal history record check through the federal bureau of investigation. The screening of lottery employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation.

Sec. 31. Section 99E.9, subsection 2, Code 2003, is amended to read as follows:

2. Subject to the approval of the board, the commissioner may enter into contracts for the operation and marketing of the lottery, except that the board may by rule designate classes of contracts other than major procurements which do not require prior approval by the board. A major procurement shall be as the result of competitive bidding with the contract being awarded to the responsible vendor submitting the lowest and best proposal. However, before a contract for a major procurement is awarded, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the vendor to whom the contract is to be awarded. The commissioner and board shall consult with the division of criminal investigation and shall provide, by rule, for the scope of the thorough background investigations and due diligence with regard to the background investigations to be conducted in connection with major procurements. The vendor shall submit to the division of criminal investigation appropriate investigation authorizations to facilitate this investigation. The background investigation by the division of criminal investigation may include a national criminal history record¹ check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation. As used in this subsection, "major procurement" means

¹ See chapter 179, §59 herein

consulting agreements and the major procurement contract with a business organization for the printing of tickets, or for purchase or lease of equipment or services essential to the operation of a lottery game.

Sec. 32. Section 99F.6, subsection 2, Code 2003, is amended to read as follows:

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state central criminal history repository for the purpose of a national criminal history check.

Sec. 33. Section 103A.25, Code 2003, is amended to read as follows:

103A.25 PRIOR RESOLUTIONS.

A resolution accepting the state building code as provided in section 103A.7, which was adopted before the effective date of this Act July 1, 1989, is an ordinance for the purpose of this chapter.

Sec. 34. Section 135.78, Code 2003, is amended to read as follows:

135.78 DATA TO BE COMPILED.

The department shall compile all relevant financial and utilization data in order to have available the statistical information necessary to properly monitor hospital and health care facility charges and costs. Such data shall include necessary operating expenses, appropriate expenses incurred for rendering services to patients who cannot or do not pay, all properly incurred interest charges, and reasonable depreciation expenses based on the expected useful life of the property and equipment involved. The department shall also obtain from each hospital and health care facility a current rate schedule as well as any subsequent amendments or modifications of that schedule as it may require. In collection of the data required by this section and sections 135.74 to 135.78 through 135.76, the department and other state agencies shall coordinate their reporting requirements.

Sec. 35. Section 141A.7, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the uniform anatomical gift Act as provided in chapter 142C, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.

Sec. 36. Section 142.4, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This section shall not apply to bodies given under authority of the uniform anatomical gift Act as provided in chapter 142C.

Sec. 37. Section 142.8, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This section shall not apply to bodies given under authority of the uniform anatomical gift Act as provided in chapter 142C.

Sec. 38. Section 142C.6, subsection 2, Code 2003, is amended to read as follows:

2. If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after the death of the donor. The document of gift, or a copy, may be deposited in any hospital, organ procurement organization, bank or storage organization, or donor registry office that accepts the document of

gift for safekeeping or for the facilitation of procedures after the death of the donor. If a document is deposited by a donor in a hospital, donor registry office, or bank or storage organization, the hospital, donor registry office, or bank or storage organization may forward the document to an organ procurement organization which will retain the document for facilitating procedures following the death of the donor. Upon request of a hospital, physician, or surgeon, upon or after the donor's death, the person in possession of the document of gift may allow the hospital, physician, or surgeon to examine or copy the document of gift.

Sec. 39. Section 147.107, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A pharmacist, physician, dentist, or podiatric physician who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the ~~boards~~ state board of pharmacy examiners, medicine, dentistry, the state board of medical examiners, the state board of dental examiners, and the state board of podiatry examiners for their respective licensees.

Sec. 40. Section 161B.1, subsection 2, Code 2003, is amended to read as follows:

2. The department of agriculture and land stewardship shall report annually to the senate standing committees committee on energy natural resources and environment and the house of representatives standing committee on environmental protection of the house and senate on the projects conducted with the agricultural energy management fund.

Sec. 41. Section 163.30, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

When used in this ~~chapter~~ subchapter:

Sec. 42. Section 172D.3, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Exclusion for federally mandated requirements. This section shall apply to the department's rules except for rules required for delegation of the national pollutant discharge elimination system permit program pursuant to the federal Water Pollution Control Act, Title 33, United States Code, chapter 126, as amended, and 40 Code of Federal Regulations C.F.R. Part pt. 124.

Sec. 43. Section 190C.1, subsection 18, Code 2003, is amended to read as follows:

18. "Regional organic association" means a corporation organized under ~~former~~ chapter 504, Code 1989, or chapter 504A which has certifying members, elects its own officers and directors, and is independent from the department.

Sec. 44. Section 230A.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Each community mental health center established or continued in operation pursuant to section 230A.3, shall be organized under the Iowa nonprofit corporation Act appearing as chapter 504A, except that a community mental health center organized under ~~former~~ chapter 504 prior to July 1, 1974, and existing under the provisions of chapter 504, Code 1989, shall not be required by this chapter to adopt the Iowa nonprofit corporation Act if it is not otherwise

required to do so by law. The board of directors of each such community mental health center shall enter into an agreement with the county or affiliated counties which are to be served by the center, which agreement shall include but need not be limited to the period of time for which the agreement is to be in force, what services the center is to provide for residents of the county or counties to be served, standards the center is to follow in determining whether and to what extent persons seeking services from the center shall be considered able to pay the cost of the services received, and policies regarding availability of the center's services to persons who are not residents of the county or counties served by the center. The board of directors, in addition to exercising the powers of the board of directors of a nonprofit corporation may:

Sec. 45. Section 256A.3, subsection 11, Code 2003, is amended by striking the subsection.

Sec. 46. Section 260C.14, subsection 1, Code 2003, is amended to read as follows:

1. Determine the curriculum to be offered in such school or college subject to approval of the director and ensure that all vocational offerings are competency-based, provide any minimum competencies required by the department of education, comply with any applicable requirements in chapter 258, and are articulated with local school district vocational education programs. If an existing private educational or vocational institution within the merged area has facilities and curriculum of adequate size and quality which would duplicate the functions of the area school, the board of directors shall discuss with the institution the possibility of entering into contracts to have the existing institution offer facilities and curriculum to students of the merged area. The board of directors shall consider any proposals submitted by the private institution for providing such facilities and curriculum. The board of directors may enter into such contracts. In approving curriculum, the director shall ascertain that all courses and programs submitted for approval are needed and that the curriculum being offered by an area school does not duplicate programs provided by existing public or private facilities in the area. In determining whether duplication would actually exist, the state board ~~director~~ shall consider the needs of the area and consider whether the proposed programs are competitive as to size, quality, tuition, purposes, and area coverage with existing public and private educational or vocational institutions within the merged area. If the board of directors of the merged area chooses not to enter into contracts with private institutions under this subsection, the board shall submit a list of reasons why contracts to avoid duplication were not entered into and an economic impact statement relating to the board's decision.

Sec. 47. Section 261.23, subsection 4, Code 2003, is amended to read as follows:

4. A registered nurse shall be eligible for the registered nurse loan repayment program if the registered nurse has received from an accredited school of nursing located in this state a collegiate or associate degree of nursing, a diploma in nursing, or a graduate or equivalent degree in nursing and agrees to practice in an eligible community in this state that has agreed to provide additional funds for the registered nurse's loan repayment. The contract for the loan repayment shall stipulate the time period the registered nurse shall practice in an eligible community in this state. In addition, the contract shall stipulate that the registered nurse repay any funds paid on the registered nurse's loan by the commission if the registered nurse fails to practice in an eligible community in this state for the required period of time. For purposes of this subsection, "eligible community" means a community that agrees to match state funds provided on at least a dollar-for-dollar basis for the loan repayment of a registered nurse who practices in the community.

Sec. 48. Section 272.2, subsection 14, paragraph a, Code 2003, is amended to read as follows:

a. The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that either the person has been convicted of a crime or that there has been a founded report of child abuse against the person. Rules adopted in accordance with this paragraph shall provide that in determining whether a person should be denied

a license or that a practitioner's license should be revoked, the board shall consider the nature and seriousness of the founded abuse or crime in relation to the position sought, the time elapsed since the crime was committed, the degree of rehabilitation which has taken place since the incidence of founded abuse or the commission of the crime, the likelihood that the person will commit the same abuse or crime again, and the number of founded abuses committed by or criminal convictions by of the person involved.

Sec. 49. Section 284.3, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. By July 1, 2002, for purposes of comprehensive evaluations for beginning teachers required to allow beginning teachers to progress to career teachers, standards and criteria that are the Iowa teaching standards specified in subsection 1 and the model criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. These standards and criteria shall be set forth in an instrument provided by the department. The comprehensive evaluation and instrument are not subject to negotiations or grievance procedures pursuant to chapter 20 or determinations made by the board of directors under section 279.14. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for beginning teachers that are not in conflict with this chapter. If, in accordance with section 279.19, a beginning teacher appeals the determination of a school board to an adjudicator under section 279.17, the adjudicator selected shall have successfully completed training related to the Iowa teacher standards, the model criteria adopted by the state board of education in accordance with subsection 3, ~~as enacted by this Act~~, and any additional training required under rules adopted by the public employment relations board in cooperation with the state board of education.

Sec. 50. Section 284.11, subsections 4, 5, and 7, Code 2003, are amended to read as follows:

4. Each participating district shall create its own design for a team-based variable pay plan linked to the district's comprehensive school improvement plan. The plan must include attendance center student performance goals, student performance levels, multiple indicators to determine progress toward attendance center goals, and a system for providing financial rewards. The team-based variable pay plan shall be approved by the local board.

5. Each district team-based variable pay plan shall be reviewed by the department. The department shall include a review of the locally established goals, targeted levels of improvement, assessment strategies, and financial reward system.

7. The district team-based variable pay plan shall specify how the funding received by the district for purposes of this section is to be awarded to eligible staff in attendance centers that meet or exceed their goals. The district shall provide all attendance centers equal access to the available funds. Moneys shall be released by the department to the district only upon certification by the school board that an attendance center has met or exceeded its goals.

Sec. 51. Section 303A.6, subsection 3, Code 2003, is amended to read as follows:

3. Upon approving a grant, the board shall certify to the treasurer of state the amount of financial assistance payable from the ~~trust~~ grant account to the qualified organization whose grant application is approved.

Sec. 52. Section 304A.21, subsection 5, Code 2003, is amended to read as follows:

5. "Nonprofit organization" means a corporation organized under ~~former~~ chapter 504, Code 1989, or chapter 504A or which holds a permit or certificate under ~~former~~ chapter 504, Code 1989, or chapter 504A to do business or conduct affairs in this state.

Sec. 53. Section 307.27, subsection 8, Code 2003, is amended to read as follows:

8. Administer the registration of interstate ~~commerce commission~~ authority of motor carriers pursuant to chapter 327B as provided in 49 U.S.C. § 14504 and United States department of transportation regulations.

Sec. 54. Section 308.1, Code 2003, is amended to read as follows:
308.1 PLANNING COMMISSION.

The Mississippi parkway planning commission shall be composed of ten members appointed by the governor, five members to be appointed for two-year terms beginning July 1, 1959, and five members to be appointed for four-year terms beginning July 1, 1959. In addition to the above members there shall be seven advisory ex officio members who shall be as follows: One member from the state transportation commission, one member from the natural resource commission, one member from the ~~Iowa state soil conservation commission committee~~, one member from the state historical society of Iowa, one member from the faculty of the landscape architectural division of the Iowa State University of science and technology, one member from the Iowa economic development board, and one member from the environmental protection commission. Members and ex officio members shall serve without pay, but the actual and necessary expenses of members and ex officio members may be paid if the commission so orders and if the commission has funds available for that purpose.

Sec. 55. Section 321.178, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. Instruction relating to becoming an organ donor under the uniform anatomical gift Act as provided in chapter 142C.

Sec. 56. Section 321.189, subsection 4, Code 2003, is amended to read as follows:

4. SYMBOLS. Upon the request of a licensee, the department shall indicate on the license the presence of a medical condition, that the licensee is a donor under the uniform anatomical gift law Act as provided in chapter 142C, or that the licensee has in effect a medical advance directive. For purposes of this subsection, a medical advance directive includes, but is not limited to, a valid durable power of attorney for health care as defined in section 144B.1. The license may contain such other information as the department may require by rule.

Sec. 57. Section 327B.1, subsections 1 through 3, Code 2003, are amended to read as follows:

1. It is unlawful for a carrier to perform an interstate transportation service for compensation upon the highways of this state without first registering the authority obtained from the ~~interstate commerce commission~~ United States department of transportation or evidence that such authority is not required with the state department of transportation.

2. The department shall participate in the single state insurance registration program for regulated motor carriers as provided in 49 U.S.C. § ~~11506 14504~~ and ~~interstate commerce commission~~ United States department of transportation regulations.

3. Registration for carriers transporting commodities exempt from ~~interstate commerce commission~~ United States department of transportation regulation shall be granted without hearing upon application and payment of a twenty-five-dollar filing fee and an annual one-dollar fee per vehicle.

Sec. 58. Section 327B.7, Code 2003, is amended to read as follows:

327B.7 RECIPROCITY FOR EXEMPT COMMODITY BASE STATE REGISTRATION SYSTEM.

The department may enter into a reciprocity agreement on behalf of this state with authorized representatives of other states to become a member of an exempt commodity base state registration system for the registration, insurance verification, and fee collection for carriers hauling commodities exempt from ~~interstate commerce commission~~ United States department of transportation authority.

Sec. 59. Section 327C.22, Code 2003, is amended to read as follows:

327C.22 INTERSTATE FREIGHT RATES.

The department shall exercise constant diligence to ascertain the rates, charges, rules, and

practices of common carriers operating in this state, in relation to the transportation of freight in interstate business. When it shall ascertain from any source or have reasonable grounds to believe that the rates charged on such interstate business or the rules or practices in relation thereto discriminate unjustly against any of the citizens, industries, interests, or localities of the state, or place any of them at an unreasonable disadvantage as compared with those of other states, or are in violation of the laws of the United States regulating commerce, or in conflict with the rulings, orders, or regulations of the ~~interstate commerce commission~~ surface transportation board, the department shall take the necessary steps to prevent the continuance of such rates, rules, or practices.

Sec. 60. Section 327C.23, Code 2003, is amended to read as follows:

327C.23 APPLICATION TO INTERSTATE COMMERCE COMMISSION SURFACE TRANSPORTATION BOARD.

When any common carrier has put in force any rates, rules, or practices in relation to interstate freight business, in violation of the laws of the United States regulating commerce, or of the orders, rules, or regulations of the ~~interstate commerce commission~~ surface transportation board, or shall unjustly discriminate against any of the citizens, industries, interests, or localities of the state, the department shall present the material facts involved in such violations or discrimination to the ~~interstate commerce commission~~ surface transportation board and seek relief therefrom, and, if deemed necessary or expedient, the department shall prosecute any charge growing out of such violation or discrimination, at the expense of the state, before the ~~interstate commerce commission~~ surface transportation board.

Sec. 61. Section 327D.67, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The form of every schedule shall be prescribed by the department and shall conform, in the case of common carriers, as nearly as may be to the form prescribed by the ~~interstate commerce commission~~ United States department of transportation.

Sec. 62. Section 327D.72, Code 2003, is amended to read as follows:

327D.72 INTERSTATE COMMERCE SCHEDULES.

When schedules and classifications required by the ~~interstate commerce commission~~ United States department of transportation contain in whole or in part the information required by the provisions of this chapter, the posting and filing of a copy of such schedules and classifications with the ~~interstate commerce commission~~ United States department of transportation shall be deemed a compliance with the filing requirements of this chapter insofar as such schedules and classifications contain the information required by this chapter, and any additional or different information may be posted and filed in a supplementary schedule.

Sec. 63. Section 327D.200, Code 2003, is amended to read as follows:

327D.200 INCONSISTENCY WITH FEDERAL LAW — RAILROADS.

If any provision of this chapter is inconsistent or conflicts with federal laws, rules or regulations applicable to railway corporations subject to the jurisdiction of the ~~federal interstate commerce commission~~ surface transportation board, the department shall suspend the provision, but only to the extent necessary to eliminate the inconsistency or conflict.

Sec. 64. Section 327D.201, Code 2003, is amended to read as follows:

327D.201 RAILROAD INTRASTATE RATES — RULES.

The department may issue rules relating to the regulation of railroad intrastate rates, classifications, rules and practices in accordance with the standards and procedures of the ~~federal interstate commerce commission~~ surface transportation board applicable to rail carriers.

Sec. 65. Section 327G.61, subsection 2, Code 2003, is amended to read as follows:

2. "Spur track" means a railroad track located wholly within the state connected to a main

or branch line of a railroad and used to originate or terminate traffic at one or more industries or a railroad track not subject to the jurisdiction of the ~~interstate commerce commission~~ surface transportation board. A spur track shall not include a railroad line used to provide line-haul or intercity transportation.

Sec. 66. Section 327G.78, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Subject to sections 327G.77 and 6A.16, when a railroad corporation, its trustee, or its successor in interest has interests in real property adjacent to a railroad right-of-way that are abandoned by order of the ~~interstate commerce commission~~ surface transportation board, reorganization court, bankruptcy court, or the department, or when a railroad corporation, its trustee, or its successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation, its trustee, or its successor in interest shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the department to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon the railroad corporation, trustee, or successor in interest by the person wishing to purchase the property. The department shall notify the department of inspections and appeals which shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute, within ninety days after the application is filed. The determination is subject to review by the department and the department's decision is the final agency action. All correspondence shall be by certified mail.

Sec. 67. Section 331.427, subsection 2, paragraph k, Code 2003, is amended to read as follows:

k. For the use of a nonprofit historical society organized under chapter 504, Code 1989, or chapter 504A, a city-owned historical project, or both.

Sec. 68. Section 331.652, subsection 8, paragraph d, Code 2003, is amended to read as follows:

d. ~~Civil A civil process servers server~~ shall not be considered to be a sheriff or a deputy sheriff for purposes of this chapter or chapter 97B or 341A.

Sec. 69. Section 335.24, Code 2003, is amended to read as follows:

335.24 CONFLICT WITH OTHER REGULATIONS.

If the regulations made under this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this chapter govern. If any other statute or local ordinance or regulation requires a greater width or size of yards, courts or other open spaces, or requires a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required by the regulations made under this chapter, the other statute or local ordinance or regulation governs. If a regulation proposed or made under this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the department of ~~water, air and waste management~~ natural resources is required to establish, amend, supplement, change, or modify the regulation or to grant any variation or exception from the regulation.

Sec. 70. Section 384.63, subsection 3, Code 2003, is amended to read as follows:

3. When a private improvement is constructed on a lot subject to a deficiency, during the

period of amortization, the council shall, by resolution, assess a pro rata portion of the deficiency on that lot, in the same proportion to the total deficiency on that lot as the number of future installments of special assessments remaining to be paid is to the total number of installments of assessments for the project, subject to the twenty-five percent limitation of section 384.62. A deficiency assessment becomes a lien on the property and is payable in the same manner, and subject to the same interests as the other special assessments. The council shall direct the clerk to certify a deficiency assessment to the county treasurer, and to send a notice of the deficiency assessment by mail to each owner, as provided in section 384.60, ~~subsection 5,~~ but publication of the notice is not required.

Sec. 71. Section 421B.11, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Judicial review of the actions of the director may be sought in accordance with ~~the terms of the Iowa administrative procedure Act chapter 17A,~~ and section 422.55.

Sec. 72. Section 426B.1, subsection 2, Code 2003, is amended to read as follows:

2. There is appropriated on July 1 of each fiscal year to the property tax relief fund ~~for the indicated fiscal years~~ from the general fund of the state ~~the following amounts:~~

~~For the fiscal year beginning July 1, 1997, and succeeding fiscal years, ninety-five million dollars.~~

Sec. 73. Section 432.1, subsection 5, Code 2003, is amended to read as follows:

5. Except as provided in subsection 4 ~~6,~~ the premium tax shall be paid on or before March 1 of the year following the calendar year for which the tax is due. The commissioner may suspend or revoke the license of a company or association that fails to pay its premium tax on or before the due date.

Sec. 74. Section 435.26, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes. A home, after conversion to real estate, is eligible for the homestead tax credit and the military service tax exemption as provided in sections 425.2 and 426A.11.

Sec. 75. Section 455B.484, subsections 2 and 3, Code 2003, are amended to read as follows:

2. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for deposit into the waste management assistance trust fund to be used for programs relating to the duties of the department under this part.

3. Administer and coordinate the ~~land quality and~~ waste management assistance trust fund created under this part.

Sec. 76. Section 455B.488, Code 2003, is amended to read as follows:

455B.488 HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSITION.

The ~~division~~ department shall develop, sponsor, and assist in conducting local, regional, or statewide programs for the receipt or collection and proper management of hazardous wastes from households and farms. In conducting such events the ~~division~~ department may establish limits on the types and amounts of wastes that will be collected, and may establish a fee system for acceptance of wastes in quantities exceeding the limits established pursuant to this section.

Sec. 77. Section 455B.518, subsection 4, Code 2003, is amended to read as follows:

4. A toxics pollution prevention plan developed under this section shall be reviewed by the ~~authority~~ department for completeness, adequacy, and accuracy.

Sec. 78. Section 455H.208, Code 2003, is amended to read as follows:
455H.208 PUBLIC PARTICIPATION.

Public participation shall be a required component of the process for participants for all sites enrolled in the land recycling program. The required level of public participation shall vary depending on the conditions existing at a site. At a minimum, the department shall notify all adjacent property owners, occupants of adjacent property, and the city or county in which the property is located of a site's enrollment in the land recycling program and of the scope of work described in the participation agreement, and give the notified parties the opportunity to obtain updates regarding the status of activities relating to the enrolled site in the land recycling program. The notification shall not be required before the participant has had the opportunity to collect basic information characterizing the nature and extent of the contamination, but the notification shall be required in a timely manner allowing appropriate parties to have input in the formulation of the response action. If contaminants from the enrolled site have migrated off the enrolled site or are likely to migrate off the enrolled site, as determined by the department, the department shall notify by direct mailing all potentially affected parties, including the city or county in which the potentially affected property is located, and officials in charge of any potentially impacted public water supply and the notified parties shall be given opportunity to comment on proposed response actions. The department may require the participant of an enrolled site to publish public notice in a local newspaper if widespread interest in the site exists or is likely to exist as determined by the department. The department shall consider reasonable comments from potentially affected parties in determining whether to approve or disapprove a proposed response action or site closure.

Sec. 79. Section 456A.19, unnumbered paragraphs 1 and 2, Code 2003, are amended to read as follows:

All funds accruing to the fish and game protection fund, except an equitable portion of the administration fund, shall be expended solely in carrying on the fish and wildlife activities. Expenditures incurred by the department in carrying on the activities shall be only on authorization by the general assembly.

The department shall by October 1 of each year submit to the department of management for transmission to the general assembly a detailed estimate of the amount required by the department during the succeeding year for carrying on the fish and wildlife activities. The estimate shall be in the same general form and detail as required by law in estimates submitted by other state departments.

Sec. 80. Section 456A.21, subsections 1 and 2, Code 2003, are amended to read as follows:

1. A forestry management and enhancement fund is created in the state treasury under the department's control. The fund is composed of moneys deposited into the fund pursuant to section 456A.20, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by ~~the division or~~ the department from the United States or private sources for placement in the fund.

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written by the director of revenue and finance, drawn upon the written requisition of the ~~division~~ department.

Sec. 81. Section 456A.21, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. Four forestry technicians who shall serve regions of the state as designated by the ~~division~~ department.

Sec. 82. Section 459.102, subsection 29, Code 2003, is amended to read as follows:

29. "Major water source" means a water source that is a lake, reservoir, river, or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more

persons during a total of a six-month period in one out of ten years, excluding periods of flooding, which has been identified by rules adopted by the commission.

Sec. 83. Section 459.303, subsection 5, paragraph a, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A confinement feeding operation meets threshold requirements under this ~~paragraph subsection~~ if the confinement feeding operation after construction of a proposed confinement feeding operation structure would have a minimum animal unit capacity of the following:

Sec. 84. Section 459.310, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. A confinement feeding operation structure shall not be constructed closer than five hundred feet away from the surface intake of an agricultural drainage well. A confinement feeding operation structure shall not be constructed closer than one thousand feet from a wellhead, cistern of an agricultural drainage well, or known sinkhole. However, the department may adopt rules requiring an increased separation distance under this paragraph in order to protect the integrity of a water of ~~this the~~ state. The increased separation distance shall not be more than two thousand feet. If the department exercises its discretion to increase the separation distance requirement, the department shall not approve an application for the construction of a confinement feeding operation structure within that separation distance as provided in section 459.303.

Sec. 85. Section 459.310, subsection 1, paragraph c, subparagraph (2), Code 2003, is amended to read as follows:

(2) A major water source shall not be constructed, expanded, or diverted, if the major water source as constructed, expanded, or diverted is closer than one thousand feet from a confinement feeding operation structure.

Sec. 86. Section 459.312, subsection 10, paragraph a, subparagraph (2), subparagraph subdivision (b), subparagraph subdivision part (i), Code 2003, is amended to read as follows:

(i) The development of a comprehensive state nutrient budget for the maximum volume, frequency, and concentration of nutrients for each watershed that addresses all significant sources of nutrients in a water of ~~this the~~ state on a watershed basis.

Sec. 87. Section 459.604, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This subsection shall not apply unless the department of ~~natural resources~~ has previously notified the person of the person's classification as a habitual violator. The department shall notify persons classified as habitual violators of their classification, additional restrictions imposed upon the persons pursuant to their classification, and special civil penalties that may be imposed upon the persons. The notice shall be sent to the persons by certified mail.

Sec. 88. Section 466.5, subsection 4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

When establishing a wetland under this ~~subsection section~~, the department of agriculture and land stewardship shall be governed by the following requirements:

Sec. 89. Section 481B.5, subsections 2 through 4, Code 2003, are amended to read as follows:

2. The United States list of endangered or threatened native fish and wildlife as contained in the ~~Code of Federal Regulations, Title 50, part 50 C.F.R. pt. 17~~ as amended to December 30, 1991.

3. The United States list of endangered or threatened plants as contained in the ~~Code of Federal Regulations, Title 50, part 50 C.F.R. pt. 17~~ as amended to December 30, 1991.

4. The United States list of endangered or threatened foreign fish and wildlife as contained in ~~the Code of Federal Regulations, Title 50, part 50 C.F.R. pt. 17~~ as amended to December 30, 1991.

Sec. 90. Section 490.825, subsection 3, Code 2003, is amended to read as follows:

3. Sections 490.820 through 490.824 apply both to committees of the board and to ~~their~~ committee members.

Sec. 91. Section 490.1701, subsection 1, Code 2003, is amended to read as follows:

1. Except as provided in this subsection or chapter 504, Code 1989, or chapter 504A, this chapter does not apply to or affect entities subject to chapter 504, Code 1989, or chapter 504A. Such entities continue to be governed by all laws of this state applicable to them before December 31, 1989, as those laws are amended. This chapter does not derogate or limit the powers to which such entities are entitled.

Sec. 92. Section 490A.1508, Code 2003, is amended to read as follows:

490A.1508 ISSUANCE OF MEMBERSHIP INTERESTS.

Membership interests of a professional limited liability company shall be issued only to individuals who are licensed to practice in any state a profession which the professional limited liability company is authorized to practice. Membership interests of a professional limited liability company shall not at any time be issued in, transferred into, or held in joint tenancy, tenancy in common, or any other form of joint ownership or co-ownership. The Iowa uniform securities Act as provided in chapter 502 shall not be applicable to nor govern any transaction relating to any membership interests of a professional limited liability company.

Sec. 93. Section 504A.100, subsection 2, Code 2003, is amended to read as follows:

2. This chapter shall not apply to any domestic corporation heretofore organized or existing under the provisions of chapter 504, ~~of the Code 1989~~, nor, for a period of two years from and after July 4, 1965, to any foreign corporation holding a permit under the provisions of said chapter on the said date, unless such domestic or foreign corporation shall voluntarily elect to adopt the provisions of this chapter and shall comply with the procedure prescribed by the provisions of subsection 3 of this section.

Sec. 94. Section 504B.1, Code 2003, is amended to read as follows:

504B.1 CORPORATIONS APPLICABLE.

This chapter shall apply to every corporation organized under chapter 504, Code 1989, or chapter 504A, which corporation is deemed to be a private foundation as defined in section 509 of the Internal Revenue Code, which is incorporated in the state of Iowa after December 31, 1969, and as to any such corporation organized in this state before January 1, 1970, it shall apply only for its federal taxable years beginning on or after January 1, 1972.

Sec. 95. Section 504B.6, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Nothing in this chapter shall limit the power of any nonprofit corporation organized under chapter 504, Code 1989, or organized under chapter 504A:

Sec. 96. Section 514.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A corporation organized under ~~former~~ chapter 504, Code 1989, or chapter 504A for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan, whereby hospital service may be provided by the corporation or by a hospital with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to hospital service; or a corporation organized for the purpose of establishing, maintaining, and operating a plan whereby health care service may be provided at the

expense of this corporation, by licensed physicians and surgeons, dentists, podiatric physicians, osteopathic physicians, osteopathic physicians and surgeons or chiropractors, to subscribers under contract, entitling each subscriber to health care service, as provided in the contract; or a corporation organized for the purpose of establishing, maintaining, and operating a nonprofit pharmaceutical service plan or optometric service plan, whereby pharmaceutical or optometric service may be provided by this corporation or by a licensed pharmacy with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to pharmaceutical or optometric service; shall be governed by this chapter and is exempt from all other provisions of the insurance laws of this state, unless specifically designated in this chapter, not only in governmental relations with the state but for every other purpose, and additions enacted after the effective date of this chapter July 1, 1939, shall not apply to these corporations unless they are expressly designated in the additions.

Sec. 97. Section 514.2, Code 2003, is amended to read as follows:
514.2 INCORPORATION.

Persons desiring to form a nonprofit hospital service corporation, or a nonprofit medical service corporation, or a nonprofit pharmaceutical or optometric service corporation shall incorporate under the provisions of chapter 504, Code 1989, or chapter 504A, as supplemented and amended herein and any acts amendatory thereof.

Sec. 98. Section 514.5, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A hospital service corporation organized under ~~former~~ chapter 504, Code 1989, or chapter 504A may enter into contracts for the rendering of hospital service to any of its subscribers with hospitals maintained and operated by the state or any of its political subdivisions, or by any corporation, association, or individual. Such hospital service corporation may also contract with an ambulatory surgical facility to provide surgical services to the corporation's subscribers. Hospital service is meant to include bed and board, general nursing care, use of the operating room, use of the delivery room, ordinary medications and dressings and other customary routine care. Ambulatory surgical facility means a facility constructed and operated for the specific purpose of providing surgery to patients admitted to and discharged from the facility within the same day.

Sec. 99. Section 537.1303, subsection 10, Code 2003, is amended to read as follows:
10. "Pursuant to a credit card". Section 537.1301, subsection ~~17~~ 16.

Sec. 100. Section 542.7, subsection 8, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The board, by rule, shall require as a condition ~~to~~ of renewal of a permit to practice as a certified public accounting firm, that an applicant undergo, no more frequently than once every three years, a peer review conducted in such manner as the board specifies. The review shall include a verification that any individual in the firm who is responsible for supervising attest and compilation services and who signs or authorizes someone to sign the accountant's report on a financial statement on behalf of the firm meets the competency requirements set forth in the professional standards for such services.

Sec. 101. Section 542.8, subsection 17, Code 2003, is amended to read as follows:

17. The board, by rule, shall require as a condition ~~to~~ of renewal of a permit to practice as a licensed public accounting firm, that an applicant undergo, no more frequently than once every three years, a peer review conducted in such manner as the board specifies. The review shall include verification that any individual in the firm who is responsible for supervising compilation services and who signs or authorizes someone to sign the accountant's report on

a financial statement on behalf of the firm meets the competency requirements set forth in the professional standards for such services. Such rules shall include reasonable provision for compliance by an applicant showing that the applicant, within the preceding three years, has undergone a peer review that is a satisfactory equivalent to the peer review required under this subsection. An applicant's completion of a peer review program endorsed or supported by the national society of accountants, or other substantially similar review as determined by the board, satisfies the requirements of this subsection.

Sec. 102. Section 544B.1, subsection 2, Code 2003, is amended to read as follows:

2. ~~The "practice~~ Practice of landscape architecture" means the performance of professional services such as consultations, investigations, reconnaissance, research, planning, design, or responsible supervision in connection with projects involving the arranging of land and the elements thereon for public and private use and enjoyment, including the alignment of roadways and the location of buildings, service areas, parking areas, walkways, steps, ramps, pools and other structures, and the grading of the land, surface and subsoil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape and aesthetic values, in accordance with accepted professional standards of public health, welfare, and safety. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this chapter but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of public streets and highways, utilities, storm and sanitary sewers, and sewage treatment facilities, such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of land surveys or final land plats for official approval or recording. Nothing contained in this chapter shall be construed as authorizing a professional landscape architect to engage in the practice of architecture, engineering, or land surveying.

Sec. 103. Section 554.9706, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. if the initial financing statement is filed before July 1, 2001, for the period provided in ~~former~~ section 554.9403, Code 2001, with respect to a financing statement; and

Sec. 104. Section 554.11103, Code 2003, is amended to read as follows:

554.11103 TRANSITION TO THIS CHAPTER AS AMENDED — GENERAL RULE.

Transactions validly entered into after July 4, 1966, and before January 1, 1975, which were subject to the provisions of this chapter prior to amendment and which would be subject to this chapter as amended if they had been entered into on or after January 1, 1975, and the rights, duties and interests flowing from such transactions remain valid after January 1, 1975, and may be terminated, completed, consummated or enforced as required or permitted by this chapter as amended. Security interests arising out of such transactions which are perfected on January 1, 1975, shall remain perfected until they lapse or are terminated as provided in this chapter as amended, and may be continued as permitted by this chapter as amended, ~~except as stated in section 554.11105.~~

Sec. 105. Section 616.10, Code 2003, is amended to read as follows:

616.10 INSURANCE COMPANIES.

Insurance companies may be sued in any county in which their principal place of business is kept, or in which the contract of insurance was made, or in which the loss insured against occurred, or, in case of insurance against death or disability, in the county of the domicile of the insured at the time the loss occurred, or in the county of plaintiff's residence. As used in this section the term "insurance companies" includes nonprofit hospital service corporations and nonprofit medical service corporations which have incorporated under the provisions of chapter 504, Code 1989, or chapter 504A.

Sec. 106. Section 618.5, Code 2003, is amended to read as follows:

618.5 PERMISSIBLE SELECTION.

Publications may be made in a newspaper published at least once a week ~~or oftener~~.

Sec. 107. Section 618.9, Code 2003, is amended to read as follows:

618.9 DAYS OF PUBLICATION.

When the publication is in a newspaper which is published ~~oftener than~~ more than once a week, the succeeding publications of such notice shall be on the same day of the week as the first publication. This section shall not apply to any notice for the publication of which provision inconsistent herewith is specially made.

Sec. 108. Section 633.63, subsection 3, Code 2003, is amended to read as follows:

3. A private nonprofit corporation organized under chapter 504, ~~Code 1989~~, or chapter 504A is qualified to act as a guardian, as defined in section 633.3, subsection 20, or a conservator, as defined in section 633.3, subsection 7, where the assets subject to the conservatorship at the time when such corporation is appointed conservator are less than or equal to seventy-five thousand dollars and the corporation does not possess a proprietary or legal interest in an organization which provides direct services to the individual.

Sec. 109. Section 633.4214, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. This subsection does not apply to the following:

(1) A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, ~~that~~ was previously allowed.

(2) A trust that may be revoked or amended by the settlor.

(3) A trust, if contributions to the trust ~~which~~ qualify for an annual exclusion under section 2503(c) of the Internal Revenue Code of 1986.

Sec. 110. Section 637.601, unnumbered paragraph 1, Code 2003, is amended to read as follows:

For purposes of this ~~section~~ subchapter:

Sec. 111. Section 637.605, subsection 2, Code 2003, is amended to read as follows:

2. The trustee appoints a disinterested person who, in ~~its~~ the person's sole discretion, but acting in a fiduciary capacity, determines for the trustee the method to be used in determining the fair market value of the trust, and which assets, if any, are to be excluded in determining the unitrust amount.

Sec. 112. Section 656.2, subsection 2, paragraph a, unnumbered paragraph 11,² Code 2003, is amended to read as follows:

The request for notice shall be indexed ~~pursuant to section 558.50~~.

Sec. 113. Section 709.19, subsection 1, Code 2003, is amended to read as follows:

1. Upon the filing of an affidavit by a victim, or a parent or guardian on behalf of a minor who is a victim, of a crime of that is a sexual offense in violation of section 709.2, 709.3, 709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, or 709.16, ~~which that~~ states that the presence of or contact with the defendant whose release from jail or prison is imminent or who has been released from jail or prison continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family, the court shall enter a temporary no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim's immediate family.

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §44 herein

Sec. 114. Section 717D.1, Code 2003, is amended to read as follows:

717D.1 DEFINITIONS.

As used in this chapter:

1. "Animal" means a nonhuman vertebrate.
2. "Contest animal" means a bull, bear, chicken, or dog.
3. "Contest device" means equipment designed to enhance a contest animal's entertainment value during training or a contest event, including a device to improve the contest animal's competitiveness.
4. "Contest event" means a function organized for the entertainment or profit of spectators where a contest animal is injured, tormented, or killed, if the contest animal is a bull involved in a bullfight or bull baiting, a bear involved in bear baiting, a chicken involved in cock fighting, or a dog involved in dog fighting.
5. "Establishment" means the location where a contest event occurs or is to occur, regardless of whether a contest animal is present at the establishment or the contest animal is witnessed by means of an electronic signal transmitted to the location.
6. "Livestock" means the same as defined in section 717.1.
7. "Local authority" means the same as defined in section 717B.1.
8. "Promoter" means a person who charges admission for entry into an establishment or organizes, holds, advertises, or otherwise conducts a contest event.
9. "Spectator" means a person who attends an establishment for purposes of witnessing a contest event.
10. "Trainer" means a person who trains a contest animal for purposes of engaging in a contest event, regardless of where the contest event is located. A trainer includes a person who uses a contest device.
11. "Transporter" means a person who moves a contest animal for delivery to a training location or a contest event location.

Sec. 115. Section 802.5, Code 2003, is amended to read as follows:

802.5 EXTENSION FOR FRAUD, FIDUCIARY BREACH.

If the ~~period~~ periods prescribed in sections 802.3 and 802.4 ~~has~~ have expired, prosecution may nevertheless be commenced for any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

Sec. 116. Section 805.8A, subsection 3, paragraph e, Code 2003, is amended to read as follows:

- e. For a violation of section 321.430, the scheduled ~~violation~~ fine is thirty-five dollars.

Sec. 117. Section 805.8A, subsection 4, paragraph b, Code 2003, is amended to read as follows:

- b. For a violation of section 321.216, the scheduled ~~violation~~ fine is seventy-five dollars.

Sec. 118. Section 805.8A, subsection 10, paragraph b, Code 2003, is amended to read as follows:

- b. For a violation under section 321.372, subsection 3, the scheduled ~~violation~~ fine is one hundred dollars.

Sec. 119. Section 809A.14, subsection 4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Notice of the issuance of a temporary restraining order and an opportunity for a hearing shall be given to persons known to have an interest in the property. A hearing shall be held at the earliest possible date in accordance with R.C.P. ~~326~~ rule of civil procedure 1.1507, and shall be limited to the following issues:

Sec. 120. Section 907B.2, Article I, subsection 7, Code 2003, is amended to read as follows:
7. MEMBER. "Member" means the commissioner of a compacting state or a designee, who shall be a person officially connected with the commissioner.

Sec. 121. Section 907B.2, Article IV, subsection 10, Code 2003, is amended to read as follows:

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same.

Sec. 122. Section 907B.2, Article VII, subsection 7, paragraph j, Code 2003, is amended to read as follows:

j. Mediation, arbitration and dispute resolution. The existing rules governing the operation of the previous compact superseded by this Act compact shall be null and void twelve months after the first meeting of the interstate commission created hereunder.

Sec. 123. 2002 Iowa Acts, chapter 1017, section 4, is amended to read as follows:

SEC. 4. Section 331.602, subsection 13, Code Supplement 2001, is amended by striking the subsection.

Sec. 124. 2002 Iowa Acts, chapter 1093, section 3, is amended by striking the section and inserting in lieu thereof the following:

SEC. 3. Section 166D.10, subsection 4, paragraph b, subparagraph (2), subparagraph subdivision (a), unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as provided in this subparagraph, the owner of swine shall vaccinate the swine with a modified-live differentiable vaccine, prior to moving swine into the stage II county. ~~A statistical sampling of the swine moved into a herd as provided in this subparagraph shall be tested using a differentiable test within thirty days after the swine is moved to a herd in this state. If a swine reacts positively to the test, the herd is an infected herd. A person is not required to vaccinate swine prior to moving swine into the stage II county or test the swine after the swine has been moved to a herd in the stage II county,~~ if one of the following applies:

Sec. 125. 2002 Iowa Acts, chapter 1119, section 108, is amended to read as follows:

SEC. 108. Section 229.26, Code ~~Supplement~~ 2001, is amended by striking the words "third edition,".

Sec. 126. 2002 Iowa Acts, chapter 1132, section 9, is amended by striking the section and inserting in lieu thereof the following:

SEC. 9. Section 368.11, unnumbered paragraph 4, Code Supplement 2001, is amended to read as follows:

At least ~~ten~~ fourteen business days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known by sending a letter of intent by certified mail to the council of each city whose urbanized area contains a portion of the territory, the board of supervisors of each county which contains a portion of the territory, the regional planning authority of the territory involved, each affected public utility, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

Sec. 127. 2002 Iowa Acts, chapter 1140, section 28, is amended by striking the section and inserting in lieu thereof the following:

SEC. 28. Section 285.12, Code Supplement 2001, is amended to read as follows:

285.12 DISPUTES — HEARINGS AND APPEALS.

In the event of a disagreement between a school patron and the board of the school district, the patron if dissatisfied with the decision of the district board, may appeal ~~the same~~ to the area

education agency board, notifying the secretary of the district in writing within ten days of the decision of the board and by filing an affidavit of appeal with the agency board within the ten-day period. The affidavit of appeal shall include the reasons for the appeal and points at issue. The secretary of the local board on receiving notice of appeal shall certify all papers to the agency board which shall hear the appeal within ten days of the receipt of the papers and decide it within three days of the conclusion of the hearing and shall immediately notify all parties of its decision. Either party may appeal the decision of the agency board to the director of the department of education by notifying the opposite party and the agency administrator in writing within five days after receipt of notice of the decision of the agency board and by filing with the director of the department of education an affidavit of appeal, reasons for appeal, and the facts involved in the disagreement within five days after receipt of notice of the decision of the agency board. The agency administrator shall, within ten days of ~~said receipt of the~~ notice, file with the director all records and papers pertaining to the case, including action of the agency board. The director shall hear the appeal within fifteen days of the filing of the records in the director's office, notifying all parties and the agency administrator of the ~~date and~~ time of hearing. The director shall ~~forthwith decide the same and~~ notify all parties of the decision and return all papers with a copy of the decision to the agency administrator. The decision of the director shall be subject to judicial review in accordance with ~~the terms of the Iowa administrative procedure Act chapter 17A.~~ Pending final order made by the director, upon any appeal prosecuted to such director, the order of the agency board from which the appeal is taken shall be operative and be in full force and effect.

Sec. 128. 2002 Iowa Acts, chapter 1149, section 2, is amended by striking the section and inserting in lieu thereof the following:

SEC. 2. Section 137F.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. For a farmers market where potentially hazardous food is sold or distributed, one seasonal license fee of one hundred dollars for each vendor on a countywide basis.

Sec. 129. 2002 Iowa Acts, chapter 1175, section 41, the bill section amending clause, is amended to read as follows:

Section 546.10, subsection 3, unnumbered paragraph 2, if enacted by 2002 Iowa Acts, Senate File 2326, section 32, is amended to read as follows:

Sec. 130. 2001 Iowa Acts, chapter 55, section 31, is amended by striking the section and inserting in lieu thereof the following:

SEC. 31. Section 502.102, subsection 11, paragraph c, subparagraphs (3) and (4), Code 2001, are amended to read as follows:

(3) An attorney licensed to practice law in this state, a certified public accountant licensed pursuant to chapter ~~542C~~ 542D, a professional engineer licensed pursuant to chapter 542B, or a certified teacher, if the person's performance of these services is solely incidental to the practice of the person's profession.

(4) An attorney licensed to practice law in this state or a certified public accountant licensed pursuant to chapter ~~542C~~ 542D who does not do any of the following:

(a) Exercise investment discretion regarding the assets of a client or maintain custody of the assets of a client for the purpose of investing the assets, except when the person is acting as a bona fide fiduciary in a capacity such as an executor, administrator, trustee, estate or trust agent, guardian, or conservator.

(b) Accept or receive directly or indirectly any commission, fee, or other remuneration contingent upon the purchase or sale of any specific security by a client of such person.

(c) Provide advice regarding the purchase or sale of specific securities. However, this subparagraph subdivision (c) shall not apply when the advice about specific securities is based on a financial statement analysis or tax considerations that are reasonably related to and in connection with the person's profession.

Sec. 131. Sections 513C.3, 514E.1, 514I.1 through 514I.9, and 514I.11, Code 2003, are amended by striking the term “HAWK-I” and inserting in lieu thereof the term “hawk-i”. The Code editor is directed to replace the term “HAWK-I” with the term “hawk-i” in any other statute contained in the 2003 Code or which is amended or enacted in other legislation enacted during the 2003 Session of the 80th General Assembly. The Code editor is further directed to make the same replacement in statutes appearing in any legislation that was enacted prior to the 2003 Session of the 80th General Assembly, but that will be codified on or after the effective date of this Act.

Sec. 132. RETROACTIVE APPLICABILITY AND EFFECTIVE DATES.

1. The amendment in this Act to section 29A.90, subsection 3, Code 2003, is retroactively applicable to April 22, 2002.
2. The section of this Act amending 2002 Iowa Acts, chapter 1093, section 3, takes effect upon enactment and is retroactively applicable to April 8, 2002.
3. The sections of this Act amending 2002 Iowa Acts, chapter 1119, section 108 and 2002 Iowa Acts, chapter 1132, section 9, take effect upon enactment and are retroactively applicable to July 1, 2002.
4. The sections of this Act amending 2002 Iowa Acts, chapter 1140, section 28 and 2002 Iowa Acts, chapter 1149, section 2, take effect upon enactment and are retroactively applicable to May 2, 2002.
5. This section is effective upon enactment.

Approved May 2, 2003

CHAPTER 109

CRIMINAL SENTENCING — NO-CONTACT ORDERS

H.F. 404

AN ACT authorizing a sentencing court to issue no-contact orders against persons arrested for any public offense.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 901.5, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 7A. a. The court may order the defendant to have no contact with the victim of the offense, persons residing with the victim, members of the victim’s immediate family, or witnesses to the offense if the court finds that the presence of or contact with the defendant poses a threat to the safety of the victim, persons residing with the victim, members of the victim’s immediate family, or witnesses to the offense.

b. The duration of the no-contact order may extend for a period of five years from the date the judgment is entered or the deferred judgment is granted, or up to the maximum term of confinement, whichever is greater. The court may order the no-contact order regardless of whether the defendant is placed on probation.

Upon the filing of an affidavit by the victim, a person residing with the victim, a member of the victim’s immediate family, or a witness to the offense which states that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, members of the victim’s immediate family, or witnesses to the offense within ninety days prior to the

expiration of the no-contact order, the court shall modify and extend the no-contact order for an additional period of up to five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The number of modifications extending the no-contact order permitted by this subsection is not limited.

c. The court order shall contain the court's directives restricting the defendant from having contact with the victim of the offense, persons residing with the victim, members of the victim's immediate family, or witnesses to the offense. The order shall state whether the defendant is to be taken into custody by a peace officer for a violation of the terms stated in the order.

d. Violation of a no-contact order issued under this section is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this subsection shall be held not less than five¹ and not more than fifteen days after the issuance of a rule to show cause, as set by the court, unless the defendant is already in custody at the time of the alleged violation in which case the hearing shall be held not less than five days and not more than forty-five days after the issuance of the rule to show cause.

e. For purposes of this subsection, "victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense committed in this state.

Approved May 2, 2003

CHAPTER 110

PETROLEUM STORAGE TANK REGULATION

H.F. 516

AN ACT relating to composition and responsibilities of the Iowa comprehensive petroleum underground storage tank fund board.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 424.19 FUTURE REPEAL.
This chapter is repealed effective June 30, 2014.

Sec. 2. Section 455G.4, subsection 1, Code 2003, is amended by adding the following new paragraph after paragraph d:

NEW PARAGRAPH. dd. Two owners or operators appointed by the governor. One of the owners or operators appointed pursuant to this paragraph shall have been a petroleum systems insured through the underground storage tank insurance fund or a successor to the underground storage tank insurance fund and shall have been an insured through the insurance account of the comprehensive petroleum underground storage tank fund on or before October 26, 1990. One of the owners or operators appointed pursuant to this paragraph shall be self-insured.

Sec. 3. Section 455G.4, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A public member appointed pursuant to paragraph "d" shall not have a conflict of interest. For purposes of this section a "conflict of interest" means an affiliation, within the twelve months before the member's appointment, with the regulated tank community, or with a person or property and casualty insurer offering competitive insurance or other means of

¹ See chapter 179, §77 herein

financial assurance or which previously offered environmental hazard insurance for a member of the regulated tank community.

Sec. 4. Section 455G.4, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 6. REPORTING. Beginning July 2003, the board shall submit a written report quarterly to the legislative council, the chairperson and ranking member of the committee on natural resources and environment in the senate, and the chairperson and ranking member of the committee on environmental protection in the house of representatives regarding changes in the status of the program including, but not limited to, the number of open claims by claim type; the number of new claims submitted and the eligibility status of each claim; a summary of the risk classification of open claims; the status of all claims at high-risk sites including the number of corrective action design reports submitted, approved, and implemented during the reporting period; total moneys reserved on open claims and total moneys paid on open claims; and a summary of budgets approved and invoices paid for high risk site activities including a breakdown by corrective action design report, construction and equipment, implementation, operation and maintenance, monitoring, over excavation, free product recovery, site reclassification, reporting and other expenses, or a similar breakdown. In each report submitted by the board, the board shall include an estimated timeline to complete corrective action at all currently eligible high-risk sites where a corrective action design report has been submitted by a claimant and approved during the reporting period. The timeline shall include the projected year when a no further action designation will be obtained based upon the corrective action activities approved or anticipated at each claimant site. The timeline shall be broken down in annual increments with the number or percentage of sites projected to be completed for each time period. The report shall identify and report steps taken to expedite corrective action and eliminate the state's liability for open claims.

Sec. 5. Section 455G.6, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 17. The board may adopt rules pursuant to chapter 17A providing for the transfer of all or a portion of the liabilities of the board under this chapter. Notwithstanding other provisions to the contrary, the board, upon such transfer, shall not maintain any duty to reimburse claimants under this chapter for those liabilities transferred.

Approved May 2, 2003

CHAPTER 111

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES SYSTEM REVIEW

H.F. 529

AN ACT directing the mental health and developmental disabilities commission to make recommendations for redesigning the mental health and developmental disabilities services system for adults and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES SYSTEM REDESIGN.

In fulfilling the mental health and developmental disabilities commission's duty under

section 225C.6, subsection 1, paragraph "q", the commission shall submit a report containing recommendations in accordance with this section to the governor and general assembly on or before December 31, 2003, for redesign of the state's mental health and developmental disabilities services system for adults. The commission shall address all of the following system components in the report and recommendations:

1. STANDARD CLINICAL AND FINANCIAL ELIGIBILITY.

The commission shall do all of the following:

a. Propose a standard set of clinical and diagnostic eligibility requirements for use in determining which individuals will be covered for defined core services, including but not limited to, general clinical eligibility standards, service access criteria, level of care requirements, and terminology changes.

b. Propose financial eligibility criteria for qualifying covered individuals, including guidelines for resources, copayments, income, and assets.

c. Identify the total projected cost for all counties to adopt the standardized clinical and financial eligibility requirements and criteria proposed by the commission.

2. MINIMUM SET OF CORE SERVICES.

The commission shall do all of the following:

a. Identify a minimum set of core services to be provided by each county. This core set of services shall be available statewide. An individual's eligibility for core services shall be based on consistent clinical criteria and service necessity.

b. Identify the total projected cost for all counties to make the core services available.

c. Design the core set of services as a replacement for the current statutory mandates for services. The purpose of replacing the current statutory mandates with the core set of services is to shift the emphasis to community-based services by providing covered individuals a reasonable level of choice to meet their individual needs within available funding. The initial set of core services considered by the commission shall include all of the following community-based services:

(1) Mental health outpatient treatment.

(2) Inpatient psychiatric evaluation and treatment at county-designated facilities.

(3) Service coordination and case management.

(4) Vocational services.

(5) Residential services.

3. FUNDING FOLLOWS THE COVERED INDIVIDUAL.

The commission shall include a process by which funding follows the covered individual among the options considered, including but not limited to the following:

a. Develop a new formula that allows public funding to follow the covered individual regardless of categorical funding. Distribution of state funds shall be based on a matrix of disability-related reimbursement rate cells. Each cell shall specify a reimbursement rate based on disability group and level of functioning. The funding formula shall take into account the number of covered individuals enrolled in each county and the average cost of services provided to covered individuals in each cell. The formula shall incorporate all of the following principles:

(1) Each county will receive a quarterly allotment equal to the product of the average costs per cell times the number of individuals enrolled in each cell during the previous quarter. To accommodate cash flow needs of counties and reduce the level of fund balances counties need to maintain, the state would make payments at the beginning of each quarter based on the anticipated number of covered individuals, with a reconciliation in the next quarter to the actual number of covered individuals.

(2) Increasing overall state funding levels in proportion to county funding levels.

(3) Allocating any increased state funding to achieve statewide equity in service access.

(4) Allocating the state funding for state institutions through counties rather than directly to the institutions so that these services operate on an equal basis with other services.

(5) Allocating state funding and administrative costs for state cases to the covered individual's county of residence.

(6) Allocating the risk for service cost increases to the counties and allocating the cost for

increases in the number of covered individuals to the state. Risk allocation provisions shall address methods for managing the risk.

(7) Providing for risk management and flexibility provisions such as cell rate adjustments, allowing waiting lists to be used for an unanticipated increase in the number of covered individuals, distributing quarterly allocations to counties based upon the previous quarter's number of covered individuals, removing categorical funding restrictions, applying standards to ensure county cash flow capacity, and allowing inflation adjustments.

(8) Expanding the state risk pool provisions under section 426B.5 to allow access to risk pool funding for specific purposes and to allow counties to maintain a certain level of fund balances in order to address certain cost factors.

b. All of the following factors shall be considered in developing formula provisions for calculating the distribution of funds:

(1) A county's ability to levy based on available taxable valuation and average per capita income.

(2) A requirement for each county to have a fund balance sufficient to cover all of the following:

(a) Cash flow for current services.

(b) Building maintenance and repair costs.

(c) Investments in new programs.

(d) A local risk pool that will cover extraordinary expenses while a county is preparing an application to the statewide risk pool.

(3) County costs for administration and infrastructure.

(4) Funds for counties to pay the costs of crisis response, hospital diversion, prevention, consultation, education, and outreach services that are provided outside the rate cell methodology or fee payment policy.

(5) Incentives to counties for coordination, collaboration, and infrastructure development.

c. Identify state and county costs to implement the proposed funding formula for the individuals and services identified under subsections 1 and 2.

4. ADDRESS THE LEGAL SETTLEMENT PROCESS.

The commission shall consider options for addressing the deficiencies in the legal settlement process currently used for determining governmental financial liability for service costs. The options considered may include but are not limited to providing for a transition to a system that provides for service access based upon an individual's residency.

5. COORDINATION OF FUNDING STREAMS.

The commission shall do all of the following:

a. Develop a specific approach for counties and the state to access additional federal housing funds.

b. In consultation with counties, support new efforts to maximize federal funding for defined core services, including accessing federal funds to support or match county expenditures to standardize inpatient and outpatient treatment and hospital diversion costs for Medicaid program recipients.

c. Develop recommendations identifying the manner in which services will be funded by the federal government, the state, and the counties.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 2003

CHAPTER 112**REGULATION OF HEALTH CARE — PHARMACEUTICALS
— MEDICAL ASSISTANCE PROGRAM***H.F. 619*

ANACT relating to health care including reimbursement of health care facilities based on resident program eligibility and providing effective dates and a contingent effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 135.131 INTERAGENCY PHARMACEUTICALS BULK PURCHASING COUNCIL.

1. For the purposes of this section, “interagency pharmaceuticals bulk purchasing council” or “council” means the interagency pharmaceuticals bulk purchasing council created in this section.

2. An interagency pharmaceuticals bulk purchasing council is created within the Iowa department of public health. The department shall provide staff support to the council and the department of pharmaceutical care of the university of Iowa hospitals and clinics shall act in an advisory capacity to the council. The council shall be composed of all of the following members:

- a. The director of public health, or the director’s designee.
- b. The director of human services, or the director’s designee.
- c. The director of the department of personnel, or the director’s designee.
- d. A representative of the state board of regents.
- e. The director of the department of corrections, or the director’s designee.
- f. The director, or the director’s designee, of any other agency that purchases pharmaceuticals designated to be included as a member by the director of public health.

3. The council shall select a chairperson annually from its membership. A majority of the members of the council shall constitute a quorum.

4. The council shall do all of the following:

a. Develop procedures that member agencies must follow in purchasing pharmaceuticals. However, a member agency may elect not to follow the council’s procedures if the agency is able to purchase the pharmaceuticals for a lower price than the price available through the council. An agency that does not follow the council’s procedures shall report all of the following to the council:

- (1) The purchase price for the pharmaceuticals.
- (2) The name of the wholesaler, retailer, or manufacturer selling the pharmaceuticals.

b. Designate a member agency as the central purchasing agency for purchasing of pharmaceuticals.

c. Use existing distribution networks, including wholesale and retail distributors, to distribute the pharmaceuticals.

d. Investigate options that maximize purchasing power, including expanding purchasing under the medical assistance program, qualifying for participation in purchasing programs under 42 U.S.C. § 256b, as amended, and utilizing rebate programs, hospital disproportionate share purchasing, multistate purchasing alliances, and health department and federally qualified health center purchasing.

e. In collaboration with the department of pharmaceutical care of the university of Iowa hospitals and clinics, make recommendations to member agencies regarding drug utilization review, prior authorization, the use of restrictive formularies, the use of mail order programs, and copayment structures. This paragraph shall not apply to the medical assistance program but only to the operations of the member agencies.

5. The central purchasing agency may enter into agreements with a local governmental entity to purchase pharmaceuticals for the local governmental entity.

6. The council shall develop procedures under which the council may disclose information relating to the prices manufacturers or wholesalers charge for pharmaceuticals by category of pharmaceutical. The procedure shall prohibit the council from disclosing information that identifies a specific manufacturer or wholesaler or the prices charged by a specific manufacturer or wholesaler for a specific pharmaceutical.

Sec. 2. NEW SECTION. 135C.31A ASSESSMENT OF RESIDENTS — PROGRAM ELIGIBILITY.

Beginning July 1, 2003, a health care facility receiving reimbursement through the medical assistance program under chapter 249A shall assist the Iowa commission of veterans affairs in determining, prior to the initial admission of a resident, the prospective¹ resident's eligibility for benefits through the federal department of veterans affairs. The health care facility shall also assist the Iowa commission of veterans affairs in determining such eligibility for residents residing in the facility on July 1, 2003. The department of inspections and appeals, in cooperation with the department of human services, shall adopt rules to administer this section, including a provision that ensures that if a resident is eligible for benefits through the federal department of veterans affairs or other third-party payor, the payor of last resort for reimbursement to the health care facility is the medical assistance program. This section shall not apply to the admission of an individual to a state mental health institute for acute psychiatric care.

Sec. 3. NEW SECTION. 249A.20A PREFERRED DRUG LIST PROGRAM.

1. The department shall establish and implement a preferred drug list program under the medical assistance program. The department shall submit a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services, no later than May 1, 2003, to implement the program.

2. a. A medical assistance pharmaceutical and therapeutics committee shall be established within the department by July 1, 2003, for the purpose of developing and providing ongoing review of the preferred drug list.

b. (1) The members of the committee shall be appointed by the governor and shall include health care professionals who possess recognized knowledge and expertise in one or more of the following:

- (a) The clinically appropriate prescribing of covered outpatient drugs.
- (b) The clinically appropriate dispensing and monitoring of covered outpatient drugs.
- (c) Drug use review, evaluation, and intervention.
- (d) Medical quality assurance.

(2) The membership of the committee shall be comprised of at least one third but not more than fifty-one percent licensed and actively practicing physicians and at least one third licensed and actively practicing pharmacists.

c. The members shall be appointed to terms of two years. Members may be appointed to more than one term. The department shall provide staff support to the committee. Committee members shall select a chairperson and vice chairperson annually from the committee membership.

3. The pharmaceutical and therapeutics committee shall recommend a preferred drug list to the department. The committee shall develop the preferred drug list by considering each drug's clinically meaningful therapeutic advantages in terms of safety, effectiveness, and clinical outcome. The committee shall use evidence-based research methods in selecting the drugs to be included on the preferred drug list. The committee shall periodically review all drug classes included on the preferred drug list and may amend the list to ensure that the list provides for medically appropriate drug therapies for medical assistance recipients and achieves cost savings to the medical assistance program. The department may procure a sole source contract with an outside entity or contractor to provide professional administrative support to the pharmaceutical and therapeutics committee in researching and recommending drugs to be placed on the preferred drug list.

¹ See chapter 179, §160 herein

4. With the exception of drugs prescribed for the treatment of human immunodeficiency virus or acquired immune deficiency syndrome, transplantation, or cancer and drugs prescribed for mental illness with the exception of drugs and drug compounds that do not have a significant variation in a therapeutic profile or side effect profile within a therapeutic class, prescribing and dispensing of prescription drugs not included on the preferred drug list shall be subject to prior authorization.

5. The department may negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the federal Social Security Act. The committee shall consider a product for inclusion on the preferred drug list if the manufacturer provides a supplemental rebate. The department may procure a sole source contract with an outside entity or contractor to conduct negotiations for supplemental rebates.²

6. The department shall publish and disseminate the preferred drug list to all medical assistance providers in this state.

7. Until such time as the pharmaceutical and therapeutics committee is operational, the department shall adopt and utilize a preferred drug list developed by a midwestern state that has received approval for its medical assistance state plan amendment from the centers for Medicare and Medicaid services of the United States department of health and human services.

8. The department may procure a sole source contract with an outside entity or contractor to participate in a pharmaceutical pooling program with midwestern or other states to provide for an enlarged pool of individuals for the purchase of pharmaceutical products and services for medical assistance recipients.

9. The department may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this section.

10. Any savings realized under this section may be used to the extent necessary to pay the costs associated with implementation of this section prior to reversion to the medical assistance program. The department shall report the amount of any savings realized and the amount of any costs paid to the legislative fiscal committee on a quarterly basis.

Sec. 4. NEW SECTION. 249A.20B NURSING FACILITY QUALITY ASSURANCE ASSESSMENT.

1. The department may assess nursing facilities a quality assurance assessment not to exceed six percent of the total annual revenue of the facility.

2. The department of human services shall submit a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services to effectuate the nursing facility quality assurance assessment.

3. The department of human services shall submit an application to the secretary of the United States department of health and human services to request a waiver of the uniform tax requirement pursuant to 42 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2).

4. The quality assurance assessment shall be paid to the department in equal monthly amounts on or before the fifteenth day of each month. The department may deduct the monthly assessment amount from medical assistance payments to a nursing facility. The amount deducted from payments shall not exceed the total amount of the fee due.

5. Revenue generated from the quality assurance assessment shall be deposited in the senior living trust fund created in section 249H.4. The revenues shall only be used for services for which federal financial participation under the medical assistance program is available to match state funds.³

6. If federal financial participation to match the assessments made under subsection 1 becomes unavailable under federal law, the department shall terminate the imposition of the assessment beginning on the date that the federal statutory, regulatory, or interpretive change takes effect.

7. The department may procure a sole source contract to implement the provisions of this section.

8. For the purposes of this section, "nursing facility" means nursing facility as defined in

² See chapter 179, §161 herein

³ See chapter 179, §162 herein

section 135C.1, excluding residential care facilities and nursing facilities that are operated by the state.

9. The department may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement this section.

Sec. 5. NEW SECTION. 249A.29A HOME AND COMMUNITY-BASED SERVICES WAIVER — ELIGIBILITY DETERMINATIONS.

1. A level of care eligibility determination of an individual seeking approval by the department to receive services under a waiver shall be completed only by a person not participating as a provider of services under a waiver. For the purposes of this section, “provider” and “waiver” mean provider and waiver as defined in section 249A.29.

2. Funds appropriated to the department of elder affairs for the purpose of conducting level of care eligibility determinations shall be transferred and made available to the department of human services.

3. The department of human services may procure a sole source contract with an outside entity or contractor to conduct level-of-care eligibility determinations.

4. The department may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement this section.⁴

Sec. 6. Section 249B.3, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The department ~~may~~ shall issue a notice establishing and demanding payment of an accrued or accruing spousal support debt due and owing to the department. The notice shall be served upon the community spouse in accordance with the rules of civil procedure. The notice shall include all of the following:

Sec. 7. MEDICAL ASSISTANCE PROGRAM — PHARMACEUTICALS — RECIPIENT REQUIREMENTS.

1. The department of human services shall reimburse pharmacy dispensing fees using a single rate of \$4.26 per prescription or the pharmacy’s usual and customary fee, whichever is lower.

2. The department of human services shall require recipients of medical assistance to pay the following copayment on each prescription filled for a covered prescription drug, including on each refill of such prescription, as follows:

- a. A copayment of \$1 for each covered generic prescription drug.
- b. A copayment of 50 cents for each covered brand-name prescription drug for which the cost to the state is \$10 or less.
- c. A copayment of \$1 for each covered brand-name prescription drug for which the cost to the state is more than \$10 and up to and including \$25.
- d. A copayment of \$2 for each covered brand-name prescription drug for which the cost to the state is more than \$25 and up to and including \$50.
- e. A copayment of \$3 for each covered brand-name prescription drug for which the cost to the state is over \$50.

3. The department of human services shall establish an ingredient reimbursement basis equal to the average wholesale price minus 12 percent for pharmacy reimbursement for prescription drugs under the medical assistance program.

4. a. The department of human services shall continue the sole source contract relative to the state maximum allowable cost (SMAC) program as authorized in 2001 Iowa Acts, chapter 191, section 31, subsection 1, paragraph “b”, subparagraph (5). The department shall expand the state maximum allowable cost program for prescription drugs to the greatest extent possible as determined under the contract.

b. Pharmacies and providers that are enrolled in the medical assistance program shall make available drug acquisition cost information, product availability information, and other infor-

⁴ See chapter 179, §163 herein

mation deemed necessary by the department for the determination of reimbursement rates and the efficient operation of the pharmacy benefit. Pharmacies and providers shall produce and submit the requested information in the manner and format requested by the department or its designee at no cost to the department or designee. Pharmacies and providers shall submit information to the department or its designee within thirty days following receipt of a request for information unless the department or its designee grants an extension upon written request of the pharmacy or provider.⁵

c. The state maximum allowable cost shall be established at the average wholesale acquisition cost for a prescription drug and all equivalent products, adjusted by a multiplier of 1.4. The department shall update the state maximum allowable cost every two months, or more often if necessary, to ensure adequate product availability.

d. The department shall review its current method for determining which prescription drugs are to be included in the SMAC program and shall adjust the method to maximize the cost savings realized through the SMAC program.

e. The department shall report any savings realized through the SMAC program to the legislative fiscal committee on a monthly basis.

5. The department of human services shall require recipients of medical assistance to pay a copayment of \$3 for each physician office visit.

6. The department of human services shall maximize expansion of prior authorization of prescription drugs under the medical assistance program beyond the 25 current categories of medications.

7. The department of human services shall establish a fixed-fee reimbursement schedule for home health agencies under the medical assistance program.

8. The department may adopt emergency rules to implement this section.

Sec. 8. HOME AND COMMUNITY-BASED SERVICES WAIVERS CONSOLIDATION — BUDGET NEUTRALITY. It is the intent of the general assembly that the consolidation of home and community-based services waivers by the department of human services be designed in a manner that does not result in additional cost, with the exception of any services added to the waivers through legislative enactment. The department of human services shall submit an initial report regarding the cost neutrality and status of the waiver consolidation to the legislative fiscal committee no later than January 31, 2004, and a subsequent report no later than July 31, 2004.

Sec. 9. NURSING FACILITY REIMBURSEMENT. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph “c”, and subsection 3, paragraph “a”, subparagraph (2), if projected state fund expenditures for reimbursement of nursing facilities for the fiscal year beginning July 1, 2003, in accordance with the reimbursement rate specified in 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph “c”, exceeds \$147,252,856, the department shall adjust the inflation factor of the reimbursement rate calculation to provide reimbursement within the amount projected.⁶

Sec. 10. UTILIZATION MANAGEMENT AND TARGETED AUDITS.

1. The department of human services shall conduct ongoing review of recipients and providers of medical assistance services to determine the appropriateness of the scope, duration, and utilization of services. If inappropriate usage is identified, the department shall implement procedures necessary to restrict utilization.

2. The department of human services shall conduct a review of selected medical assistance services categories and providers for state fiscal years beginning July 1, 2001, July 1, 2002, and July 1, 2003. The review shall include intense data analysis to test compliance with rules, regulations, and policies and selected on-site audits.

3. The review required under subsection 2 shall attempt to identify any incorrectly paid billings or claims for the state medical assistance program. If inappropriate payments are

⁵ See chapter 179, §164 herein

⁶ See chapter 179, §165 herein

identified, provider billings shall be adjusted accordingly. If there is substantiated evidence to suggest fraudulent activity, the department shall submit the audit data regarding the medical assistance provider or recipient to the department of inspections and appeals for further action.

4. The department of human services may procure a sole source contract to implement the provisions of this section.

5. Any savings realized under this section may be used to the extent necessary to pay the costs associated with implementation of this section prior to reversion to the medical assistance program. The department shall report the amount of any savings realized and the amount of any costs paid to the chairpersons of the joint appropriations subcommittee on health and human services.

Sec. 11. MEDICAL ASSISTANCE — CERTAIN PUBLICLY OWNED HOSPITALS — PHYSICIAN SUPPLEMENTAL PAYMENTS.

1. For the fiscal year beginning July 1, 2003, and for each fiscal year thereafter, the department of human services shall institute a supplemental payment adjustment applicable to physician services provided to medical assistance recipients at publicly owned acute care teaching hospitals. The adjustment shall generate supplemental payments to physicians which are equal to the difference between the physician's charge and the physician's fee schedule under the medical assistance program. To the extent of the supplemental payments, a qualifying hospital shall, after receipt of the payments, transfer to the department of human services an amount equal to the actual supplemental payments that were made in that month. The department of human services shall deposit these payments in the department's medical assistance account. The department of human services shall amend the medical assistance state plan as necessary to implement this section. The department may adopt emergency rules to implement this section.

2. The department may use any savings realized under this section to the extent necessary to pay the costs associated with implementation of this section prior to reversion to the medical assistance program. The department shall report the amount of any savings realized and the amount of any costs paid to the chairpersons of the joint appropriations subcommittee on health and human services.

3. The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to physicians of the university of Iowa college of medicine through supplemental adjustments as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a physician for services to medical assistance recipients.

Sec. 12. CHRONIC CARE MANAGEMENT.

1. The department of human services shall aggressively pursue chronic disease management in order to improve care and reduce costs under the medical assistance program.

2. The department of human services, in cooperation with the department's fiscal agent and in consultation with a chronic care management resource group, shall profile medical assistance recipients within a select number of disease diagnosis categories. The assessment shall focus on those diagnosis areas that present the greatest opportunity for impact to improved care and cost reduction.

3. The department of human services, in consultation with a chronic care management resource group, shall conduct a chronic disease management pilot project for a select number of individuals who are participants in the medical assistance program. The project shall focus on a select number of chronic diseases which may include congestive heart failure, diabetes, and asthma. The initial pilot project shall be implemented by October 1, 2003.⁷

4. The department of human services shall issue a request for proposals or otherwise solicit bids from potential vendors to manage individuals with select chronic diseases following the

⁷ See chapter 179, §166 herein

conclusion of the profiling of medical assistance recipients. The management of chronic diseases for individuals under this subsection may be coordinated with the pilot project established in subsection 3.⁸

5. The department of human services shall amend the medical assistance state plan and seek any waivers necessary from the centers for Medicare and Medicaid services of the United States department of health and human services to implement this section.

6. The department of human services shall submit a progress report regarding chronic disease management measures undertaken pursuant to this section to the governor and the general assembly by November 1, 2003. The report shall include recommendations regarding incorporating chronic disease management programming into the medical assistance system and the potential improvements in care and reductions in costs that may be obtained through chronic disease management.

7. The department of human services may adopt emergency rules to implement this section.

8. Any savings realized under this section may be used as necessary to pay the costs associated with implementation of this section prior to reversion to the medical assistance program. The department shall report the amount of any savings realized and the amount of any costs paid to the chairpersons of the joint appropriations subcommittee on health and human services.

Sec. 13. CONTINGENT EFFECTIVE DATE.

1. Section 249A.20B, as enacted in this Act, shall not take effect unless the department of human services receives approval of both the medical assistance state plan amendment from the centers for Medicare and Medicaid services of the United States department of health and human services to effectuate the nursing facility quality assurance assessment and of the application to the secretary of the United States department of health and human services for a waiver of the uniform tax requirement pursuant to 42 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2). If both approvals are received, section 249A.20B shall take effect upon the date that both approvals have been received by the department and the department shall notify the Code editor of the date of receipt of the approvals.

2. If both approvals described in subsection 1 are not received by June 30, 2004, the section of this Act enacting section 249A.20B shall not take effect.

Sec. 14. EFFECTIVE DATES.

1. The section of this Act enacting section 249A.20A takes effect upon enactment.

2. The portion of the section of this Act relating to the state maximum allowable cost (SMAC) program, being deemed of immediate importance, takes effect upon enactment.

3. The section of this Act relating to physician supplemental payments at certain publicly owned hospitals, being deemed of immediate importance, takes effect upon enactment.

4. The section of this Act relating to chronic disease management, being deemed of immediate importance, takes effect upon enactment.

5. The portions of the section of this Act enacting section 249A.20B relating to directing the department of human services to submit a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services to effectuate the nursing facility quality assurance assessment and directing the department of human services to submit an application to the secretary of the United States department of health and human services for a waiver of the uniform tax requirement pursuant to 42 U.S.C. § 1396b(w)(3)(E) and 42 C.F.R. § 433.68(e)(2), being deemed of immediate importance, take effect upon enactment.

Approved May 2, 2003

⁸ See chapter 179, §167 herein

CHAPTER 113

CRIMINAL OFFENSES AND OFFENDERS — COUNTY AND MUNICIPAL FEES AND JURISDICTION

H.F. 650

AN ACT relating to the assessment of a correctional fee by a county or municipality, and to the prosecution of certain criminal offenses committed in a municipality located in two or more counties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 356.7, Code 2003, is amended to read as follows:

356.7 CHARGE FOR ROOM AND BOARD — ENFORCEMENT PROCEDURES.

1. The county sheriff, or a municipality operating a temporary municipal holding facility or jail, may charge a prisoner who is eighteen years of age or older and who has been convicted of a criminal offense or sentenced for contempt of court for violation of a domestic abuse order for the actual administrative costs relating to the arrest and booking of that prisoner, and for room and board provided to the prisoner while in the custody of the county sheriff or municipality. Moneys collected by the sheriff or municipality under this section shall be credited respectfully¹ to the county general fund or the city general fund and distributed as provided in this section. If a prisoner who has been convicted of a criminal offense or sentenced for contempt of court for violation of a domestic abuse order fails to pay for the administrative costs and the room and board, the sheriff or municipality may file a room and board reimbursement claim with the district court as provided in subsection 2. The county attorney may file the ~~room and board~~ reimbursement claim on behalf of the sheriff and the county or the municipality. The attorney for the municipality may also file a reimbursement claim on behalf of the municipality. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

2. The sheriff, municipality, or the county attorney, on behalf of the sheriff, or the attorney for the municipality, may file a ~~room and board~~ reimbursement claim with the clerk of the district court which shall include all of the following information, if known:

- a. The name, date of birth, and social security number of the person who is the subject of the claim.
- b. The present address of the residence and principal place of business of the person named in the claim.
- c. The criminal proceeding pursuant to which the claim is filed, including the name of the court, the title of the action, and the court's file number.
- d. The name and office address of the ~~sheriff or the name and office address of the county attorney~~ person who is filing the claim ~~on behalf of the sheriff~~.
- e. A statement that the notice is being filed pursuant to this section.
- f. The amount of room and board charges the person owes.
- g. ~~The amount of administrative costs the person owes.~~
- g- h. If the sheriff or municipality wishes to have the amount of the claim for charges owed included within the amount of restitution determined to be owed by the person, a request that the amount owed be included within the order for payment of restitution by the person.

3. Upon receipt of a claim for ~~room and board~~ reimbursement, the court shall approve the claim in favor of the sheriff or the county, or the municipality, for the amount owed by the prisoner as identified in the claim and any fees or charges associated with the filing or processing of the claim with the court. The sheriff or municipality may choose to enforce the claim in the manner provided in chapter 626. Once approved by the court, the claim for the amount owed by the person shall have the force and effect of a judgment for purposes of enforcement by the sheriff or municipality. However, irrespective of whether the judgment lien for the amount of the claim has been perfected, the claim shall not have priority over competing claims for child support obligations owed by the person.

¹ See chapter 179, §72 herein

4. This section does not limit the right of the sheriff or municipality to obtain any other remedy authorized by law.

5. Of the moneys collected and credited to the county general fund as provided in this section, sixty percent of the moneys collected shall be used for the following purposes:

- a. Courthouse security equipment and law enforcement personnel costs.
- b. Infrastructure improvements of a jail, including new or remodeling costs.
- c. Infrastructure improvements of juvenile detention facilities, including new or remodeling costs.

The sheriff may submit a plan or recommendations to the county board of supervisors for the use of the funds as provided in this subsection or the sheriff and board may jointly develop a plan for the use of the funds. Subject to the requirements of this subsection, funds may be used in the manner set forth in an agreement entered into under chapter 28E.

The county board of supervisors shall review the plan or recommendations submitted by the sheriff during the normal budget process of the county.

6. Of the moneys collected and credited to the city general fund as provided in this section, sixty percent of the moneys collected shall be used for police or law enforcement budget expenditures.

7. As used in this section, "administrative costs relating to the arrest and booking of a prisoner" means those functions or automated functions that are performed to receive a prisoner into jail or a temporary holding facility including the following:

- a. Patting down and searching, booking, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and dental screening.
- b. Document preparation, retrieval, updating, filing, and court scheduling.
- c. Warrant service and processing.
- d. Inventorying of a prisoner's money and subsequent account creation.
- e. Inventorying and storage of a prisoner's property and clothing.
- f. Management and supervision.

Sec. 2. Section 803.3, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. If a simple misdemeanor is committed in a city which is located in two or more counties, venue shall be in the county in which the seat of government of the city is located.

Sec. 3. Section 805.13, subsection 1, Code 2003, is amended to read as follows:

1. Traffic violations, whether or not scheduled, and all other scheduled violations may be tried before the nearest magistrate in the judicial district in which the offense is committed, or if the offense occurred in a city which is located in two counties, the violation shall be tried in the county in which the seat of government of the city is located.

Sec. 4. Section 910.3, Code 2003, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and expenses incurred by public agencies pursuant to section 321J.2, subsection 9, paragraph "b", and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and court costs including correctional fees claimed by a sheriff or municipality pursuant to section 356.7, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages,

the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for restitution identified up to that time. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

Sec. 5. Section 910.9, unnumbered paragraph 3, Code 2003, is amended to read as follows: Fines, penalties, and surcharges, crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees claimed by a sheriff or municipality pursuant to section 356.7, and court-appointed attorney fees ordered pursuant to section 815.9, including the expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender shall notify all victims that full restitution has been made. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Approved May 2, 2003

CHAPTER 114

VETERANS' MILITARY SERVICE INFORMATION — COUNTY RECORDS — CONFIDENTIALITY

S.F. 94

AN ACT providing for the confidentiality of certain veterans' records maintained by county recorders.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 22.7, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 47. Military personnel records recorded by the county recorder pursuant to section 331.608.

Sec. 2. Section 331.608, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 5A. Unless otherwise provided by the person who requested the recording of a record under this section, notwithstanding section 22.2, subsection 1, such record shall be confidential and shall not be made available for examination or copying except as follows:

- a. To the person who is the subject of the record, to a member of that person's immediate family, or to that person's agent or representative duly authorized in writing.
- b. To a person requesting to examine or copy a record when the event that resulted in the record being made occurred more than seventy-five years prior to the request.
- c. To a person who is a funeral director licensed pursuant to chapter 156 and who has custody of the body of a deceased veteran.
- d. When otherwise ordered by a court of competent jurisdiction.
- e. When otherwise required by a department or agency of the federal or state government or a political subdivision thereof.
- f. To a person conducting research who has received written approval from the county commissioner of veteran affairs to view the records.

Sec. 3. Section 331.608, subsection 6, Code 2003, is amended to read as follows:

6. If a certified copy of a public record is required to perfect the claim of a veteran in service or honorably discharged or a claim of a dependent of the veteran, the certified copy shall be furnished by the custodian of the public record without charge.

Approved May 9, 2003

CHAPTER 115

REGULATION OF FARMING AND BEEF AND PORK PRODUCTION

S.F. 341

AN ACT regulating the balance of competitive forces in swine and beef production by enhancing the welfare of the farming community and by preventing processors from gaining control of beef or swine production, providing for the transfer of provisions, making a penalty applicable, and providing for an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I REGULATION OF PROCESSORS

Section 1. Section 9H.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 26A. "Person" means an individual, business association, government or governmental subdivision or agency, or any other legal entity.

Sec. 2. Section 9H.1, subsection 29, unnumbered paragraph 1, Code 2003, is amended to read as follows:

"Retailer" means a person who is engaged in the business of selling pork products ~~in this state~~, if all of the following apply:

Sec. 3. Section 9H.1, subsection 32, Code 2003, is amended to read as follows:

32. "Swine producer" means a person who owns, controls, or operates a swine operation ~~in this state~~ or who contracts for the care and feeding of swine ~~in this state~~.

Sec. 4. Section 9H.2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The purpose of this section is to preserve free and private enterprise, prevent monopoly, and also to protect consumers by regulating the balance of competitive forces in beef and swine

production, by enhancing the welfare of the farming community, and also by preventing processors from gaining control of beef or swine production.

Sec. 5. Section 9H.2, subsection 1, paragraph b, subparagraph (2), Code 2003, is amended to read as follows:

(2) Directly or indirectly contract for the care and feeding of swine in this state. ~~However, this subparagraph does not apply to a cooperative association organized under chapter 497, 498, 499, or 501, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This subparagraph does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, 499, or 501 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, 499, or 501, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming.~~

Sec. 6. Section 9H.2, subsection 4, Code 2003, is amended to read as follows:

4. A processor which was in compliance with this section prior to April 5, 2000, and which was in violation of this section as a result of 2000 Iowa Acts, chapter 1048, shall have until June 30, ~~2004~~ 2006, to comply with 2000 Iowa Acts, chapter 1048. A processor shall not take action on or after April 5, 2000, which would be in violation of this section.

Sec. 7. Section 9H.2A, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. A cooperative association which is a party to a contract for the care and feeding of swine in compliance with section 9H.2 prior to the effective date of this Act, and which is in violation of section 9H.2, as amended by this Act, shall have until June 30, 2007, to comply with section 9H.2, as amended by this Act.

Notwithstanding any provision of this section, a cooperative association shall not take an action on or after the effective date of this Act that would be in violation of section 9H.2, as amended by this Act.

Sec. 8. Section 9H.2A, subsections 1 through 3, Code 2003, are amended to read as follows:

1. A processor that was in compliance with section 9H.2, Code 2001, prior to January 1, 2002, and which is in violation of section 9H.2, as amended by ~~this Act~~ 2002 Acts, chapter 1095, shall have until June 30, ~~2004~~ 2006, to comply with section 9H.2, as amended by ~~this Act~~ 2002 Acts, chapter 1095.

2. Notwithstanding any provision of this section, a processor shall not take an action on or after January 1, 2002, that would be in violation of section 9H.2, as amended by ~~this Act~~ 2002 Acts, chapter 1095.

3. The two-year period that a person who holds an executive position in a processor or owes a processor a fiduciary duty and thus is deemed to be a processor as provided in section 9H.1, subsection 27, paragraph "b", shall not apply if the person held the position or owed the duty on January 1, 2002, and relinquishes the position or duty on or before June 30, ~~2004~~ 2006.

Sec. 9. Section 9H.2A, subsection 4, Code 2003, is amended by striking the subsection.

Sec. 10. Section 9H.1, subsection 28, paragraph c, Code 2003, is amended to read as follows:

c. Not less than ~~twenty-five~~ ten percent of the swine slaughtered by the processor each day are purchased through cash or spot market purchases ~~from sellers of swine who do not hold a direct or indirect interest in the processor.~~

d. The processor makes cash or spot market purchases of swine under the same terms and conditions from both sellers of swine who hold a direct or indirect interest in the processor and sellers of swine who do not hold a direct or indirect interest in the processor. In making such cash or spot market purchases of swine, the processor shall not provide sellers of swine who hold a direct or indirect interest in the processor with a preference over sellers of swine who do not hold a direct or indirect interest in the processor.

DIVISION II
TRANSFER AND ELIMINATION OF CODE PROVISIONS FOR PURPOSES OF
ENHANCING READABILITY

Sec. 11. Section 9H.1, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 22A. "Indirect" means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

Sec. 12. NEW SECTION. 9H.3A PENALTIES — INJUNCTIVE RELIEF.
The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

Sec. 13. Section 9H.14, Code 2003, is amended to read as follows:
9H.14 DUTIES OF SECRETARY OF STATE.
The secretary of state shall notify the attorney general when the secretary of state has reason to believe a violation of this chapter has occurred. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of farming production operations being carried out in this state by ~~corporations and other business entities~~ contract feeders and processors and the effect of such farming practices upon the economy of this state. The reports of ~~corporations, limited liability companies, limited partnerships, trusts, contractors, and contract feeders and~~ processors required in this chapter shall be confidential reports except as to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

Sec. 14. Section 10B.4A, unnumbered paragraph 1, Code 2003, is amended to read as follows:
The secretary of state shall not prepare or distribute forms for reports or file reports otherwise required pursuant to section ~~9H.5A~~, 9I.8, or 501.103. A person required to file a report pursuant to this chapter is not required to file a report under those sections.

Sec. 15. Section 331.756, subsection 33, Code 2003, is amended to read as follows:
33. Institute legal procedures on behalf of the state to prevent violations of ~~the corporate or partnership farming laws as provided in section 9H.3~~ chapter 9H or 202B.

Sec. 16. DIRECTIONS TO CODE EDITOR.
1. The purpose of this section is only to enhance the readability of provisions of the Code, and shall not be construed as a measure intended to accomplish any substantive change in the law or its statutory construction.
2. The Code editor is directed to transfer provisions in chapter 9H to a new chapter 202B, consistent with the authority of the Code editor pursuant to chapter 2B, as follows:
a. For consolidation into the first subchapter of new chapter 202B, the following shall apply:
(1) The following provisions shall be transferred:
(a) Section 9H.2, unnumbered paragraph 1, as amended by this Act, which shall be codified as a new section. The Code editor shall substitute the term "chapter" for "section" in the law text.
(b) Section 9H.1, subsections 6, 8, 9, 10, 11, 12, 13, 22, 27, and 31, which shall be codified as a new section. Section 9H.1, subsection 26A, as enacted in this Act, shall be codified in the same section. Section 9H.1, subsections 28, 29 and 32, as amended by this Act, shall be codified in that same section.
(2) The subsections of section 9H.1, as consolidated into a new section, shall be preceded by an unnumbered paragraph 1, stating the following: "As used in this chapter, unless the context otherwise requires:".

b. For consolidation into the second subchapter of new chapter 202B, the following provisions shall be transferred:

(1) Section 9H.2, subsections 1 through 3, as amended by this Act.

(2) Section 9H.2A, as amended by this Act. Section 9H.2, subsection 4, shall be transferred and codified as a new subsection in section 9H.2A as transferred.

c. For consolidation into the third subchapter of new chapter 202B, the following sections shall be transferred: 9H.5B, 9H.9, 9H.10, and 9H.15; and section 9H.14 as amended by this Act.

d. For consolidation into the fourth subchapter of new chapter 202B, the following sections shall be transferred: 9H.3 and 9H.11.

3. The Code editor is directed to transfer section 9H.6 to chapter 10B.

4. In consolidating and transferring provisions, the Code editor shall not provide references in the law text of a section of chapter 9H to new chapter 202B.

Sec. 17. Section 9H.5A, Code 2003, is repealed.

DIVISION III MISCELLANEOUS PROVISIONS

Sec. 18. **SEVERABILITY.** If any provision of section 9H.2, or the application of that section, to any person or circumstance is held invalid, the invalidity does not affect other provisions of section 9H.2 or any other provision in chapter 9H or 202B as those provisions existed prior to the effective date of this Act, which shall be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable. This section shall not affect the transfer of provisions of chapter 9H as provided in this Act.

Sec. 19. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2003

CHAPTER 116

ELECTRIC ENERGY TRANSMISSION — INVESTMENTS BY CITIES OPERATING ELECTRIC UTILITIES

S.F. 405

AN ACT relating to the authority of a city to acquire equity interests in business entities for the purpose of participating in electric energy transmission service.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 390.8 EQUITY INVESTMENT IN INDEPENDENT TRANSMISSION COMPANY.

In addition to the powers conferred upon a city elsewhere in this chapter, any city operating a city electric utility on January 1, 2003, may enter into agreements with and acquire equity interests in independent transmission companies or similar independent transmission entities in which they are participating that are approved by the federal energy regulatory commission. The purpose of such equity investments shall be to mitigate expenses incurred by the city electric utility due to its procurement of electric transmission service or to otherwise facilitate

investment in transmission facilities and shall not be for general city or city utility investment purposes.

Approved May 9, 2003

CHAPTER 117
CHILD WELFARE SERVICES —
ASSESSMENT AND PLAN FOR TRANSITION TO ADULTHOOD
H.F. 457

AN ACT expanding requirements for the transition of an individual from the child welfare services system to adulthood.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.2, subsection 4, paragraph f, Code 2003, is amended to read as follows:

f. (1) When a child is sixteen years of age or older, a written transition plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to ~~independent living~~ adulthood. The written plan of services and needs assessment shall be developed with any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

(2) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall be reviewed and approved by the transition committee for the area in which the child resides, in accordance with section 235.7, before the child reaches age seventeen and one-half. The transition committee's review and approval shall be indicated in the case permanency plan.

Sec. 2. Section 232.2, subsection 22, paragraph b, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) If the child is required to have a transition plan developed in accordance with the child's case permanency plan and subject to review and approval of a transition committee under section 235.7, assisting the transition committee in development of the transition plan.

Sec. 3. Section 232.2, subsection 22, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If authorized by the court, a guardian ad litem may continue a relationship with and provide advice to a child for a period of time beyond the child's eighteenth birthday.

Sec. 4. Section 232.52, subsection 6, unnumbered paragraph 2, Code 2003, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, para-

graph “d”, and the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to ~~independent living~~ adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child’s case permanency plan. If the child does not have a case permanency plan containing the written transition plan and needs assessment at the time the transfer order is entered, ~~in determining the services to be specified in the order, the court shall consider a~~ the written transition plan for such services and a needs assessment which shall be developed with any person who may reasonably be expected to be a service provider for the child or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440 and submitted for the court’s consideration no later than six months from the date of the transfer order. ~~If the child is interested in pursuing higher education, the plan shall provide for the child’s participation in the college student aid commission’s program of assistance in applying for federal and state aid under section 261.2.~~ The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child’s guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child’s eighteenth birthday.

Sec. 5. Section 232.102, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to ~~independent living~~ adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child’s case permanency plan. If the child does not have a case permanency plan containing the written transition plan and needs assessment at the time the order is entered, ~~in determining the services to be specified in the order, the court shall consider a~~ the written transition plan for such services and a needs assessment which shall be developed with any person who may reasonably be expected to be a service provider for the child or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440 and submitted for the court’s consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child’s guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child’s eighteenth birthday.

Sec. 6. Section 232.103, subsection 3, Code 2003, is amended to read as follows:

3. A change in the level of care for a child who is subject to a dispositional order for out-of-home placement requires modification of the dispositional order. A hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given to the parties. The hearing shall be conducted in accordance with the provisions of section 232.50.

Sec. 7. Section 232.127, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 10. If the child is sixteen years of age or older and an order for an out-of-home placement is entered, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case

permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

Sec. 8. Section 232.183, subsection 5, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

Sec. 9. Section 234.35, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department shall report annually to the governor and general assembly by January 1 on the numbers of children for whom the state paid for independent living services during the immediately preceding fiscal year. The report shall detail the number of children, by county, who received such services, were discharged from such services, the voluntary or involuntary status of such services, and the reasons for discharge. The department shall assess the report data as part of any evaluation of independent living services or consideration for improving the services.

Sec. 10. NEW SECTION. 235.7 TRANSITION COMMITTEES.

1. COMMITTEES ESTABLISHED. The department of human services shall establish and maintain local transition committees to address the transition needs of those children receiving child welfare services who are age sixteen or older and have a case permanency plan as defined in section 232.2. The department shall adopt rules establishing criteria for transition committee membership, operating policies, and basic functions. The rules shall provide flexibility for a committee to adopt protocols and other procedures appropriate for the geographic area addressed by the committee.

2. MEMBERSHIP. The department may authorize the governance boards of child welfare funding decategorization projects established under section 232.188 to appoint the transition committee membership and may utilize the boundaries of decategorization projects to establish the service areas for transition committees. The committee membership may include but is not limited to department of human services staff involved with foster care, child welfare, and adult services, juvenile court services staff, staff involved with county general relief under chapter 251 or 252, or of the single entry point process implemented under section 331.440, school district and area education agency staff involved with special education, and a child's

court appointed special advocate, guardian ad litem, service providers, and other persons knowledgeable about the child.

3. **DUTIES.** A transition committee shall review and approve the written plan of services required for the child's case permanency plan in accordance with section 232.2, subsection 4, paragraph "f", which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to adulthood. In addition, a transition committee shall identify and act to address any gaps existing in the services or other support available to meet the child and adult needs of individuals for whom service plans are approved.

Approved May 9, 2003

CHAPTER 118

MEDICAL ASSISTANCE — HOME AND COMMUNITY-BASED SERVICES WAIVERS

H.F. 560

AN ACT relating to medical assistance home and community-based services waivers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249A.12, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. Effective July 1, 2003, the provisions of the home and community-based services waiver for persons with mental retardation shall include adult day care, prevocational, and transportation services. Transportation shall be included as a separately payable service.

b. The department of human services shall seek federal approval to amend the home and community-based services waiver for persons with mental retardation to include day habilitation services. Inclusion of day habilitation services in the waiver shall take effect upon receipt of federal approval and no later than July 1, 2004.

c. The person's county of legal settlement shall pay for the nonfederal share of the cost of services provided under the waiver and the state shall pay for the nonfederal share of such costs if the person does not have a county of legal settlement.

Sec. 2. **NEW SECTION.** 249A.32 MEDICAL ASSISTANCE HOME AND COMMUNITY-BASED SERVICES WAIVERS — CONSUMER DIRECTED ATTENDANT CARE — TERMINATION OF CONTRACT.

1. A case manager for a medical assistance home and community-based services waiver may terminate the contract of a person providing consumer directed attendant care services to whom payment is being made for provision of such services under the waiver if the case manager determines that the person has breached the contract by not providing the services agreed to under the contract.

2. For the purposes of this section, "consumer" and "waiver" mean consumer and waiver as defined in section 249A.29.

Sec. 3. **REIMBURSEMENT — REVIEW — RATE LIMITATIONS.**

1. The department of human services shall review the reimbursement methodology for the home and community-based services waiver for persons with mental retardation under the medical assistance program in relationship to the goals and objectives of the mental health and

developmental disability services system redesign being conducted by the mental health and developmental disabilities commission. The department shall submit a report of the findings of the review and recommendations to the general assembly by July 1, 2004.

2. For the fiscal year beginning July 1, 2003, the department of human services in cooperation with the Iowa state association of counties and the Iowa association of community providers shall establish payment rate limitations for the services provided under the home and community-based services waiver for persons with mental retardation that are consistent with the limitations used for the same or similar services that are funded one hundred percent by the counties.

Sec. 4. EMERGENCY RULES. The department of human services shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Approved May 9, 2003

CHAPTER 119

PROPERTY INSURANCE ACCESS REGULATION

H.F. 599

AN ACT relating to property insurance, including establishment of a mandatory plan to assure fair access to insurance requirements, and providing for an effective date and retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 515F.30 SHORT TITLE.

This division may be cited as the "Fair Access to Insurance Requirements Plan Act", or the "FAIR Plan Act".

Sec. 2. NEW SECTION. 515F.31 PURPOSE.

The purposes of this division include all of the following:

1. To make basic property insurance available to qualified applicants with the least possible administrative detail and expense.
2. To establish a plan, an industry placement facility and a joint reinsurance association for the equitable distribution and placement of risks among insurers.
3. To utilize fully the voluntary insurance market as a source of essential property insurance.
4. To encourage the delivery of basic property insurance at the most reasonable cost

possible, provided that insurance pricing by the FAIR plan is actuarially self-supporting and does not actively compete with insurance pricing in the voluntary insurance market.

Sec. 3. NEW SECTION. 515F.32 DEFINITIONS.

1. "Basic property insurance" means insurance against direct loss to property as defined in the standard fire policy and extended coverage, vandalism, and malicious mischief endorsements; homeowners insurance; and such other coverage or classes of insurance as may be added to the FAIR plan by the commissioner. "Basic property insurance" does not include any of the following:

- a. Automobile insurance.
- b. Inland marine insurance.

2. "Insurer" includes all companies or associations licensed to transact insurance business in this state under chapters 515, 518, and 518A, and companies or associations admitted or seeking to be admitted to do business in this state under any of those chapters, notwithstanding any provision of the Code to the contrary.

3. "Plan" means the FAIR plan to assure fair access to insurance requirements established pursuant to section 515F.33.

Sec. 4. NEW SECTION. 515F.33 FAIR PLAN ESTABLISHED.

The FAIR plan to assure fair access to insurance requirements is established. The plan shall operate subject to the provisions and conditions of this division.

Sec. 5. NEW SECTION. 515F.34 MEMBERSHIP.

1. Eligibility for membership in the FAIR plan and its underwriting association requires all of the following:

- a. The insurer must be licensed to write property insurance in this state.
- b. The insurer is engaged in writing property insurance in this state, including the property insurance components of multiperil on a direct basis.

2. Each insurer that meets the eligibility requirements in subsection 1 shall be required to do all of the following:

- a. Automatically subscribe to the articles of agreement for the FAIR plan and the underwriting association as a prerequisite to authority to transact property insurance business in this state.
- b. Become and remain a member both of the FAIR plan and the underwriting association.
- c. Comply with the requirements of the FAIR plan and the underwriting association as a condition of the insurer's authority to transact property insurance business in this state.

Sec. 6. NEW SECTION. 515F.35 STATUS OF PLAN.

1. The FAIR plan is not and shall not be deemed a department, unit, agency, or instrumentality of the state.

2. All debts, claims, obligations, and liabilities incurred by the FAIR plan shall be the debts, claims, obligations, and liabilities of the FAIR plan only, and are not the debts or pledges of credit of the state, or the state's agencies, instrumentalities, officers, or employees.

3. The moneys of the FAIR plan are not part of the general fund of the state, and the state shall not budget for or provide general fund appropriations to the plan.

4. The records, reports, and communications of the FAIR plan, the governing committee, the committees of the FAIR plan, and their representatives, producers, and employees are not public records.

Sec. 7. NEW SECTION. 515F.36 ADMINISTRATION.

1. A governing committee shall administer the FAIR plan, subject to the supervision of the commissioner, and operated¹ by a manager appointed by the committee.

2. The committee shall consist of seven members, one of whom shall be elected by the committee from each of the following:

- a. American insurance association.

¹ According to enrolled Act

- b. Alliance of American insurers.
 - c. National association of independent insurers.
 - d. Iowa insurance institute.
 - e. Mutual insurance association of Iowa.
 - f. Independent insurance agents of Iowa.
 - g. All other insurers.
3. Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time.
4. The plan of operation and articles of association shall make provision for an underwriting association having authority on behalf of its members to cause to be issued property insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan of operation and articles of association shall provide, among other things, for the perils to be covered, limits of coverage, geographical area of coverage, compensation and commissions, assessments of members, the sharing of expenses, income, and losses on an equitable basis, cumulative weighted voting for the governing committee of the association, the administration of the FAIR plan, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.

Sec. 8. NEW SECTION. 515F.37 RULES.
 The commissioner shall adopt rules necessary to administer this division.

Sec. 9. NEW SECTION. 515F.38 RETROACTIVE APPLICABILITY.
 This division applies retroactively to October 7, 1968, to validate action taken under the Iowa basic property insurance inspection and placement program adopted by the commissioner of insurance.

Sec. 10. Section 515F.3, unnumbered paragraph 2, Code 2003, is amended to read as follows:
~~This Except as otherwise provided in specific divisions of this chapter, this chapter does not apply to:~~

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2003

CHAPTER 120
 BAIT DEALER LICENSES
H.F. 680

AN ACT relating to licenses for bait dealers by creating resident and nonresident wholesale bait dealer licenses, providing reciprocity, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 483A.1, subsection 1, paragraph k, Code 2003, is amended to read as follows:

- k. ~~Bait~~ Retail bait dealer license \$ 30.50

Sec. 2. Section 483A.1, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. t. Wholesale bait dealer license \$ 125.00

Sec. 3. Section 483A.1, subsection 2, paragraph 1, Code 2003, is amended to read as follows:

1. Bait ~~Retail bait~~ dealer license \$ 66.00
125.00

or the amount for the same type of license
in the nonresident's state, whichever is
greater

Sec. 4. Section 483A.1, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. t. Wholesale bait dealer license \$ 250.00

or the amount for the same type of license
in the nonresident's state, whichever is
greater

Sec. 5. Section 483A.20, Code 2003, is amended to read as follows:
483A.20 RECIPROCITY.

Licenses for bait dealers or for fishing, hunting, or fur harvesting shall not be issued to residents of states that do not sell similar licenses or certificates to residents of Iowa. ~~However, the licensing of nonresident bait dealers who sell at wholesale to licensed dealers in Iowa for resale is permitted.~~

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2003

CHAPTER 121

OPEN PRAIRIE OR WILDLIFE HABITAT RESTORATION PROPERTY TAX CREDITS — INSPECTION AND CERTIFICATION

S.F. 444

AN ACT relating to the requirements for receiving a property tax exemption for open prairies and wildlife habitats and including an applicability date provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 427.1, subsection 22, unnumbered paragraphs 2 and 5, Code 2003, are amended to read as follows:

Application for this exemption shall be filed with the commissioners of the soil and water conservation district in which the property is located, not later than February 1 of the assessment year, on forms provided by the department of revenue and finance. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie that has been restored or reestablished, the property shall be inspected and

certified as provided by the county board of supervisors as having adequate ground cover consisting of native species and that all primary and secondary noxious weeds present are being controlled to prevent the spread of seeds by either wind or water. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon receipt of the application, the commissioners shall certify whether the property is eligible to receive the exemption. The commissioners shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted.

The board of supervisors does not have to grant tax exemptions under this subsection, grant tax exemptions in the aggregate of the maximum acreage which may be granted exemptions, or grant a tax exemption for the total acreage for which the applicant requested the exemption. Only real property in parcels of two acres or more which is recreational lakes, forest cover, river and stream, river and stream banks, or open prairie and which is utilized for the purposes of providing soil erosion control or wildlife habitat or both, and which is subject to property tax for the fiscal year for which the tax exemption is requested, is eligible for the exemption under this subsection. However, in addition to the above, in order for a gully area which is susceptible to severe erosion to be eligible, there must be an erosion control plan for it approved by the commissioners of the soil and water conservation district in which it is located. In the case of an open prairie that has been restored or reestablished, the property shall be inspected and certified as provided by the county board of supervisors as having adequate ground cover consisting of native species and that all primary and secondary noxious weeds present are being controlled to prevent the spread of seeds by either wind or water. In the case of an exemption for river and stream or river and stream banks, the exemption shall not be granted unless there is included in the exemption land located at least thirty-three feet from the ordinary high water mark of the river and stream or river and stream banks. Property shall not be denied an exemption because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the real property is located within a city, the approval of the governing body must be obtained before the real property is eligible for an exemption. For purposes of this subsection:

Sec. 2. Section 427.1, subsection 22, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In the case of an open prairie that has been restored or reestablished and that does not receive the certification as provided by the county board of supervisors as it relates to the ground cover, the applicant shall be notified of the availability of resource enhancement and protection fund cost-share moneys and soil and conservation technological assistance for reestablishing native vegetation.

Sec. 3. Section 427.1, subsection 24, Code 2003, is amended to read as follows:

24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of agricultural land may designate not more than two acres of the land for use as a wildlife habitat. After inspection, if the land meets the standards established by the natural resource commission for a wildlife habitat under section 483A.3, and, in the case of a wildlife habitat that has been restored or reestablished, is inspected and certified as provided by the county board of supervisors as having adequate ground cover consisting of native species and that all primary and secondary noxious weeds present are being controlled to prevent the spread of seeds by either wind or water, the department of natural resources shall certify the designated land as a wildlife habitat and shall send a copy of the certification to the appropriate assessor not later than February 1 of the assessment year for which the exemption is requested. The department of natural resources may subsequently withdraw certification of the designated land if it fails to meet the established

standards for a wildlife habitat and the ground cover requirement and the assessor shall be given written notice of the decertification.

In the case where the property is a restored or reestablished wildlife habitat and does not receive the certification as provided by the county board of supervisors as it relates to the ground cover, the owner shall be notified of the availability of resource enhancement and protection fund cost-share moneys and soil and conservation technological assistance for reestablishing native vegetation.

Sec. 4. APPLICABILITY DATE. This Act applies to assessment years beginning on or after January 1, 2004.

Approved May 12, 2003

CHAPTER 122

IOWA AGRICULTURAL INDUSTRY FINANCE LOANS — ASSIGNMENT

S.F. 459

AN ACT relating to Iowa agricultural industry finance corporations, by providing for the assignment of an Iowa agricultural industry finance loan, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15E.208, subsection 3, paragraph b, Code 2003, is amended to read as follows:

b. The Iowa agricultural industry finance loan shall be repayable upon terms and conditions negotiated by the parties.

(1) The repayment period shall begin six years following the date when the Iowa agricultural industry finance loan is awarded and end twenty-five years after the date that the repayment period begins.

(2) At least four percent of the amount of the Iowa agricultural industry finance loan due shall be paid each year to the department. However, the department may accept an assignment of a loan made by the corporation providing financing to an eligible person pursuant to section 15E.209. The assigned loan shall grant to the department the corporation's right to payment under the loan. Any such assignment shall be made by an agreement executed by the department and the corporation. The assignment agreement shall be subject to all of the following:

(a) The period of assignment may be for any number of years. The department shall apply to the amounts due under the Iowa agricultural industry finance loan the principal, interest, and fees which the eligible person is obligated to pay under the assigned loan. The total amount of the principal, interest, and fees that the eligible person is obligated to pay to the department during the period of assignment plus any other repayment of the Iowa agricultural industry finance loan made by the corporation to the department must equal the amount of the Iowa agricultural industry finance loan that the corporation would otherwise be obligated to repay the department during that same period. However, the agreement may provide that during any year of the assignment period the eligible person may pay more or less than four percent of the amount of the Iowa agricultural industry finance loan that the corporation would otherwise be obligated to repay during that year.

(b) The assignment agreement shall contain conditions relating to the right of payment assigned to the department which may include securing the payment obligation in any manner that allows the department to enforce a debt against the property of the eligible person. The department shall not have a right of recourse against the corporation for any amount required to be applied from the assigned loan to the Iowa agricultural industry finance loan.

(3) The corporation shall not be subject to a prepayment penalty.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 2003

CHAPTER 123

DISCLOSURE OF INFORMATION TO SUBJECTS OF CHILD OR DEPENDENT ADULT ABUSE REPORTS

H.F. 558

AN ACT authorizing the department of human services to disclose information regarding the listing of an individual in the child or dependent abuse registry or the sex offender registry when it is necessary for the protection of a child or a dependent adult.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.71B, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. PROTECTIVE DISCLOSURE. If the department determines that disclosure is necessary for the protection of a child, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph "a", that an individual is listed in the child or dependent¹ abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

Sec. 2. Section 235B.3, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. If the department determines that disclosure is necessary for the protection of a dependent adult, the department may disclose to a subject of a dependent adult abuse report referred to in section 235B.6, subsection 2, paragraph "a", that an individual is listed in the child or dependent² abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

Sec. 3. Section 692A.13, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the department of human services determines that disclosure is necessary for the protection of a child or a dependent adult, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph "a", or to a subject of a dependent adult abuse report referred to in section 235B.6, subsection 2, paragraph "a", that an individual is listed in the child or dependent³ abuse registry or is required to register under this chapter.

Approved May 12, 2003

¹ See chapter 179, §68 herein

² See chapter 179, §69 herein

³ See chapter 179, §76 herein

CHAPTER 124

HEALTHY AND WELL KIDS IN IOWA PROGRAM

H.F. 565

AN ACT relating to the healthy and well kids in Iowa program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 514I.4, subsection 4, Code 2003, is amended to read as follows:

4. The department shall do or shall provide for all of the following:

a. Develop a program application form not to exceed two pages in length, which is consistent with the rules of the board, which is easy to understand, complete, and concise, and which, to the greatest extent possible, coordinates with the medical assistance program.

b. Establish the family cost sharing amount, based on a sliding fee scale, if established by amounts of not less than ten dollars per individual and twenty dollars per family, if not otherwise prohibited by federal law, with the approval of the board.

c. Perform annual, random reviews of enrollee applications to ensure compliance with program eligibility and enrollment policies. Quality assurance reports shall be made to the board and the department based upon the data maintained by the administrative contractor.

~~e.~~ d. Perform other duties as determined by the department with the approval of the board.

Sec. 2. Section 514I.5, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A HAWK-I board for the HAWK-I program is established. The board shall meet not less than ~~ten~~ six and not more than twelve times annually, for the purposes of establishing policy for, directing the department on, and adopting rules for the program. The board shall consist of seven members, including all of the following:

Sec. 3. Section 514I.5, subsection 7, paragraphs d and e, Code 2003, are amended to read as follows:

d. Develop, with the assistance of the department, an outreach plan, and provide for periodic assessment of the effectiveness of the outreach plan. The plan shall provide outreach to families of children likely to be eligible for assistance under the program, to inform them of the availability of and to assist the families in enrolling children in the program. The outreach efforts may include, but are not limited to, ~~a comprehensive statewide media campaign,~~ solicitation of cooperation from programs, agencies, and other persons who are likely to have contact with eligible children, including but not limited to those associated with the educational system, and the development of community plans for outreach and marketing.

e. In consultation with the clinical advisory committee, ~~select a single, nationally recognized functional health assessment form for an initial assessment of all eligible~~ assess the initial health status of children participating in the program, establish a baseline for comparison purposes, and develop appropriate indicators to measure the subsequent health status of ~~eligible~~ children participating in the program.

Sec. 4. Section 514I.5, subsection 7, paragraph i, Code 2003, is amended by striking the paragraph.

Sec. 5. Section 514I.5, subsection 7, paragraph l, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Establish an advisory committee to make recommendations to the board and to the general assembly ~~on or before~~ by January 1, ~~1999,~~ annually concerning the provision of health insurance coverage to children with special health care needs ~~under the program.~~ The committee

shall include individuals with experience in, knowledge of, or expertise in this area. The recommendations shall address, but are not limited to, all of the following:

Sec. 6. Section 514I.5, subsection 8, paragraph h, Code 2003, is amended to read as follows:

h. The amount of any cost sharing under the program which shall be assessed ~~on a sliding fee scale based on family income, which provides for a minimum amount of cost sharing, and which complies with federal law.~~

Sec. 7. Section 514I.5, subsection 8, paragraph m, Code 2003, is amended by striking the paragraph.

Sec. 8. Section 514I.6, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 9. Section 514I.7, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. Forward names of children who appear to be eligible for medical assistance ~~or other public health insurance coverage to local to the~~ department of human services offices ~~or other appropriate person or agency for follow up~~ follow-up and retain the identifying data on children who are referred.

Sec. 10. Section 514I.7, subsection 2, paragraph h, Code 2003, is amended by striking the paragraph.

Sec. 11. Section 514I.8, subsection 2, paragraph e, Code 2003, is amended to read as follows:

e. Is not currently covered ~~under or was not covered within the prior six months under a group health plan as defined in 42 U.S.C. § 300gg-91(a)(1) or other health benefit plan, unless the coverage was involuntarily lost or unless dropping the coverage is allowed by rule of the board.~~

Sec. 12. Section 514I.10, Code 2003, is amended to read as follows:

514I.10 COST SHARING.

1. Cost sharing for eligible children whose family income is ~~at or below one hundred fifty percent of the federal poverty level shall not exceed the standards permitted under 42 U.S.C. § 1396(o)(a)(3) or § 1396(o)(b)(1).~~

2. Cost sharing for eligible children whose family income is ~~between equals or exceeds one hundred fifty percent and two hundred percent of the federal poverty level shall~~ may include a premium or copayment amount ~~which is at least a minimum amount but~~ which does not exceed five percent of the annual family income. The amount of the any premium or the copayment amount shall be based on family income and size.

Sec. 13. MONITORING AND REPORTING REQUIREMENTS. The department of human services shall monitor the effects of the striking of section 514I.5, subsection 8, paragraph "m", by this Act, until June 30, 2005. The department shall submit a report to the general assembly annually on January 15, during the period ending June 30, 2005, that includes the reporting of any increased cost of the hawk-i program resulting from the striking of the paragraph described in this section.

Approved May 12, 2003

CHAPTER 125

NEW CAPITAL INVESTMENT PROGRAM

H.F. 677

ANACT relating to new capital investment for businesses and new jobs by creating a new capital investment program, creating tax incentives, and amending the new jobs and income program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 15.381 SHORT TITLE.

This part shall be known as and may be cited as the “New Capital Investment Program”.

Sec. 2. NEW SECTION. 15.382 PURPOSE.

It is the purpose of this part to promote new economic development through new capital investments that upgrade and expand the capabilities of Iowa businesses by allowing the businesses to be more competitive in the world economy.

Sec. 3. NEW SECTION. 15.383 DEFINITIONS.

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

1. “Community” means a city, county, or other entity established pursuant to chapter 28E.
2. “Eligible business” means a business which has been approved to receive incentives by the department pursuant to section 15.384, subsection 3.

Sec. 4. NEW SECTION. 15.384 ELIGIBLE BUSINESS.

1. To be eligible to receive incentives under this part, a business shall meet all of the following requirements:
 - a. The business has not closed or reduced its operation in one area of the state and relocated substantially the same operation in the community.
 - b. The business is not a retail business or a business where entrance is limited by a cover charge or membership requirement.
 - c. The business makes a capital investment of at least one million dollars.
 - d. The business creates high-quality jobs due to the capital investment. In determining whether high-quality jobs are created, the department shall place greater emphasis on jobs that have all the following characteristics:
 - (1) Have a wage equal to at least the average county wage.
 - (2) Are full-time or career-type positions.
 - (3) Provide comprehensive health benefits.
 - (4) Have other related characteristics which could be considered to be higher in quality than do other jobs.
 - e. The start-up, location, or expansion of the business occurs within a specified period which will be negotiated with the department and the community, but which shall be at least a period of three years.
 - f. The business provides the community and the department with an affidavit stating that the business has not, within the five years prior to the application date, violated state or federal environmental or worker safety statutes, rules, or regulations or, if such violation has occurred, that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.
2. The community and the department may also consider a variety of factors, including the following, in determining the eligibility of a business to participate in the program:
 - a. The impact of the proposed project on the community and the state.
 - b. The impact the business will have on other businesses in competition with it.

- c. The potential for future growth in the industry represented by the business.
 - d. The impact the proposed new capital investment will have on the ability of the business to expand, upgrade, or modernize its capabilities, and the extent to which the new capital investment will result in a more productive and competitive business enterprise and workforce.
 - e. The local funding match to be provided.
3. If the community determines that a business is eligible, the community shall approve by resolution the application for incentives. Once a business is found to be eligible, the community shall submit the application to the department. The department may approve, defer, or deny the application.

Sec. 5. NEW SECTION. 15.385 INCENTIVES.

For tax years beginning on or after January 1, 2003, an eligible business shall be eligible to receive some or all of the following incentives:

1. Sales, services, and use tax refund, as provided in section 15.331A.
2. Research activities credit, as provided in section 15.335.
3. a. An eligible business may claim a tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust. The percentage shall be equal to the amount provided in paragraph "d". Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

Subject to prior approval by the department of economic development, in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this subsection, such an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be applied against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, subchapter S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

b. For purposes of this subsection, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

(1) One hundred percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within one full year after being placed in service.

(2) Eighty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within two full years after being placed in service.

(3) Sixty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within five full years after being placed in service.

c. (1) An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes, which elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. Such an eligible business shall not claim a tax credit refund under this subsection unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit refund is claimed. For purposes of this subsection, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. For purposes of this subsection, an eligible business also includes a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. Such cooperative may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings of the cooperative.

(2) A tax credit certificate shall not be valid until the tax year following the date of the capital investment project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, and other information required by the department of revenue and finance. The department of economic development shall not issue tax credit certificates under this subsection and section 15.333, subsection 2, which total more than four million dollars during a fiscal year. If the department receives and approves applications for tax credit certificates under this subsection and section 15.333, subsection 2, in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred except as provided in this subsection for a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. For a cooperative described in section 521 of the Internal Revenue Code, the department of economic development shall require that the cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

d. The amount of a tax credit claimed under this subsection shall be determined as follows:

(1) If the department determines, based on the application of the eligible business, that high-quality jobs are not created but economic activity within the state is advanced, the eligible business may claim a tax credit of up to one percent of the new investment.

(2) If the department determines, based on the application of the eligible business, that one to five high-quality jobs are created, the eligible business may claim a tax credit of up to two percent of the new investment.

(3) If the department determines, based on the application of the eligible business, that six to ten high-quality jobs are created, the eligible business may claim a tax credit of up to three percent of the new investment.

(4) If the department determines, based on the application of the eligible business, that eleven to fifteen high-quality jobs are created, the eligible business may claim a tax credit of up to four percent of the new investment.

(5) If the department determines, based on the application of the eligible business, that more than fifteen high-quality jobs are created, the eligible business may claim a tax credit of up to five percent of the new investment.

4. a. An eligible business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be allowed against taxes imposed in chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first. The percentage shall be equal to the amount provided in paragraph "c".

b. For purposes of this subsection, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

(1) One hundred percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within one full year after being placed in service.

(2) Eighty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within two full years after being placed in service.

(3) Sixty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within five full years after being placed in service.

c. The amount of the tax credit claimed under this subsection shall be determined as follows:

(1) If the department determines, based on the application of the eligible business, that high-quality jobs are not created but economic activity within the state is advanced, the eligible business may claim an insurance premium tax credit of up to one percent of the new investment.

(2) If the department determines, based on the application of the eligible business, that one to five high-quality jobs are created, the eligible business may claim an insurance premium tax credit of up to two percent of the new investment.

(3) If the department determines, based on the application of the eligible business, that six to ten high-quality jobs are created, the eligible business may claim an insurance premium tax credit of up to three percent of the new investment.

(4) If the department determines, based on the application of the eligible business, that eleven to fifteen high-quality jobs are created, the eligible business may claim an insurance premium tax credit of up to four percent of the new investment.

(5) If the department determines, based on the application of the eligible business, that more than fifteen high-quality jobs are created, the eligible business may claim an insurance premium tax credit of up to five percent of the new investment.

Sec. 6. NEW SECTION. 15.386 AGREEMENT.

A business shall enter into an agreement with the department specifying the requirements that must be met to confirm eligibility pursuant to section 15.384. The department shall consult with the community during negotiations relating to the agreement. The agreement shall contain, at a minimum, the following provisions:

1. A business that is approved to receive incentives shall, for the length of the agreement, certify annually to the community and the department the compliance of the business with the requirements of the agreement.

2. The repayment of incentives by the business if the business has not met any of the requirements of this part or the resulting agreement.

3. If a business that is approved to receive incentives under this part experiences a layoff within the state or closes any of its facilities within the state, the department shall have the discretion to reduce or eliminate some or all of the incentives. If a business has received incentives under this part and experiences a layoff within the state or closes any of its facilities within the state, the business may be subject to repayment of all or a portion of the incentives that it has received.

Sec. 7. NEW SECTION. 15.387 OTHER INCENTIVES.

An eligible business may receive other applicable federal, state, and local incentives and tax credits in addition to those provided in this part. However, a business which participates in the program under this part shall not receive any funds, tax credits, or incentives under chapter 15, subchapter II, part 13, or chapter 15E, division XVIII.

Sec. 8. Section 15.333, subsection 2, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A tax credit certificate shall not be valid until the tax year following the date of the project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, and other information required by the department of revenue and finance. The department of economic development shall not issue tax credit certificates under this subsection and section 15.385, subsection 3, paragraph "c", which total more than four million dollars during a fiscal year. If the department receives and approves applications for tax credit certificates under this subsection and section 15.385, subsection 3, paragraph "c", in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred except as provided in this subsection for a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. For a cooperative described in section 521 of the Internal Revenue Code, the department of economic development shall require that the cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

Sec. 9. Section 15.337, Code 2003, is amended to read as follows:

15.337 WAIVER OF PROGRAM QUALIFICATION REQUIREMENTS.

A community may request the waiver of ~~the capital investment requirement or the requirement for number of positions created under section 15.329.~~ However, in no event shall the minimum number of jobs created be less than fifteen ~~or the minimum capital investment be less than three million dollars per application under the program.~~ ~~The department shall develop an appropriate formula of minimum jobs created and capital investment required per program application which can be authorized under the waiver.~~ The department may grant a waiver for good cause shown and approve the program application.

As used in this section, "good cause shown" includes ~~but is not limited to a demonstrated lack of growth in the community, a significant percentage of persons in the community who have incomes at or below the poverty level, community a county family poverty rate higher than the state average, a county unemployment rate higher than the state average, a unique opportunity to use existing unutilized or underutilized facilities in the community, a significant downsizing or closure by one of the community's major employers,~~ or an immediate threat posed to the community's workforce due to business downsizing or closure. "Good cause shown" may also include a proposed project by a business in one of the state's targeted

industry clusters which will make a higher than average capital investment and which will pay an average starting wage for all the new jobs created as the result of the project that is significantly higher than the wage requirement in section 15.329. For purposes of this section, "targeted industry clusters" includes the industry clusters of life sciences, information solutions, and advanced manufacturing.

Approved May 12, 2003

CHAPTER 126

TELECOMMUNICATIONS SERVICES AND PUBLIC UTILITY REGULATION

S.F. 368

AN ACT relating to advanced telecommunications services, including rate provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.1D, subsection 1, Code 2003, is amended to read as follows:

1. Except as provided in this section, the jurisdiction of the board as to the regulation of communications services is not applicable to a service or facility that is provided or is proposed to be provided by a telephone utility that is or becomes subject to effective competition, as determined by the board. In determining whether a service or facility is or becomes subject to effective competition, the board shall consider, among other factors, whether a comparable service or facility is available from a supplier other than the telephone utility in the geographic market being considered by the board and whether market forces in that market are sufficient to assure just and reasonable rates without regulation.

Sec. 2. Section 476.6, subsection 1, Code 2003, is amended to read as follows:

1. **FILING WITH BOARD.** A public utility subject to rate regulation shall not make effective a new or changed rate, charge, schedule or regulation until the rate, charge, schedule, or regulation has been approved by the board, except as provided in subsections 11 and 13.

~~A subscriber of a telephone exchange or service, who is declared to be legally blind under section 422.12, subsection 1, paragraph "e", is exempt from any charges for telephone directory assistance that may be approved by the board.~~

Sec. 3. Section 476.6, subsections 2 through 4, Code 2003, are amended by striking the subsections.

Sec. 4. Section 476.51, Code 2003, is amended to read as follows:

476.51 **CIVIL PENALTY.**

1. A public utility which, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

2. A public utility which willfully, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same

provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one thousand dollars nor more than ten thousand dollars per violation. For the purposes of this section, "willful" means knowing and deliberate, with a specific intent to violate.

3. Each violation is a separate offense. In the case of a continuing violation, each day a violation continues, after the time specified for compliance in the written notice by the board, is a separate and distinct offense. Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the appropriateness of the penalty in relation to the size of the public utility, the gravity of the violation, and the good faith of the public utility in attempting to achieve compliance following notification of a violation, and any other relevant factors.

4. The written notice given by the board to a public utility under this section shall specify an appropriate time for compliance.

5. Civil penalties collected pursuant to this section from utilities providing water, electric, or gas service shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the general fund of the state and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the division of community action agencies of the department of human rights. Civil penalties collected pursuant to this section from utilities providing telecommunications service shall be forwarded to the treasurer of state to be credited to the general fund of the state to be used only for consumer education programs administered by the board. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Sec. 5. Section 476.97, subsection 3, paragraph a, subparagraph (5), Code 2003, is amended to read as follows:

(5) The plan shall provide for both increases and decreases in the prices for basic communications services reflecting annual changes in inflation and productivity. Prior to January 1, 2000, Initially, the board shall use the gross domestic product price index, as published by the federal government, for an inflation measure, and two and six-tenths percentage points for a productivity measure. On or after January 1, 2000, the The board by rule may adopt a more current measures measure of inflation and productivity. Any plan in effect as of July 1, 2003, that contains a productivity factor shall strike the productivity factor on a prospective basis.

Sec. 6. Section 476.97, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 12. a. The Iowa broadband initiative is created to provide access to advanced telecommunications services to all customers in all exchanges served by rate-regulated local exchange carriers where advanced telecommunications services are not already available at affordable rates, to the extent consistent with technological limitations and the public interest as determined by the board. The general assembly specifically finds that regulatory flexibility is appropriate when fostering economic development through the increased availability of advanced telecommunications services.

b. For purposes of this section, "advanced telecommunications services" is defined as infrastructure capable of delivering a data transmission speed of at least two hundred kilobits per second in each direction.

c. Any rate-regulated local exchange carrier may implement a single increase in monthly rates for residential or business dial tone access service lines by an amount not to exceed two dollars per month. The increase shall be included in the customer's bill as an unidentified part of the overall rate for service. The revenue from this increase shall be used to provide advanced telecommunications services in each of the carrier's local exchange central office wire centers where advanced telecommunications services are not currently available at affordable rates in all or a substantial part of the exchange, subject to the requirements in subparagraphs (1) through (7). In addition, any increase or decrease required by an approved price regulation

plan that, as of July 1, 2003, has been deferred pursuant to subsection 3, paragraph "a", subparagraph (6), shall not be implemented and the amount of any deferral shall also be used to provide advanced telecommunications services, subject to the following requirements:

(1) Any carrier electing to participate in the Iowa broadband initiative shall file for the board's review and approval a plan for using the revenue resulting from the rate increase. In reviewing the plan, the board shall consider investments and expenditures by the carrier that will best serve the public interest as described in this subsection, including upgrading the existing telecommunications infrastructure to permit improved data services for customers who cannot be offered advanced telecommunications services because of their geographical location. The board shall adopt rules to implement its review process, including rules that specify the initial plan filing requirements, further define the public interest, and identify some of the factors the board will consider in reviewing plans.

(2) The carrier shall use the revenue resulting from the rate increase to implement its approved plan. Whenever the board is of the opinion that a carrier is not complying with its approved plan, the board may commence an action in the district court for any county in which such violation is alleged to have occurred to have such violation stopped and prevented by injunction, mandamus, or other appropriate remedy. The board may also, after notice and opportunity for hearing, require that the carrier refund any revenue resulting from the rate increase that has not been used to implement its approved plan. The board may also enforce the approved plan with civil penalties, pursuant to section 476.51.

(3) The carrier shall file annual reports with the board detailing its progress toward completion of its approved plan.

(4) The carrier, the board, or any other interested person may propose modifications to a carrier's plan at any time.

(5) By choosing to participate in the Iowa broadband initiative, the participating carrier agrees to make available to other carriers, on both a wholesale and an unbundled basis, the services and facilities that result from implementation of the participating carrier's plan. The wholesale rates and unbundled rates shall be set by the board, which shall consider, among other factors, the extent to which the service or facility was financed by the revenues generated by the rate increase allowed under this paragraph "c".

(6) Upon completion of its initial Iowa broadband initiative plan, a carrier shall do one or more of the following:

(a) File a plan for board review and approval for continued use of the revenue resulting from the rate increase for further deployment of advanced services.

(b) File a rate of return rate proceeding pursuant to section 476.6 to determine new rates.

(c) File proposed tariffs for board review and approval to reduce the monthly rates that were increased under this subsection by an amount equal to the increase.

(7) A carrier choosing to participate in the Iowa broadband initiative shall also apply a credit, in an amount equal to the amount of the residential service increase, to the monthly local exchange service rate for qualified applicants for low-income lifeline assistance programs. This credit shall continue for as long as the retail rate increase is in effect.

Sec. 7. NEW SECTION. 476.105 SEVERABILITY.

If any provision of this chapter or its application to any person or circumstance is held invalid or otherwise rendered ineffective by any entity, the invalidity or ineffectiveness shall not affect other provisions or applications of this chapter that can be given effect without the invalid or ineffective provision or application, and to this end the provisions of this chapter are severable.

Approved May 15, 2003

CHAPTER 127**AGRICULTURAL LAND TAX CREDITS***H.F. 304*

AN ACT relating to the payment by a county of the agricultural land tax credit and reimbursement to the county of its payment and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. CREDIT RECERTIFICATION. A county may on or after the effective date of this Act but before June 1, 2003, recertify to the department of revenue and finance the total amount of agricultural land tax credits payable during the fiscal year beginning July 1, 2002, if the amount originally certified was incorrect due to the fact that the amount certified included the amount of family farm tax credits due on land located in a particular school district and not the amount of agricultural land tax credits due on such land. As soon as the department of revenue and finance receives the recertification and communicates its agreement to the validity of the recertification to the county auditor, the county shall pay from its general fund to those persons who qualified to receive but did not receive during the fiscal year beginning July 1, 2002, the pro rata percentage of the agricultural land tax credit as recertified on agricultural land located in the county, a sum equal to the amount of the pro rata percentage determined pursuant to section 426.7 of the credits correctly recertified as agreed to by the director of revenue and finance and the county auditor.

Sec. 2. Notwithstanding any provision in chapter 426 to the contrary, from the amount appropriated to the agricultural land credit fund created in section 426.1, to pay tax credits during the fiscal year beginning July 1, 2003, an amount not to exceed the amount agreed to by the director of revenue and finance and the county auditor for each county making payments under section 1 of this Act shall be paid to that county to be deposited into its general fund. The amounts paid pursuant to this section shall be paid prior to any other payments from the agricultural land credit fund. The remaining appropriation to the agricultural land credit fund shall be distributed as provided in chapter 426.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 15, 2003

CHAPTER 128

SOIL AND WATER CONSERVATION DISTRICTS

H.F. 492

AN ACT relating to soil conservation by providing for the acquisition of land by soil and water conservation districts, and eliminating certain reporting requirements.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 457A.1, Code 2003, is amended to read as follows:

457A.1 ACQUISITION BY OTHER THAN CONDEMNATION.

The department of natural resources, soil and water conservation districts as provided in chapter 161A, the historical division of the department of cultural affairs, the state archaeologist appointed by the state board of regents pursuant to section 263B.1, any county conservation board, and any city or agency of a city may acquire by purchase, gift, contract, or other voluntary means, but not by eminent domain, conservation easements in land to preserve scenic beauty, wildlife habitat, riparian lands, wetlands, or forests; promote outdoor recreation, agriculture, soil or water conservation, or open space; or otherwise conserve for the benefit of the public the natural beauty, natural and cultural resources, and public recreation facilities of the state.

Sec. 2. Section 161A.11, Code 2003, is repealed.

Approved May 15, 2003

CHAPTER 129ENTERPRISE ZONE PROGRAM —
MISCELLANEOUS PROVISIONS

H.F. 576

AN ACT relating to the enterprise zone program and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15E.192, subsection 3, paragraphs a and b, Code 2003, are amended to read as follows:

a. A county or city which meets the distress criteria provided in section 15E.194, Code 2001, may apply to the department for an area to be certified as an enterprise zone at any time prior to ~~July~~ December 1, 2003. However, the total amount of land designated as enterprise zones under subsections 1 and 2, and any other enterprise zones certified by the department, excluding those approved pursuant to section 15E.194, subsection 4, shall not exceed in the aggregate one percent of the total county area.

b. An enterprise zone certified by the department pursuant to subsection 2 shall not be decertified or only be amended if the amendment consists of an area being added to the enterprise zone and the added area meets the criteria of section 15E.194, subsection 2. An enterprise zone certified by the department pursuant to subsection 1 or 2 may be decertified;

however, if a subsequent enterprise zone is designated, the expiration date of the subsequent enterprise zone shall be the same as the expiration date of the decertified enterprise zone. A portion of a certified enterprise zone may be decertified, provided that the remaining portion of the certified enterprise zone meets the distress criteria provided in section 15E.194.

Sec. 2. Section 15E.193, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 4. If a business that is approved to receive incentives or assistance provided under section 15E.196 experiences a layoff within the state or closes any of its facilities within the state prior to receiving the incentives and assistance, the department may reduce or eliminate all or a portion of the incentives and assistance. If a business has received incentives or assistance under section 15E.196 and experiences a layoff within the state or closes any of its facilities within the state after receiving the incentives and assistance, the business may be subject to repayment of all or a portion of the incentives and assistance that it has received.

Sec. 3. Section 15E.193B, subsection 3, Code 2003, is amended to read as follows:
3. The single-family homes and dwelling units which are rehabilitated or constructed by the eligible housing business shall ~~be modest homes or units but~~ shall include the necessary amenities. When completed and made available for occupancy, the single-family homes and dwelling units shall meet the United States department of housing and urban development's housing quality standards and local safety standards.

Sec. 4. Section 15E.193C, subsection 5, Code 2003, is amended to read as follows:
5. Prior to ~~applying for~~ receiving assistance under this section, an eligible development business shall enter into an agreement with at least one business for purposes of locating the business in all or a portion of the building space for a period of at least five years. Nonretail businesses locating in a building space must create at least ten full-time positions, and meet the criteria provided in section 15E.193, subsection 1, paragraphs "a", "b", and "c", ~~and not share common ownership or common management with the development business. If a non-retail business locating in a building space occupies ninety percent or less of the building space, the nonretail business shall not share common ownership or common management with the development business.~~ A development business shall receive a pro rata share of the total incentives and assistance available to the development business based on the percentage of the building that is leased to nonretail businesses. The department shall determine the procedure for issuing the incentives and assistance on a pro rata basis.

Sec. 5. 2002 Iowa Acts, chapter 1145, section 7, is amended to read as follows:
SEC. 7. Section 15E.192, subsection 4 ~~3~~, paragraph a, Code 2003, is amended by striking the paragraph.

Sec. 6. 2002 Iowa Acts, chapter 1145, section 10, subsection 2, is amended to read as follows:
2. Section 7 of this Act, striking section 15E.192, subsection 4 ~~3~~, paragraph "a", Code 2003, takes effect ~~July~~ December 1, 2003.

Sec. 7. EFFECTIVE DATE. Sections 1, 5, and 6 of this Act, amending section 15E.192 and 2002 Iowa Acts, chapter 1145, being deemed of immediate importance, take effect upon enactment.

Approved May 15, 2003

CHAPTER 130**TAXATION OF STATE-OWNED PROPERTY
— LEASE TO NONEXEMPT ENTITY***H.F. 665*

AN ACT relating to property taxation of certain lands leased to others by the department of corrections or department of human services and providing for the Act's applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 427.1, subsection 1, Code 2003, is amended to read as follows:

1. **FEDERAL AND STATE PROPERTY.** The property of the United States and this state, including state university, university of science and technology, and school lands, except as otherwise provided in this subsection. The exemption herein provided shall not include any real property subject to taxation under any federal statute applicable thereto, but such exemption shall extend to and include all machinery and equipment owned exclusively by the United States or any corporate agency or instrumentality thereof without regard to the manner of the affixation of such machinery and equipment to the land or building upon or in which such property is located, until such time as the Congress of the United States shall expressly authorize the taxation of such machinery and equipment.

Sec. 2. Section 427.1, subsection 1, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Property of the state operated pursuant to section 904.302, 904.705, or 904.706 that is leased to an entity other than an entity which is exempt from property taxation under this section shall be subject to property taxation for the term of the lease. Property taxes levied against such leased property shall be paid from the revolving farm fund created in section 904.706. The lessor shall file a copy of the lease with the county assessor of the county where the property is located.

Sec. 3. Section 904.302, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 7A. Pay property taxes levied against land leased by the department of corrections or department of human services as provided in section 427.1, subsection 1.

Sec. 4. Section 904.705, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The director may with the assistance of the department of natural resources establish and operate forestry nurseries on state-owned land under the control of the department. Residents of the adult correctional institutions shall provide the labor for the operation. Nursery stock shall be sold in accordance with the rules of the natural resource commission. The department shall pay the costs of establishing and operating the forestry nurseries out of the revolving farm fund created in section 904.706. The department of natural resources shall pay the costs of transporting, sorting, and distributing nursery stock to and from or on state-owned land under the control of the department of natural resources. Receipts from the sale of nursery stock produced under this section shall be divided between the department and the department of natural resources in direct proportion to their respective costs as a percentage of the total costs. However, property taxes due and payable on the land shall be deducted before receipts of sale are divided between the two departments if land subject to this section is leased to an entity other than an entity which is exempt from property taxation under section 427.1. The department shall deposit its receipts in the revolving farm fund created in section 904.706.

Sec. 5. **APPLICABILITY.** This Act applies to leases entered into on or after the effective date of this Act.

Approved May 15, 2003

CHAPTER 131**VETERANS TRUST FUND***H.F. 676*

AN ACT establishing a veterans trust fund under the control of the commission of veterans affairs and providing a contingent appropriation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 35A.13 VETERANS TRUST FUND.

1. For the purposes of this section, "veteran" means the same as defined in section 35.1 or a resident of this state who served in the armed forces of the United States, completed a minimum aggregate of ninety days of active federal service, and was discharged under honorable conditions.

2. A veterans trust fund is created in the state treasury under the control of the commission.

3. The trust fund shall consist of all of the following:

a. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the trust fund.

b. Interest attributable to investment of moneys in the fund or an account of the trust fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the trust fund shall be credited to the trust fund.

4. Moneys credited to the trust fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except as provided in this section. Moneys in the trust fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the trust fund by the end of that fiscal year.

5. The minimum balance of the trust fund required prior to expenditure of moneys from the trust fund is fifty million dollars. Once the minimum balance is reached, the interest and earnings on the fund and any moneys received under subsection 3, paragraph "a", are appropriated to the commission to be used to achieve the purposes of this section.

6. Moneys appropriated to the commission under this section shall not be used to supplant funding previously provided by other sources. The moneys may be expended upon a majority vote of the commission membership for the benefit of veterans and the spouses and dependents of veterans, for any of the following purposes:

a. College tuition aid.

b. Job training aid.

c. Expenses relating to an individual receiving care by a nursing facility that are not payable by any other sources.

d. Benefits provided to children of disabled or deceased veterans.

e. Unemployment aid needed during a veteran's unemployment due to prolonged illness or disability resulting from military service. A diagnosed case of mental distress due to military service-related activities shall be included as a disability under this paragraph.

f. Other purposes identified by the commission.

Approved May 15, 2003

CHAPTER 132
SEXUAL ABUSE AND ASSAULT — EVIDENCE
— PENALTY FOR ASSAULT
S.F. 402

AN ACT relating to sexual assault offenses by affecting the admissibility of prior criminal offenses into evidence in the prosecution of certain sexual offenses and by modifying the penalties for certain assaults.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 701.11 EVIDENCE OF SIMILAR OFFENSES — SEXUAL ABUSE.

1. In a criminal prosecution in which a defendant has been charged with sexual abuse, evidence of the defendant's commission of another sexual abuse is admissible and may be considered for its bearing on any matter for which the evidence is relevant. This evidence, though relevant, may be excluded if the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. This evidence is not admissible unless the state presents clear proof of the commission of the prior act of sexual abuse.

2. If the prosecution intends to offer evidence pursuant to this section, the prosecution shall disclose such evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, ten days prior to the scheduled date of trial. The court may for good cause shown permit disclosure less than ten days prior to the scheduled date of trial.

3. For purposes of this section, "sexual abuse" means any commission of or conviction for a crime defined in chapter 709. "Sexual abuse" also means any commission of or conviction for a crime in another jurisdiction under a statute that is substantially similar to any crime defined in chapter 709.

Sec. 2. Section 708.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. A person who commits an assault, as defined in section 708.1, and who uses any object to penetrate the genitalia or anus of another person, is guilty of a class "C" felony.

Approved May 16, 2003

CHAPTER 133
ENTERPRISE ZONE AND PROPERTY REHABILITATION
TAX CREDITS — CERTIFICATES — TRANSFER
S.F. 441

AN ACT relating to the transfer of certain property-related tax credits and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15E.193B, subsection 8, Code 2003, is amended to read as follows:

8. The amount of the tax credits determined pursuant to subsection 6, paragraph "a", for

each project shall be approved by the department of economic development. The department shall utilize the financial information required to be provided under subsection 5, paragraph "e", to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. Upon approving the amount of the tax credit, the department of economic development shall issue a tax credit certificate to the eligible housing business. An eligible housing business or transferee shall not claim the tax credit unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's return for the tax year for which the tax credit is claimed. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue and finance. The tax credit certificate shall be transferable if low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of economic development along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue and finance. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of economic development shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required to receive the original certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the department of economic development shall not be transferable. A tax credit shall not be claimed by a transferee under subsection 6, paragraph "a", until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 2. Section 404A.4, subsection 2, Code 2003, is amended to read as follows:

2. After verifying the eligibility for the tax credit, the state historic preservation office, in consultation with the department of economic development, shall issue a property rehabilitation tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, and other information required by the department of revenue and finance, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

Sec. 3. Section 404A.4, Code 2003, is amended by adding the following subsection:

NEW SUBSECTION. 5. Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the state historic preservation office along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue and finance. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the office shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under subsection 2 and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum

amount established by rule of the office shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 4. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003, for tax years beginning on or after that date.

Approved May 16, 2003

CHAPTER 134

BURN INJURY REPORTS BY TREATMENT PROVIDERS

H.F. 455

AN ACT requiring licensed health-related professionals to report certain burn injuries to a law enforcement agency.

Be It Enacted by the General Assembly of the State of Iowa:

BURN INJURIES

Section 1. NEW SECTION. 147.113A REPORT OF BURN INJURIES.

Any person licensed under the provisions of this subtitle who administers any treatment to a person suffering a burn which appears to be of a suspicious nature on the body, a burn to the upper respiratory tract, a laryngeal edema due to the inhalation of super-heated air, or a burn injury that is likely to result in death, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such burn or burn injury shall at once but not later than twelve hours after treatment was administered or application was made report the fact to law enforcement. The report shall be made to the law enforcement agency within whose jurisdiction the treatment was administered or application was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the burn or burn injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the burn or burn injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

Sec. 2. CODIFICATION. The Code editor shall codify this Act separately from sections 147.111 through 147.113.

Approved May 16, 2003

CHAPTER 135**INSURANCE — MAMMOGRAPHY EXAM COVERAGE***H.F. 543*

AN ACT relating to minimum mammography examination coverage, and making related changes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 514C.4, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide minimum mammography examination coverage, including, but not limited to, the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state ~~on or after July 1, 1989:~~ .

Sec. 2. Section 514C.4, subsection 2, paragraphs a and c, Code 2003, are amended to read as follows:

a. One baseline mammogram for any woman who is thirty-five through thirty-nine years of age, or more frequent mammograms if recommended by the woman's physician.

c. A mammogram every year for any woman who is fifty years of age or older, or more frequently if recommended by the woman's physician.

Sec. 3. Section 514C.4, subsection 4, Code 2003, is amended to read as follows:

4. The commissioner of insurance shall adopt rules under chapter 17A necessary to implement this section ~~no later than July 1, 1989.~~

Approved May 16, 2003

CHAPTER 136**TAXATION OF PERSONAL PROPERTY — RECYCLING PROPERTY***H.F. 671*

AN ACT relating to the recycling property exemption from property tax and including an applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 427.1, subsection 19, unnumbered paragraph 8, Code 2003, is amended to read as follows:

For the purposes of this subsection, "pollution-control property" means personal property or improvements to real property, or any portion thereof, used primarily to control or abate pollution of any air or water of this state or used primarily to enhance the quality of any air or water of this state and "recycling property" means personal property or improvements to real property or any portion of the property, used primarily in the manufacturing process and resulting directly in the conversion of waste plastic, wastepaper products, ~~or~~ waste paperboard,

or waste wood products into new raw materials or products composed primarily of recycled material. In the event such property shall also serve other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution, to the enhancement of the quality of the air or water of this state, or for recycling shall be exempt from taxation under this subsection.

Sec. 2. IMPLEMENTATION OF ACT. Section 25B.7 does not apply to the exemption in section 1 of this Act.

Sec. 3. APPLICABILITY. This Act applies to assessment years beginning on or after January 1, 2004.

Approved May 16, 2003

CHAPTER 137

AGRICULTURAL DEVELOPMENT AUTHORITY

S.F. 393

AN ACT relating to the agricultural development authority by providing for its organization and administration.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 7E.7, subsection 2, Code 2003, is amended to read as follows:

2. The agricultural development authority as established in section 175.3 shall be considered part of the ~~department of agriculture and land stewardship. The department of agriculture and land stewardship~~ office of treasurer of state. The office may provide staff assistance and administrative support to the authority.

Sec. 2. Section 175.3, subsection 1, Code 2003, is amended to read as follows:

1. a. The agricultural development authority is established within the ~~department of agriculture and land stewardship~~ office of treasurer of state. The authority is constituted as a public instrumentality and agency of the state exercising public and essential governmental functions.

b. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming, and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment, and programs to assist farmers within the state in financing operating expenses and cash flow requirements of farming. The authority shall also develop programs to assist qualified agricultural producers within the state with financing other capital requirements or operating expenses.

c. The powers of the authority are vested in and exercised by a board of ~~eleven~~ ten members with nine members appointed by the governor subject to confirmation by the senate. The treasurer of state or the treasurer's designee ~~and the secretary of agriculture or the secretary's designee~~ are shall serve as an ex officio nonvoting ~~members~~ member. No more than five

appointed members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, the real estate sales industry, farmers, beginning farmers, average taxpayers, local government, soil and water conservation district officials, agricultural educators, and other persons specially interested in family farm development.

Sec. 3. Section 175.7, subsection 1, Code 2003, is amended to read as follows:

1. The executive director of the authority shall be appointed by a selection and tenure committee, which shall consist of the ~~secretary of agriculture and the chairperson and of the board, the vice chairperson of the board, established pursuant to section 175.3 and one member elected by the board,~~ or their designees. The executive director shall serve at the pleasure of the ~~committee board~~. The votes of three members of the committee are necessary for any substantive action taken by the committee, ~~except that two members may take a substantive action, if the secretary has a conflict of interest.~~ If a member ~~other than the secretary~~ has a conflict of interest, the board shall appoint a substitute member of the committee from the appointed members of the board for the duration of the conflict of interest. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation.

Approved May 21, 2003

CHAPTER 138

ANIMAL FEEDING OPERATIONS ANIMAL UNIT CAPACITY — TURKEYS AND CHICKENS

S.F. 396

AN ACT providing for the animal unit capacity of fowl for purposes of regulation under the animal agriculture compliance Act, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 459.102, subsection 6, paragraphs h and i, Code 2003, are amended to read as follows:

h. Turkeys <u>weighing one hundred twelve ounces</u> <u>or more</u>	0.018
i. Turkeys weighing less than one hundred twelve ounces	0.0085
i. Broiler or layer chickens <u>Chickens weighing</u> <u>forty-eight ounces or more</u>	0.010
k. <u>Chickens weighing less than forty-eight</u> <u>ounces</u>	0.0025

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 21, 2003

CHAPTER 139**INTERNAL REVENUE CODE REFERENCES AND
INCOME TAX REVISIONS — DECOUPLING OF
STATE AND FEDERAL BONUS DEPRECIATION ALLOWANCES***S.F. 442*

AN ACT updating the Iowa Code references to the Internal Revenue Code, providing for decoupling with the Internal Revenue Code for a certain bonus depreciation provision, and providing retroactive applicability dates and an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.335, subsection 4, Code 2003, is amended to read as follows:

4. For purposes of this section, “base amount”, “basic research payment”, and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state.

PARAGRAPH DIVIDED. For purposes of this section, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2002~~ 2003.

Sec. 2. Section 15A.9, subsection 8, paragraph e, Code 2003, is amended to read as follows:

e. For the purposes of this subsection, “base amount”, “basic research payment”, and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state within the zone.

PARAGRAPH DIVIDED. For purposes of this subsection, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2002~~ 2003.

Sec. 3. Section 422.3, subsection 5, Code 2003, is amended to read as follows:

5. “Internal Revenue Code” means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January ~~31, 2002~~ 1, 2003, whichever is applicable.

Sec. 4. Section 422.5, subsection 1, paragraph k, subparagraph (1), Code 2003, is amended to read as follows:

(1) Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1), (a)(2), and (a)(5), of the Internal Revenue Code, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4), (b)(1)(C)(iii), and (d), of the Internal Revenue Code, and add losses as required by section 58 of the Internal Revenue Code. To the extent that any preference or adjustment is determined by an individual’s federal adjusted gross income, the individual’s federal adjusted gross income is computed in accordance with section 422.7, subsection 39. In the case of an estate or trust, the items of tax preference, adjustments, and losses shall be apportioned between the estate or trust and the beneficiaries in accordance with rules prescribed by the director.

Sec. 5. Section 422.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 39. The additional first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code, as enacted by Pub. L. No. 107-147, section 101, does not apply in computing net income for state tax purposes. If the taxpayer has taken such deduction in computing federal adjusted gross income, the following adjustments shall be made:

- a. Add the total amount of depreciation taken on all property for which the election under section 168(k) of the Internal Revenue Code was made for the tax year.
- b. Subtract an amount equal to depreciation taken on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k).
- c. Any other adjustments to gains or losses to reflect the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

Sec. 6. Section 422.9, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. For purposes of calculating the deductions in this subsection that are authorized under the Internal Revenue Code, and to the extent that any of such deductions is determined by an individual's federal adjusted gross income, the individual's federal adjusted gross income is computed in accordance with section 422.7, subsection 39.

Sec. 7. Section 422.10, subsection 3, Code 2003, is amended to read as follows:

3. For purposes of this section, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state.

PARAGRAPH DIVIDED. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2002~~ 2003.

Sec. 8. Section 422.32, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2003, whichever is applicable.

Sec. 9. Section 422.33, subsection 5, paragraph d, Code 2003, is amended to read as follows:

d. For purposes of this subsection, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state.

PARAGRAPH DIVIDED. For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2002~~ 2003.

Sec. 10. Section 422.35, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 19. The additional first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code, as enacted by Pub. L. No. 107-147, section 101, does not apply in computing net income for state tax purposes. If the taxpayer has taken such deduction in computing taxable income, the following adjustments shall be made:

- a. Add the total amount of depreciation taken on all property for which the election under section 168(k) of the Internal Revenue Code was made for the tax year.
- b. Subtract an amount equal to depreciation taken on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k).
- c. Any other adjustments to gains or losses to reflect the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

Sec. 11. RETROACTIVE APPLICABILITY.

1. Sections 1 through 3 and sections 7 through 9 apply retroactively to January 1, 2002, for tax years beginning on or after that date.

2. Sections 4, 5, 6, and 10 apply retroactively to tax years ending on or after September 10, 2001.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 21, 2003

CHAPTER 140

WORKERS' COMPENSATION — MISCELLANEOUS CHANGES

H.F. 225

AN ACT modifying workers' compensation laws and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 85.28, Code 2003, is amended to read as follows:

85.28 BURIAL EXPENSE.

When death ensues from the injury, the employer shall pay the reasonable expenses of burial of such employee, not to exceed ~~five~~ seven thousand ~~five hundred~~ dollars, which shall be in addition to other compensation or any other benefit provided for in this chapter.

Sec. 2. Section 85.48, Code 2003, is amended to read as follows:

85.48 PARTIAL COMMUTATION.

When partial commutation is ordered, the workers' compensation commissioner shall fix the lump sum to be paid at an amount which will equal the future payments for the period commuted, capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees, ~~with provisions.~~ Provisions shall be made for the payment of weekly compensation not included in the commutation, subject to the law applicable to such unpaid weekly payments; with all remaining payments, if any, to be paid at over the same period of time as though the commutation had not been made by either eliminating weekly payments from the first or last part of the payment period or by a pro rata reduction in the weekly benefit amount over the entire payment period.

Sec. 3. Section 85.65A, subsection 5, Code 2003, is amended to read as follows:

5. This section is repealed July 1, ~~2003~~ 2008.

Sec. 4. Section 86.42, Code 2003, is amended to read as follows:

86.42 JUDGMENT BY DISTRICT COURT ON AWARD.

Any party in interest may present a ~~certified~~ file-stamped copy of an order or decision of the commissioner, from which a timely petition for judicial review has not been filed or if judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, or an order or decision of a deputy commissioner from which a timely appeal has not been taken within the agency and which has become final by the passage of time as provided by rule and section 17A.15, or an agreement for settlement approved by the commissioner, and all papers in connection therewith, to the district court where judicial review of the agency action may be commenced. The court shall render a decree or judgment and cause the clerk to notify the parties. The decree or judgment, in the absence of a petition

for judicial review or if judicial review has been commenced, in the absence of a stay of execution or enforcement of the decision or order of the workers' compensation commissioner, or in the absence of an act of any party which prevents a decision of a deputy workers' compensation commissioner from becoming final, has the same effect and in all proceedings in relation thereto is the same as though rendered in a suit duly heard and determined by the court.

Sec. 5. Section 86.43, Code 2003, is amended to read as follows:
86.43 JUDGMENT — MODIFICATION ~~OF~~.

Upon the presentation to the court of a certified file-stamped copy of a decision of the workers' compensation commissioner, ending, diminishing, or increasing the compensation under the provisions of this chapter, the court shall revoke or modify the decree or judgment to conform to such decision.

Sec. 6. EFFECTIVE DATE. The amendment to section 85.65A, subsection 5, in this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 21, 2003

CHAPTER 141

POLICY AND SERVICES FOR THE ELDERLY

H.F. 386

AN ACT relating to the department of elder affairs including provisions relating to the elder Iowans Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 231.3, subsections 1, 3, and 4, Code 2003, are amended to read as follows:

1. An adequate income ~~in retirement~~.
3. Suitable housing, ~~appropriate to the special~~ that reflects the needs of older people.
4. Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.

Sec. 2. Section 231.4, Code 2003, is amended to read as follows:
231.4 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in this chapter.
2. "Commission" means the commission of elder affairs.
3. ~~"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:~~
 - a. ~~Facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by the system by any public or private agency or organization.~~

b. ~~Develop and make the most efficient use of supportive services and nutrition services in meeting the needs of elders.~~

c. ~~Use available resources efficiently and with a minimum of duplication.~~

4. ~~3.~~ "Department" means the department of elder affairs.

5. ~~4.~~ "Director" means the director of the department of elder affairs.

6. ~~5.~~ "Elder" means an individual who is sixty years of age or older. "Elderly" means individuals sixty years of age or older.

7. ~~6.~~ "Equivalent support" means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the ~~commission department~~ as equivalent to a dollar amount.

8. ~~7.~~ "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended to and including February 1, 1986.

9. ~~"Focal point" means a facility established to encourage the maximum collocation and coordination of services for elders.~~

10. ~~"Greatest economic need" means the need resulting from an income level at or below the poverty threshold established by the bureau of the census.~~

11. ~~"Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens the elder's capacity to live independently.~~

12. ~~"Information and referral source" means a location where a department of elder affairs or any public or private agency or organization:~~

a. ~~Maintains current information with respect to the opportunities and services available to elders, and develops current lists of elders in need of services and opportunities.~~

b. ~~Employs, where feasible, a specially trained staff to assess the needs and capacities of elders, and to inform elders of the opportunities and services.~~

13. ~~"Legal assistance" means legal advice and representation by an attorney including, but not limited to, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney, and includes counseling or representation by a person who does not possess a juris doctorate, where permitted by law, of elders with economic or social needs.~~

14. ~~8.~~ "Long-term care facility" means a long-term care unit of a hospital, a licensed hospice program, a foster group home, a group living arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.

15. ~~"Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, health, social, nutritional, and educational services and the provision of facilities for recreational activities for elders.~~

16. ~~9.~~ "Resident's advocate program" means the state long-term care resident's advocate program operated by the ~~commission~~ department of elder affairs and administered by the long-term care resident's advocate.

10. ~~"Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to one function or combination of related functions.~~

~~For the purposes of this chapter, "focal point", "greatest economic need", and "greatest social need" mean as those terms are defined in the federal Act.~~

Sec. 3. Section 231.13, Code 2003, is amended to read as follows:

231.13 MEETINGS — OFFICERS.

Members of the commission shall elect from the commission's membership a chairperson, and other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least ~~six~~ four times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the commission membership. The commission shall meet at the seat of government or such other

place as the commission may designate. Members shall be paid a per diem as specified in section 7E.6 and shall receive reimbursement for actual expenses for their official duties.

Sec. 4. Section 231.14, unnumbered paragraph 1, and subsections 6, 7, 8, and 10, Code 2003, are amended to read as follows:

The commission is the policymaking body of the sole state agency responsible for administration of the ~~Older Americans federal Act of 1965, as amended.~~ The commission shall:

6. Adopt policies to assure that the department will take into account the views of ~~recipients of supportive services or nutrition services, or elders using multipurpose senior centers~~ in the development of policy.

7. Adopt a formula for the distribution of federal ~~Older Americans Act, state elderly services, and senior living program~~ funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of elders in the state, and publish the formula for review and comment.

8. Adopt policies ~~and measures~~ to assure that preference will be given to providing services to elders with the greatest economic or social needs, with particular attention to low-income minority elders, ~~and include methods of carrying out the preference in the state plan.~~

~~10. Adopt policies by which eligibility for federal, state, and local funding is established at age sixty, with preference in service delivery given to elders age seventy-five or older.~~

Sec. 5. Section 231.23, subsection 4, Code 2003, is amended to read as follows:

4. Advocate for elders by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect elders and by providing technical assistance to any agency, organization, association, or individual representing the needs of the elders.

Sec. 6. NEW SECTION. 231.23A PROGRAMS AND SERVICES.

The department of elder affairs shall provide or administer, but is not limited to providing or administering, all of the following programs and services:

1. Elderly services including but not limited to home and community-based services such as adult day services, assessment and intervention, transportation, chore services, counseling, homemaker services, material aid, personal care, reassurance, respite services, visitation, caregiver support, emergency response system services, mental health outreach, and home repair.

2. The senior internship program.

3. The retired senior volunteer program.

4. The case management program for the frail elderly.

5. Administration relating to the long-term care resident's advocate program and training for resident advocate committees.

6. Administration relating to the area agencies on aging.

7. Other programs and services authorized by law.

Sec. 7. Section 231.31, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231.31 STATE PLAN ON AGING.

The department of elder affairs shall develop, and submit to the commission of elder affairs for approval, a multiyear state plan on aging. The state plan on aging shall meet all applicable federal requirements.

Sec. 8. Section 231.32, Code 2003, is amended to read as follows:

231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.

1. The commission shall designate thirteen area agencies on aging, the same of which existed on July 1, 1985. The commission shall continue the designation until an area agency on aging's designation is removed for cause as determined by the commission or until the agency voluntarily withdraws as an area agency on aging. In that event, the commission shall then

proceed in accordance with subsections 2 and 3. Designated area agencies on aging shall comply with the requirements of the federal Act.

2. The commission shall designate an area agency to serve each planning and service area, after consideration of the views offered by the political subdivisions in the area units of general purpose local government. An area agency may be:

a. An established office of aging which is operating within a planning and service area designated by the commission.

b. Any office or agency of a unit of a ~~political subdivision~~ general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of ~~political subdivisions~~ units of general purpose local government to act on behalf of the combination for such purpose.

d. Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department of elder affairs and which can engage in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

Each area agency shall provide assurance, determined adequate by the commission, that the area agency has the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area, the commission shall give preference to an established office of aging, unless the commission finds that no such office within the planning and service area has the capacity to carry out the area plan.

3. When the commission designates a new area agency on aging the commission shall give the right of first refusal to a ~~political subdivision~~ unit of general purpose local government if:

a. Such unit can meet the requirements of subsection 1.

b. The boundaries of such a unit and the boundaries of the area are reasonably contiguous.

Sec. 9. Section 231.33, Code 2003, is amended to read as follows:

231.33 AREA AGENCIES ON AGING DUTIES.

Each area agency on aging shall:

1. Develop and administer an area plan on aging.
2. Assess the types and levels of services needed by older persons in the planning and service area, and the effectiveness of other public or private programs serving those needs.
3. Enter into subgrants or contracts to provide ~~all~~ services under the plan.
4. Provide technical assistance as needed, prepare written monitoring reports at least quarterly, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.
5. Coordinate the administration of its plan with federal programs and with other federal, state, and local resources in order to develop a comprehensive and coordinated service system.
6. Establish an advisory council.
7. Give preference in the delivery of services under the area plan to elders with the greatest economic or social need.
8. Assure that elders in the planning and service area have reasonably convenient access to information and referral services.
9. Provide adequate and effective opportunities for elders to express their views to the area agency on policy development and program implementation under the area plan.
10. Designate community focal points.
11. Contact outreach efforts, with special emphasis on the rural elderly, to identify elders with greatest economic or social needs and inform them of the availability of services under the area plan.
12. Develop and publish the methods that the agency uses to establish preferences and priorities for services.

- ~~13. Attempt to involve the area lawyers in legal assistance activities.~~
- ~~14. 13.~~ Submit all fiscal and performance reports in accordance with the policies of the commission.
- ~~15. 14.~~ Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of elders.
- ~~16. 15.~~ Conduct public hearings on the needs of elders.
- ~~17. 16.~~ Represent the interests of elders to public officials, public and private agencies, or organizations.
- ~~18. 17.~~ Coordinate activities in support of the statewide long-term care resident's advocate program.
- ~~19. 18.~~ Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for elders.
- ~~20. 19.~~ Coordinate planning with other agencies for assuring the safety of elders in a natural disaster or other safety threatening situation.
- ~~21. Submit a report to the department of elder affairs every six months, of the name of each health care facility in its area for which the resident advocate committee has failed to submit the report required by rules adopted pursuant to section 231.44.~~

Sec. 10. Section 231.41, Code 2003, is amended to read as follows:

231.41 PURPOSE.

The purpose of this subchapter is to establish the long-term care resident's advocate program operated by the Iowa commission of elder affairs in accordance with the requirements of the ~~Older Americans federal Act of 1965~~, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission of elder affairs shall adopt and enforce rules for the implementation of this subchapter.

Sec. 11. Section 231.42, unnumbered paragraph 1, and subsections 1, 3, and 5, Code 2003, are amended to read as follows:

The Iowa commission of elder affairs, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care resident's advocate within the ~~commission department~~. The long-term care resident's advocate shall:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of elderly residents in long-term care facilities, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.
3. Provide information to other agencies and to the public about the problems of elderly residents in long-term care facilities, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.
5. Carry out other activities consistent with the resident's advocate state long-term care ombudsman program provisions of the federal Act.

Sec. 12. Section 231.44, subsections 2, 3, and 4, Code 2003, are amended to read as follows:

2. The responsibilities of the resident advocate committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of elder group homes as defined in section 231B.1 and each category of licensed health care facility as defined in section 135C.1, subsection 6, and the services each facility may render. The commission shall coordinate the development of rules with the mental health and developmental disabilities commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons with mental illness, mental retardation, or a developmental disability. The commission shall coordinate the development of appropriate rules with other state agencies.

3. A health long-term care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a resident advocate committee member, unless permission for this disclosure is refused in writing by a family member.

4. ~~Neither the~~ The state, nor any resident advocate committee member is, any resident advocate coordinator, and any sponsoring area agency on aging are not liable for an action undertaken by a resident advocate committee member or a resident advocate committee coordinator in the performance of duty, if the action is undertaken and carried out reasonably and in good faith.

Sec. 13. Section 231.57, Code 2003, is amended to read as follows:
231.57 COORDINATION OF ADVOCACY.

The department shall establish a program for the coordination of information and assistance provided within the state to assist elders in obtaining and protecting their rights and benefits. ~~The insurance division of the department of commerce, office of the attorney general, the citizens' aide, and other state~~ State and local agencies providing information and assistance to elders in seeking their rights and benefits shall cooperate with the department in developing and implementing this program. ~~The program shall include review of health insurance policies marketed to elders and other health-related written material distributed to elders for marketing purposes.~~

Sec. 14. Section 231.58, subsection 4, paragraph a, Code 2003, is amended to read as follows:

a. ~~Develop, for legislative review, the mechanisms and procedures necessary to implement, utilizing current personnel,~~ a case-managed system of long-term care based on a uniform comprehensive assessment tool.

Sec. 15. Section 514D.5, subsections 3 and 4, Code 2003, are amended to read as follows:

3. The commissioner ~~after consultation with the commission of elder affairs~~ shall prescribe disclosure rules for ~~medicare~~ Medicare supplement coverage which are determined to be in the public interest and which are designed to adequately inform the prospective insured of the need for and extent of coverage offered as ~~medicare~~ Medicare supplement coverage. For ~~medicare~~ Medicare supplement coverage, the outline of coverage required by subsection 2 shall be furnished to the prospective insured with the application form.

4. The commissioner ~~after consultation with the commission of elder affairs~~ shall further prescribe by rule a standard form for and the contents of an informational brochure for persons eligible for ~~medicare~~ Medicare by reason of age, which is intended to improve the buyer's ability to select the most appropriate coverage and to improve the buyer's understanding of ~~medicare~~ Medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that this informational brochure be provided to prospective insureds eligible for ~~medicare~~ Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require by rule that this brochure must be provided to prospective insureds eligible for ~~medicare~~ Medicare by reason of age upon request, but not later than at the time of delivery of the policy or contract. ~~The commissioner shall provide the information received from insurers pursuant to subsection 3 and this subsection and information relating to section 231.59 to the director of the department of elder affairs.~~

Sec. 16. Sections 231.24, 231.54, 231.59, and 231.60, Code 2003, are repealed.

Approved May 21, 2003

CHAPTER 142**MILITARY SERVICE AND MILITARY PERSONNEL —
EDUCATION, EMPLOYMENT, BENEFITS, AND TAXATION***H.F. 674*

AN ACT relating to income tax deductions and exemptions for military service personnel and organizations, and including effective and applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12D.5, subsection 2, paragraph a, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Attendance of the designated beneficiary at the United States military academy, the United States naval academy, the United States air force academy, the United States coast guard academy, or the United States merchant marine academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education, as defined by 10 U.S.C. § 2005(e)(3), as in effect on the date of the enactment of this subparagraph, attributable to such attendance.

Sec. 2. Section 12D.9, subsection 1, paragraph f, Code 2003, is amended to read as follows:

f. Pursuant to section 12D.5, subsection 1, penalties are provided on refunds of earnings which are not used for qualified higher education expenses of the beneficiary, made on account of the death or disability of the designated beneficiary, or made due to scholarship, allowance, or payment receipt as provided in section 529(b)(3) of the Internal Revenue Code, or made in the amount of the costs for attendance at the United States military, naval, air force, coast guard, or merchant marine academy.

Sec. 3. Section 29A.28, Code 2003, is amended to read as follows:

29A.28 LEAVE OF ABSENCE OF CIVIL EMPLOYEES.

1. All officers and employees of the state, or a subdivision thereof, or a municipality other than employees employed temporarily for six months or less, who are members of the national guard, organized reserves or any component part of the military, naval, or air forces or nurse corps of this state or nation, or who are or may be otherwise inducted into the military service of this state or of the United States, shall, when ordered by proper authority to state active duty, active state service or federal service, be entitled to a leave of absence from such civil employment for the period of state active duty, active state service, or federal service, without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence. Where state active duty, active state service, or federal service is for a period less than thirty days, a leave of absence under this section shall only be required for those days that the civil employee would normally perform services for the state, subdivision of the state, or a municipality.

2. The proper appointing authority may make a temporary appointment to A state agency, subdivision of the state, or municipality may hire a temporary employee to fill any vacancy created by such leave of absence. Temporary employees hired to fill a vacancy created by a leave of absence under this section shall not count against the number of full-time equivalent positions authorized for the state agency, subdivision of the state, or municipality.

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry onto state active duty, active state service, or federal service or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, active state service, or federal service. Under this subsection, "position" includes the geographical location of the position.

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §36 herein

Sec. 4. Section 35.1, subsection 2, paragraph b, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Former members of the armed forces of the United States if any portion of their term of enlistment would have occurred within the time period specified in paragraph "a", subparagraph (9), but who instead opted to serve five years in the reserve forces of the United States, as allowed by federal law, and who were discharged under honorable conditions.

Sec. 5. Section 422.7, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 39. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for service performed on or after January 1, 2003, pursuant to military orders related to Operation Iraqi Freedom, Operation Noble Eagle, and Operation Enduring Freedom.

NEW SUBSECTION. 40. Subtract, not to exceed one thousand five hundred dollars, the overnight transportation, meals, and lodging expenses, to the extent not reimbursed, incurred by the taxpayer for travel away from home of more than one hundred miles for the performance of services by the taxpayer as a member of the national guard or armed forces military reserve.

NEW SUBSECTION. 41. Subtract, to the extent included, military student loan repayments received by the taxpayer serving on active duty in the national guard or armed forces military reserve or on active duty status in the armed forces.

Sec. 6. Section 422.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 42. Subtract, to the extent not otherwise excluded, the amount of the death gratuity payable under 10 U.S.C. §§ 1475-1491 for deaths occurring after September 10, 2001.

Sec. 7. Section 422.9, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. If the taxpayer has a deduction for miscellaneous expenses under section 67 of the Internal Revenue Code, the taxpayer shall recompute for the purposes of this subsection the amount of the deduction under section 67 by excluding from the expenses, the amount subtracted under section 422.7, subsection 40.

Sec. 8. Section 422.21, unnumbered paragraph 2, Code 2003, is amended to read as follows:

An individual in the armed forces of the United States serving in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the United States secretary of defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became such a contingency operation by the operation of law, or an individual serving in support of those forces, is allowed the same additional time period after leaving the combat zone or the qualified hazardous duty area, or ceasing to participate in such contingency operation, or after a period of continuous hospitalization, to file a state income tax return or perform other acts related to the department, as would constitute timely filing of the return or timely performance of other acts described in section 7508(a) of the Internal Revenue Code. For the purposes of this paragraph, "other acts related to the department" includes filing claims for refund for any tax administered by the department, making tax payments other than withholding payments, filing appeals on the tax matters, filing other tax returns, and performing other acts described in the department's rules. The additional time period allowed applies to the spouse of the individual described in this paragraph to the extent the spouse files jointly or separately on the combined return form with the individual or when the spouse is a party with the individual to any matter for which the additional time period is allowed.

Sec. 9. Section 422.34, subsection 2, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An organization that would have qualified as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code but for the fact that the requirement that substantially all of the members who are not past or present members of the United States armed forces is not met because such members include ancestors or lineal descendants, shall be considered for purposes of the exemption from taxation under this division as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code.

Sec. 10. STATE FUNDING. The military service tax exemptions and credits provided pursuant to the amendment to section 35.1 of this Act shall be funded pursuant to chapter 426A and section 25B.7, subsection 2.

Sec. 11. EFFECTIVE AND APPLICABILITY DATES.

1. Except as provided in subsections 2, 3, 4, 5, and 6, this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003, for tax years beginning on or after that date.

2. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003.

3. Section 4 of this Act amending section 35.1, being deemed of immediate importance, takes effect upon enactment.

4. Section 6 of this Act, amending section 422.7 to allow for the subtraction of additional death gratuity benefits, being deemed of immediate importance, takes effect upon enactment and applies retroactively to tax years ending after September 10, 2001.

5. Section 8 of this Act, amending section 422.21, being deemed of immediate importance, takes effect upon enactment and applies to any period for performing an act that has not expired before the effective date.

6. Section 9 of this Act, amending section 422.34, being deemed of immediate importance, takes effect upon enactment and applies to tax years beginning after the effective date.

Approved May 21, 2003

CHAPTER 143

WINE AND BEER MANUFACTURING, SALE, AND DISTRIBUTION

H.F. 682

AN ACT relating to wine by providing for native wine permits, providing wine gallonage tax revenue to support grape and wine development, providing for fees, and providing an effective date and retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.3, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 22A. "Native wine" means wine manufactured in this state.

Sec. 2. Section 123.3, subsection 30, Code 2003, is amended to read as follows:

30. "Retail wine permit" means a class "B" wine permit, class "B" native wine permit, or class "C" native wine permit issued under this chapter.

Sec. 3. Section 123.32, subsection 1, Code 2003, is amended to read as follows:

1. FILING OF APPLICATION. An application for a class "A", class "B", class "C", or class "E" liquor control license, for a retail beer permit as provided in sections 123.128 and 123.129, or for a class "B", class "B" native, or class "C" native retail wine permit as provided in section ~~123.176~~ 123.178, 123.178A, or 123.178B, accompanied by the necessary fee and bond, if required, shall be filed with the appropriate city council if the premises for which the license or permit is sought are located within the corporate limits of a city, or with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city. An application for a class "D" liquor control license and for a class "A" beer or class "A" wine permit, accompanied by the necessary fee and bond, if required, shall be filed with the division, which shall proceed in the same manner as in the case of an application approved by local authorities.

Sec. 4. Section 123.56, subsection 1, Code 2003, is amended to read as follows:

1. Subject to rules of the division, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. Sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer ~~which is no closer than five miles from an existing native winery~~. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit.

Sec. 5. Section 123.56, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding any other provision of this chapter, a person engaged in the business of manufacturing native wine may sell native wine at retail for consumption on the premises of the manufacturing facility by applying for a class "C" native wine permit as provided in section 123.178B. A manufacturer of native wine may be granted not more than one class "C" native wine permit.

Sec. 6. Section 123.127, subsection 1, paragraph c, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

c. That the applicant is a person of good moral character as defined by this chapter.

Sec. 7. Section 123.173, Code 2003, is amended to read as follows:

123.173 WINE PERMITS — CLASSES — AUTHORITY.

Permits exclusively for the sale or manufacture and sale of wine shall be divided into ~~two~~ four classes, and shall be known as class "A", ~~or "B"~~, "B" native, or "C" native wine permits.

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 37. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state. All class "A" premises shall be located within the state. A class "B" or class "B" native wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees for resale for consumption on the premises. ~~A class "B" wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees~~ Such wine sales shall be in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four hour period. A class "B" or class "B" native wine permittee shall not sell wine to other class

“B”, or class “B” native wine permittees. A class “C” native wine permit allows the holder to sell wine for consumption on or off the premises.

A class “A” wine permittee shall be required to deliver wine to a class “B” retail wine permittee, and a class “B” retail wine permittee shall be required to accept delivery of wine from a class “A” wine permittee, only at the licensed premises of the class “B” retail wine permittee. Except as specifically permitted by the division upon good cause shown, delivery or transfer of wine from an unlicensed premises to a licensed “B” retail wine permittee’s premises, or from one licensed “B” retail wine permittee’s premises to another licensed “B” retail wine permittee’s premises, even if there is common ownership of all of the premises by one class “B” retail permittee, is prohibited. A class “B” or class “B” native wine permittee who also holds a class “E” liquor control license shall keep and maintain records for each sale of wine to liquor control licensees showing the name of the establishment to which wine was sold, the date of sale, and the brands and number of bottles sold to the liquor control licensee.

When a class “B” or class “B” native wine permittee who also holds a class “E” liquor control license sells wine to a class “A”, class “B”, or class “C” liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class “B” or class “B” native wine permittee who also holds a class “E” liquor control license shall submit to the division, on forms supplied by the division, not later than the tenth of each month a report stating each sale of wine to class “A”, class “B”, and class “C” liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with each sale. A class “B” permittee who holds a class “E” liquor control license may sell to class “A”, class “B”, or class “C” liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class “A” wine permittee from which the wine was originally purchased by the class “B” wine permittee.

Sec. 8. Section 123.174, Code 2003, is amended to read as follows:

123.174 ISSUANCE OF WINE PERMITS.

The administrator shall issue class “A” and “B” wine permits as provided in this chapter, and may suspend or revoke a wine permit for cause as provided in this chapter.

Sec. 9. Section 123.175, Code 2003, is amended to read as follows:

123.175 CLASS “A” APPLICATION CONTENTS.

Except as otherwise provided in this chapter, a class “A” or retail wine permit shall be issued to a person who complies with all of the following:

1. Submits a written application for the permit and states on the application under oath:
 - a. The name and place of residence of the applicant and the length of time the applicant has lived at the place of residence.
 - b. That the applicant is a citizen of the state of Iowa, or if a corporation, that the applicant is authorized to do business in Iowa.
 - c. ~~The place of birth of the applicant, and if the applicant is a naturalized citizen, the time and place of naturalization, or if a corporation, the state of incorporation. That the applicant is a person of good moral character as defined by this chapter.~~
 - d. The location of the premises where the applicant intends to use the permit.
 - e. The name of the owner of the premises, and if that owner is not the applicant, that the applicant is the actual lessee of the premises.
2. Establishes all of the following:
 - a. That the applicant meets the test of good moral character as provided in section 123.3, subsection 26.
 - b. That the premises where the applicant intends to use the permit conform to all applicable laws, health regulations, and fire regulations, and constitute a safe and proper place or building.
3. Submits, ~~in the case of a class “A” wine permit,~~ a bond in the amount of five thousand dollars in the form prescribed and furnished by the division with good and sufficient sureties to be approved by the division conditioned upon compliance with this chapter.

4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 10. Section 123.177, subsection 1, Code 2003, is amended to read as follows:

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to persons holding a class "A" or "B" wine permit and to persons holding a class "A", "B", "C" or "D" retail liquor control license. However, if the person holding the class "A" permit is a manufacturer of native wine, the person may sell only native wine to a person holding a retail wine permit or a retail liquor control license. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.

Sec. 11. NEW SECTION. 123.178A AUTHORITY UNDER CLASS "B" NATIVE PERMIT.

1. A person holding a class "B" native wine permit may sell native wine only at retail for consumption off the premises. Native wine shall be sold for consumption off the premises in original containers only.

2. A class "B" native wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.

3. A person holding a class "B" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

Sec. 12. NEW SECTION. 123.178B AUTHORITY UNDER CLASS "C" NATIVE PERMIT.

1. A person holding a class "C" native wine permit may sell native wine only at retail for consumption on or off the premises.

2. A class "C" native wine permittee having more than one place of business where wine is sold and served shall obtain a separate permit for each place of business.

3. A person holding a class "C" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

Sec. 13. Section 123.179, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The annual permit fee for a class "B" native wine permit is twenty-five dollars.

NEW SUBSECTION. 4. The annual permit fee for a class "C" native wine permit is twenty-five dollars.

Sec. 14. Section 123.183, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. The revenue ~~actually~~ collected during each fiscal year from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale that is in excess of the revenue ~~estimated to be collected from such tax as last agreed to by the state revenue estimating conference~~ during the previous fiscal year as provided in section 8.22A shall be deposited in the grape and wine development fund as created in section 175A.5. However, not more than seventy-five thousand dollars from such tax shall be deposited into the grape and wine development fund during any fiscal year.

Sec. 15. Section 123.176, Code 2003, is repealed.

Sec. 16. LEGISLATION TO BE SUBMITTED. The alcoholic beverages division of the department of commerce shall submit proposed legislation during the 2004 Regular Session of the Eightieth General Assembly which shall make additional conforming changes to chapter 123, and any other impacted provisions of the Code of Iowa, to fully implement the provisions of this Act.

Sec. 17. EFFECTIVE AND APPLICABILITY DATES.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The section of this Act amending section 123.183 and relating to the deposit of revenue

collected from the wine gallonage tax in the grape and wine development fund is retroactively applicable to July 1, 2002. The revenue collected during the fiscal year beginning on July 1, 2002, and ending on June 30, 2003, from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale as provided in section 123.183 that is in excess of the revenue collected from such tax during the fiscal year beginning July 1, 2001, and ending on June 30, 2002, shall be deposited in the grape and wine development fund as created in section 175.5.¹ However, not more than seventy-five thousand dollars from such tax shall be deposited into the fund.

Approved May 21, 2003

CHAPTER 144

JURISDICTION AND FUNDING OF STREETS AND ROADS

S.F. 451

AN ACT providing for the jurisdiction and funding of roads by transferring funding for and jurisdiction of certain primary and farm-to-market roads, modifying the procedure for classification of area service “C” roads, and establishing a street construction fund distribution advisory committee, and making appropriations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 306.3, subsection 5, Code 2003, is amended to read as follows:

5. “Municipal street system” means those streets within municipalities that are not primary roads or secondary roads.

Sec. 2. Section 306.4, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. Effective July 1, 2004, jurisdiction and control over a farm-to-market extension or road transferred pursuant to section 306.8A within a city with a population of less than five hundred shall be vested in the county board of supervisors of the respective county.

b. If the population of a city drops below five hundred after July 1, 2004, as determined by the latest available federal census or special census, jurisdiction and control over a farm-to-market extension located within the city shall be vested in the county board of supervisors of the respective county effective July 1 following census certification by the secretary of state.

c. If the population of a city from which jurisdiction and control over a road has been transferred pursuant to paragraph “a” or “b” exceeds seven hundred fifty, as determined by the latest available federal census or special census, such jurisdiction and control shall be transferred back to the city effective July 1 following census certification by the secretary of state.

Sec. 3. **NEW SECTION.** 306.8A TRANSFER OF ROADS IDENTIFIED IN REPORT.

1. The department shall maintain on file the transfer of jurisdiction report compiled by the ad hoc road use tax fund committee. Such report identifies primary roads for transfer to local jurisdictions.

2. The jurisdiction and control of only those primary roads identified in the transfer of jurisdiction report that are also classified by the department as local service roads shall be transferred from the state to the appropriate county or city effective July 1, 2003. Such transfers are not subject to the terms and conditions provided in section 306.8.

¹ Section “175A.5” probably intended

Sec. 4. Section 307.22, subsection 7, Code 2003, is amended to read as follows:

7. Annually recalculate the construction and maintenance needs of roads under the jurisdiction of each county to take into account the needs of a road whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year. Prior to the fiscal year beginning July 1, 2013, the annual recalculation shall not include those roads transferred to a county pursuant to section 306.8A. The recalculation shall be reported by January 1 of the year following the transfer and shall take effect the following July 1 for the purposes of allocating moneys under sections 312.3 and 312.5.

Sec. 5. Section 309.57, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Roads may only be classified as area service "C" by ordinance or resolution ~~upon petition signed by all landowners adjoining the road.~~ The ordinance or resolution shall specify the level of maintenance effort and the persons who will have access rights to the road. The county shall only allow access to the road to the owner, lessee, or person in lawful possession of any adjoining land, or the agent or employee of the owner, lessee, or person in lawful possession, or to any peace officer, magistrate, or public employee whose duty it is to supervise the use or perform maintenance of the road. Access to the road shall be restricted by means of a gate or other barrier.

Sec. 6. Section 312.3, subsection 2, Code 2003, is amended to read as follows:

2. a. Apportion among the cities of the state, in the ratio which the population of each city, as shown by the latest available federal census, bears to the total population of all such cities in the state, the percentage of the road use tax funds which is credited to the street construction fund of the cities, and shall remit to the city clerk of each such city the amount so apportioned to such city. A city may have one special federal census taken each decade, and the population figure thus obtained shall be used in apportioning amounts under this subsection beginning the calendar year following the year in which the special census is certified by the secretary of state.

b. The apportionment of moneys from the street construction fund of the cities to a city with a farm-to-market extension under county jurisdiction pursuant to section 306.4, shall be reduced in the proportion which the share of mileage of the farm-to-market extension bears to the total mileage of streets within the city. The amount of moneys by which the apportionment to the city is reduced shall be transferred to the secondary road fund of the respective county, to be used only for the maintenance or construction of roads under the county's jurisdiction, and all interest and earnings on the moneys transferred shall remain in the secondary road fund of the county, to be used for the same purposes.

c. The apportionment of moneys from the transfer of jurisdiction fund pursuant to section 313.4, subsection 6, paragraph "b", subparagraph (1), to a city with a street under county jurisdiction pursuant to section 306.4, subsection 2A, shall be transferred to the secondary road fund of the respective county.

Sec. 7. NEW SECTION. 312.3D STREET CONSTRUCTION FUND DISTRIBUTION ADVISORY COMMITTEE.

A street construction fund distribution advisory committee is established to consider methodologies for distribution of moneys in the street construction fund of the cities. The committee shall be comprised of representatives appointed by the president of the Iowa section of the American public works association, the president of the Iowa league of cities, and the department. The committee shall recommend to the general assembly by January 1, 2004, for the general assembly's consideration and adoption, one or more alternative methodologies for distribution of moneys in the street construction fund of the cities.

Sec. 8. Section 313.4, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 6. a. A transfer of jurisdiction fund is created in the office of the treasurer of state under the control of the department. For each fiscal year in the period beginning

July 1, 2003, and ending June 30, 2013, there is transferred from the primary road fund to the transfer of jurisdiction fund one and seventy-five hundredths percent of the moneys credited to the primary road fund pursuant to section 312.2, subsection 1.

b. For each fiscal year in the period beginning July 1, 2003, and ending June 30, 2013, there is appropriated the following percentages of the moneys deposited in the transfer of jurisdiction fund for the fiscal year for the following purposes:

(1) Seventy-five percent of the moneys shall be apportioned among the counties and cities that assume jurisdiction of primary roads pursuant to section 306.8A. Such apportionment shall be made based upon the specific construction needs identified for the specific counties and cities in the transfer of jurisdiction report on file with the department pursuant to section 306.8A. All funds, including any interest or other earnings on the funds, received by a county from the transfer of jurisdiction fund shall be deposited in the secondary road fund of the county to be used only for the maintenance and construction of roads under the county's jurisdiction. All funds received by a city from the transfer of jurisdiction fund shall be used only for the maintenance and construction of roads under the city's jurisdiction.

(2) Twenty-two and one-half percent of the moneys shall be deposited in the secondary road fund.

(3) Two and one-half percent of the moneys shall be deposited in the street construction fund of the cities.

NEW SUBSECTION. 7. For the fiscal year beginning July 1, 2013, and ending June 30, 2014, and each subsequent fiscal year, there is transferred the following percentages of the moneys credited to the primary road fund pursuant to section 312.2, subsection 1, to the following funds:

a. One and five hundred seventy-five thousandths percent to the secondary road fund.

b. One hundred seventy-five thousandths of one percent to the street construction fund of the cities.

Approved May 23, 2003

CHAPTER 145

DEPARTMENT OF ADMINISTRATIVE SERVICES — ESTABLISHMENT AND AUTHORITY

H.F. 534

AN ACT providing for the reorganization of certain state departments by establishing a department of administrative services, making related changes, providing penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I DEPARTMENT OF ADMINISTRATIVE SERVICES ARTICLE 1 DEPARTMENT OF ADMINISTRATIVE SERVICES

Section 1. NEW SECTION. 8A.101 DEFINITIONS.

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

1. "Agency" or "state agency" means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent

agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5. However, "agency" or "state agency" does not mean any of the following:

- a. The office of the governor or the office of an elective constitutional or statutory officer.
 - b. The general assembly, or any office or unit under its administrative authority.
 - c. The judicial branch, as provided in section 602.1102.
 - d. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.
2. "Department" means the department of administrative services.
 3. "Director" means the director of the department of administrative services or the director's designee.
 4. "Governmental entity" means any unit of government in the executive, legislative, or judicial branch of government; an agency or political subdivision; any unit of another state government, including its political subdivisions; any unit of the United States government; or any association or other organization whose membership consists primarily of one or more of any of the foregoing.
 5. "Governmental subdivision" means a county, city, school district, or combination thereof.
 6. "Public records" means the same as defined in section 22.1.

Sec. 2. NEW SECTION. 8A.102 DEPARTMENT CREATED — DIRECTOR APPOINTED.

1. The department of administrative services is created. The director of the department shall be appointed by the governor to serve at the pleasure of the governor and is subject to confirmation by the senate. If the office becomes vacant, the vacancy shall be filled in the same manner as provided for the original appointment.

2. The person appointed as director shall be professionally qualified by education and have no less than five years' experience in the field of management, public or private sector personnel administration, including the application of merit principles in employment, financial management, and policy development and implementation. The appointment shall be made without regard for political affiliation. The director shall not be a member of any local, state, or national committee of a political party, an officer or member of a committee in any partisan political club or organization, or hold or be a candidate for a paid elective public office. The director is subject to the restrictions on political activity provided in section 8A.416. The governor shall set the salary of the director within pay grade nine.

Sec. 3. NEW SECTION. 8A.103 DEPARTMENT — PURPOSE — MISSION.

The department is created for the purpose of managing and coordinating the major resources of state government including the human, financial, physical, and information resources of state government.

The mission of the department is to implement a world-class, customer-focused organization that provides a complement of valued products and services to the internal customers of state government.

Sec. 4. NEW SECTION. 8A.104 POWERS AND DUTIES OF THE DIRECTOR.

The director shall do all of the following:

1. Coordinate the internal operations of the department and develop and implement policies and procedures designed to ensure the efficient administration of the department.
2. Appoint all personnel deemed necessary for the administration of the department's functions as provided in this chapter.
3. Prepare an annual budget for the department.
4. Develop and recommend legislative proposals deemed necessary for the continued efficiency of the department's functions, and review legislative proposals generated outside the department which are related to matters within the department's purview.
5. Adopt rules deemed necessary for the administration of this chapter in accordance with chapter 17A.

6. Develop and maintain support systems within the department to provide appropriate administrative support and sufficient data for the effective and efficient operation of state government.

7. Enter into contracts for the receipt and provision of services as deemed necessary. The director and the governor may obtain and accept grants and receipts to or for the state to be used for the administration of the department's functions as provided in this chapter.

8. Establish the internal organization of the department and allocate and reallocate duties and functions not assigned by law to an officer or any subunit of the department to promote economic and efficient administration and operation of the department.

9. Install a records system for the keeping of records which are necessary for a proper audit and effective operation of the department.

10. Determine which risk exposures shall be self-insured or assumed by the state with respect to loss and loss exposures of state government.

11. Keep in the director's office a complete record containing an itemized account of all state property, including furniture and equipment, under the director's care and control, and plans and surveys of the public grounds, buildings, and underground constructions at the seat of government and of the state laboratories facility in Ankeny.

12. Serve as the chief information officer for the state.

13. Exercise and perform such other powers and duties as may be prescribed by law.

Sec. 5. NEW SECTION. 8A.105 PROHIBITED INTERESTS — PENALTY.

The director shall not have any pecuniary interest, directly or indirectly, in any contract for supplies furnished to the state, or in any business enterprise involving any expenditure by the state. A violation of the provisions of this section shall be a serious misdemeanor, and upon conviction, the director shall be removed from office in addition to any other penalty.

Sec. 6. NEW SECTION. 8A.106 PUBLIC RECORDS.

1. The records of the department, except personal information in an employee's file if the publication of such information would serve no proper public purpose, shall be public records and shall be open to public inspection, subject to reasonable rules as to the time and manner of inspection which may be prescribed by the director. However, the department shall not be required to release financial information, business, or product plans which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by the department.

2. The state agency that is the lawful custodian of a public record shall be responsible for determining whether a record is required by federal or state statute to be confidential. The transmission of a record by a state agency by use of electronic means established, maintained, or managed by the department shall not constitute a transfer of the legal custody of the record from the individual state agency to the department or to any other person or entity.

3. The department shall not have authority to determine whether an individual state agency should automate records of which the individual state agency is the lawful custodian. However, the department may encourage state agencies to implement electronic access to public records.

4. A state agency shall not limit access to a record by requiring a citizen to receive the record electronically as the only means of providing the record. A person shall have the right to examine and copy a printed form of a public record as provided in section 22.2, unless the public record is confidential.

Sec. 7. NEW SECTION. 8A.107 OATHS AND SUBPOENAS.

The director may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this chapter. A person who fails to appear in response to a subpoena or produce books or papers pertinent to the investigation or hearing or who knowingly gives false testimony is guilty of a simple misdemeanor.

Sec. 8. NEW SECTION. 8A.108 ACCEPTANCE OF FUNDS.

The department may receive and accept donations, grants, gifts, and contributions in the form of moneys, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other person, and may use or expend such moneys, services, materials, or other contributions, or issue grants, in carrying out the operations of the department. All federal grants to and the federal receipts of the department are hereby appropriated for the purpose set forth in such federal grants or receipts.

Sec. 9. NEW SECTION. 8A.109 FEDERAL FUNDS.

1. Neither the provisions of this chapter nor rules adopted pursuant to this chapter shall apply in any situation where such provision or rule is in conflict with a governing federal regulation or where the provision or rule would jeopardize the receipt of federal funds.

2. If it is determined by the attorney general that any provision of this chapter would cause denial of funds or services from the United States government which would otherwise be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds or services.

Sec. 10. NEW SECTION. 8A.110 STATE EMPLOYEE SUGGESTION SYSTEM.

1. There is created a state employee suggestion system for the purpose of encouraging state employees to develop and submit ideas which will reduce costs and increase efficiency in state government and which will make monetary and other awards to state employees whose cost reduction ideas are adopted under the system.

2. The department shall provide necessary personnel for the efficient operation of the system. The department shall adopt rules as necessary for the administration of the system and to establish the award policy under which the system will operate. The rules shall include:

a. Eligibility standards and restrictions for both the state employee submitting the suggestion and the suggestion being submitted. The rules shall provide that suggestions relating to academic affairs, including teaching, research, and patient care programs at a university teaching hospital, are ineligible.

b. Procedures for submitting and evaluating suggestions, including the responsibilities of each person involved in the system and providing that the final decision to implement shall be made by the director of the applicable state agency.

c. The method of presentation of awards to employees.

d. The method of promoting the suggestion program in the broadest possible manner to state employees.

e. Any other policies necessary to properly administer the system.

3. a. When a suggestion is implemented and results in a direct cost reduction within state government, the suggester shall be awarded ten percent of the first year's net savings, not exceeding ten thousand dollars, and a certificate. A cash award shall not be awarded for a suggestion which saves less than one hundred dollars during the first year of implementation. The state agency head shall approve all awards and determine the amount to be awarded. Appeals of award amounts shall be submitted to the director whose decision is final.

b. Certificates shall be awarded to suggesters of implemented suggestions that result in a direct cost reduction of less than one hundred dollars. The state agency head shall make the determination as to who will receive certificates. That decision is final.

4. An award made pursuant to this section shall be paid for out of the appropriated funds of the state agency realizing the cost savings, but the payment for awards shall not violate any state or federal contract, law, or regulation, or impair any agency contractual obligation.

5. a. A state agency shall keep records of each suggestion implemented and the cost savings resulting from the suggestion for a period of one year from the date of implementation of the suggestion.

b. The director shall file a report with the governor and the general assembly for each fiscal year, relating to the administration and implementation of the suggestion system and the benefits for the state, the state departments, and state employees.

6. The ability of employees to patent ideas submitted under this section is subject to all other agency rules and Code requirements pertaining to patents.

Sec. 11. NEW SECTION. 8A.121 FINANCING DEPARTMENT SERVICES — CUSTOMER COUNCILS.

1. The department shall establish a process by which the department shall determine which services provided by the department shall be funded by an appropriation to the department and which services shall be funded by the governmental entity receiving the service.

2. a. For services which the department determines shall be funded by the governmental entity receiving the service, the department shall establish a process for determining whether the department shall be the sole provider of the service or not.

b. If the department determines that it shall be the sole provider of a service, the department shall establish, by rule, a customer council responsible for overseeing departmental operations with regard to the service provided to ensure that the department meets the needs of affected governmental entities and the citizens those entities serve. The rules adopted shall provide, at a minimum, for the method of appointment of members to the council by governmental entities required to receive the service from the department and for the powers and duties of the council as it relates to the service provided, which shall include the authority of approving, on an annual basis, business plans submitted by the department for performance of the service, the procedure for resolving complaints concerning the service provided, and the procedure for setting rates for the service. In addition, if the service to be provided may also be provided to the judicial branch and legislative branch, then the rules shall provide that the chief justice of the supreme court and the legislative council may, in their discretion, each appoint a member to the applicable customer council.

3. Departmental processes required to be established pursuant to this section shall provide, at a minimum, for input from affected governmental entities as well as for a biennial review by the appropriate customer council of the decision made by the department that the department should be the sole provider of a service.

4. The department shall annually prepare a listing separately identifying services to be provided by the department and funded by an appropriation, services to be provided by the department and funded by the governmental entity receiving the service, and services which the department is authorized to provide but which governmental entities may provide on their own or obtain from another provider of the service.

Sec. 12. NEW SECTION. 8A.122 SERVICES TO GOVERNMENTAL ENTITIES.

1. The director shall enter into agreements with state agencies, and may enter into agreements with any other governmental entity, to furnish services and facilities of the department to the applicable governmental entity. The agreement shall provide for the reimbursement to the department of the reasonable cost of the services and facilities furnished. All governmental entities of this state may enter into such agreements.

2. This chapter does not affect any city civil service programs established under chapter 400.

3. The state board of regents shall not be required to obtain any service for the state board of regents or any institution under the control of the state board of regents that is provided by the department pursuant to this chapter without the consent of the state board of regents.

Sec. 13. NEW SECTION. 8A.123 DEPARTMENT INTERNAL SERVICE FUNDS.

1. Activities of the department shall be accounted for within the general fund of the state, except that the director may establish and maintain internal service funds in accordance with generally accepted accounting principles, as defined in section 8.57, subsection 4, for activities of the department which are primarily funded from billings to governmental entities for services rendered by the department. The establishment of an internal service fund is subject to the approval of the director of the department of management and the concurrence of the auditor of state. At least ninety days prior to the establishment of an internal service fund pursuant

to this section, the director shall notify in writing the general assembly, including the legislative council, legislative fiscal committee, and the legislative fiscal bureau.

2. Internal service funds shall be administered by the department and shall consist of moneys collected by the department from billings issued in accordance with section 8A.125 and any other moneys obtained or accepted by the department, including but not limited to gifts, loans, donations, grants, and contributions, which are designated to support the activities of the individual internal service funds. The director may obtain loans from the innovation fund created in section 8.63 for deposit in an internal service fund established pursuant to this section to provide seed and investment capital to enhance the delivery of services provided by the department.

3. The proceeds of an internal service fund established pursuant to this section shall be used by the department for the operations of the department consistent with this chapter. The director may appoint the personnel necessary to ensure the efficient provision of services funded pursuant to an internal service fund established under this section. However, this usage requirement shall not limit or restrict the department from using proceeds from gifts, loans, donations, grants, and contributions in conformance with any conditions, directions, limitations, or instructions attached or related thereto.

4. Section 8.33 does not apply to any moneys in internal service funds established pursuant to this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in these funds shall be credited to these funds.

5. a. The director shall annually provide internal service fund service business plans and financial reports to the department of management and the general assembly. The business plans may include the recommendation that a portion of unexpended net income be periodically returned to the appropriate funding source.

b. The department shall submit an annual report not later than October 1 to the members of the general assembly and the legislative fiscal bureau of the activities funded by and expenditures made from an internal service fund established pursuant to this section during the preceding fiscal year.

Sec. 14. NEW SECTION. 8A.124 ADDITIONAL PERSONNEL.

The department may employ, upon the approval of the department of management, such additional personnel in excess of the number of full-time equivalent positions authorized by the general assembly if such additional personnel are reasonable and necessary to perform such duties as required to meet the needs of the department to provide services to other governmental entities and as authorized by this chapter. The director shall notify in writing the department of management, the legislative fiscal committee, and the legislative fiscal bureau of any additional personnel employed pursuant to this section.

Sec. 15. NEW SECTION. 8A.125 BILLING — CREDIT CARD PAYMENTS.

1. The director may bill a governmental entity for services rendered by the department in accordance with the duties of the department as provided in this chapter. Bills may include direct, indirect, and developmental costs which have not been funded by an appropriation to the department. The department shall periodically render a billing statement to a governmental entity outlining the cost of services provided to the governmental entity. The amount indicated on the statement shall be paid by the governmental entity and amounts received by the department shall be considered repayment receipts as defined in section 8.2, and deposited into the accounts of the department.

2. In addition to other forms of payment, a person may pay by credit card for services provided by the department, according to rules adopted by the treasurer of state. The credit card fees to be charged shall not exceed those permitted by statute. A governmental entity may adjust its payment to reflect the costs of processing as determined by the treasurer of state. The discount charged by the credit card issuer may be included in determining the fees to be paid for completing a financial transaction under this section by using a credit card. All credit card payments shall be credited to the fund used to account for the services provided.

Sec. 16. NEW SECTION. 8A.126 DEPARTMENT DEBTS AND LIABILITIES — APPROPRIATION REQUEST.

If a service provided by the department and funded from an internal service fund established under section 8A.123 ceases to be provided and insufficient funds remain in the internal service fund to pay any outstanding debts and liabilities relating to that service, the director shall notify the general assembly and request that moneys be appropriated from the general fund of the state to pay such debts and liabilities.

ARTICLE 2
INFORMATION TECHNOLOGY
GENERAL PROVISIONS

Sec. 17. NEW SECTION. 8A.201 DEFINITIONS.

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

1. "Information technology" means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices, information technology services, and value-added services.
2. "Information technology council" means the information technology council established in section 8A.204.
3. "Information technology device" means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. "Information technology device" includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.
4. "Information technology services" means services designed to do any of the following:
 - a. Provide functions, maintenance, and support of information technology devices.
 - b. Provide services including, but not limited to, any of the following:
 - (1) Computer systems application development and maintenance.
 - (2) Systems integration and interoperability.
 - (3) Operating systems maintenance and design.
 - (4) Computer systems programming.
 - (5) Computer systems software support.
 - (6) Planning and security relating to information technology devices.
 - (7) Data management consultation.
 - (8) Information technology education and consulting.
 - (9) Information technology planning and standards.
 - (10) Establishment of local area network and workstation management standards.
5. "Participating agency" means any agency other than any of the following:
 - a. The state board of regents and institutions operated under the authority of the state board of regents.
 - b. The public broadcasting division of the department of education.
 - c. The state department of transportation mobile radio network.
 - d. The department of public safety law enforcement communications systems and capitol complex security systems in use for the legislative branch.
 - e. The telecommunications and technology commission established in section 8D.3, with respect to information technology that is unique to the Iowa communications network.
 - f. The Iowa lottery.
 - g. A judicial district department of correctional services established pursuant to section 905.2.
6. "Value-added services" means services that offer or provide unique, special, or enhanced value, benefits, or features to the customer or user, including, but not limited to, services in which information technology is specially designed, modified, or adapted to meet the special or requested needs of the user or customer, services involving the delivery, provision, or transmission of information or data that require or involve additional processing, formatting,

enhancement, compilation or security, services that provide the customer or user with enhanced accessibility, security or convenience, research and development services, and services that are provided to support technological or statutory requirements imposed on participating agencies and other governmental entities, businesses, and the public.

Sec. 18. NEW SECTION. 8A.202 INFORMATION TECHNOLOGY SERVICES — MISSION — POWERS AND DUTIES — RESPONSIBILITIES.

1. MISSION. The mission of the department as it relates to information technology services is to provide high-quality, customer-focused information technology services and business solutions to government and to citizens.

2. POWERS AND DUTIES OF DEPARTMENT. The powers and duties of the department as it relates to information technology services shall include, but are not limited to, all of the following:

- a. Providing information technology to agencies and other governmental entities.
- b. Implementing the strategic information technology plan.
- c. Developing and implementing a business continuity plan, as the director determines is appropriate, to be used if a disruption occurs in the provision of information technology to participating agencies and other governmental entities.
- d. Prescribing standards and adopting rules relating to information technology and procurement, including but not limited to system design and systems integration and interoperability, which shall apply to all participating agencies except as otherwise provided in this chapter. The department shall implement information technology standards as established pursuant to this chapter which are applicable to information technology procurements for participating agencies.
- e. Prescribing standards and adopting rules relating to standards for an electronic repository for maintaining mandated agency reports as provided in section 304.13A. Such repository shall be developed and maintained for the purpose of providing public access to such mandated reports. The department shall prescribe such standards and adopt rules relating to such standards in consultation with the state librarian.¹
- f. Developing and maintaining security policies and systems to ensure the integrity of the state's information resources and to prevent the disclosure of confidential records.
- g. Developing and implementing effective and efficient strategies for the use and provision of information technology for participating agencies and other governmental entities.
- h. Coordinating the acquisition of information technology by participating agencies in furtherance of the purposes of this chapter. The department shall institute procedures to ensure effective and efficient compliance with the applicable standards established pursuant to this article. This article shall not be construed to prohibit or limit a participating agency from entering into an agreement or contract for information technology with a qualified private entity.
- i. Entering into contracts, leases, licensing agreements, royalty agreements, marketing agreements, memorandums of understanding, or other agreements as necessary and appropriate to administer this article.
- j. Requesting that a participating agency provide such information as is necessary to establish and maintain an inventory of information technology used by participating agencies, and such participating agency shall provide such information to the department in a timely manner. The form and content of the information to be provided shall be determined by the department.
- k. Charging reasonable fees, costs, expenses, charges, or other amounts to an agency, governmental entity, public official, or person or entity related to the provision, sale, use, or utilization of, or cost sharing with respect to, information technology and any intellectual property interests related thereto, research and development, proprietary hardware, software, and applications, and information technology architecture and design. The department may enter into nondisclosure agreements and take any other legal action reasonably necessary to secure a right to an interest in information technology development by or on behalf of the state of Iowa and to protect the state of Iowa's proprietary information technology and intellectual property interests. The provisions of chapter 23A relating to noncompetition by state agencies and

¹ See chapter 179, §57, 84 herein

political subdivisions with private enterprise shall not apply to department activities authorized under this paragraph.

1. Charging reasonable fees, costs, expenses, charges, or other amounts to an agency, governmental entity, public official, or other person or entity to or for whom information technology or other services have been provided by or on behalf of, or otherwise made available through, the department.

m. Providing, selling, leasing, licensing, transferring, or otherwise conveying or disposing of information technology, or any intellectual property or other rights with respect thereto, to agencies, governmental entities, public officials, or other persons or entities.

n. Entering into partnerships, contracts, leases, or other agreements with public and private entities for the evaluation and development of information technology pilot projects.

o. Initiating and supporting the development of electronic commerce, electronic government, and internet applications across participating agencies and in cooperation with other governmental entities. The department shall foster joint development of electronic commerce and electronic government involving the public and private sectors, develop customer surveys and citizen outreach and education programs and material, and provide for citizen input regarding the state's electronic commerce and electronic government applications.

3. RESPONSIBILITIES. The responsibilities of the department as it relates to information technology services include the following:

a. Coordinate the activities of the department in promoting, integrating, and supporting information technology in all business aspects of state government.

b. Provide for server systems, including mainframe and other server operations, desktop support, and applications integration.

c. Provide applications development, support, and training, and advice and assistance in developing and supporting business applications throughout state government.

4. INFORMATION TECHNOLOGY CHARGES. The department shall render a statement to an agency, governmental entity, public official, or other person or entity to or for whom information technology, value-added services, or other items or services have been provided by or on behalf of, or otherwise made available through, the department. Such an agency, governmental entity, public official, or other person or entity shall pay an amount indicated on such statement in a manner determined by the department.

5. DISPUTE RESOLUTION. If a dispute arises between the department and an agency for which the department provides or refuses to provide information technology, the dispute shall be resolved as provided in section 679A.19.

Sec. 19. NEW SECTION. 8A.203 DIRECTOR — INFORMATION TECHNOLOGY SERVICES POWERS AND DUTIES.

The director shall do all of the following as it relates to information technology services:

1. Prescribe and adopt information technology standards and rules.

2. Develop and recommend legislative proposals deemed necessary for the continued efficiency of the department in performing information technology functions, and review legislative proposals generated outside of the department which are related to matters within the department's purview.

3. Provide advice to the governor on issues related to information technology.

4. Consult with agencies and other governmental entities on issues relating to information technology.

5. Work with all governmental entities in an effort to achieve the information technology goals established by the department.

Sec. 20. NEW SECTION. 8A.204 INFORMATION TECHNOLOGY COUNCIL — MEMBERS — POWERS AND DUTIES.

1. MEMBERSHIP.

a. The information technology council is composed of fourteen members including the following:

(1) The chairperson of the IowAccess advisory council established in section 8A.221, or the chairperson's designee.

(2) Two executive branch department heads appointed by the governor.

(3) Six persons appointed by the governor who are knowledgeable in information technology matters.

(4) One person representing the judicial branch appointed by the chief justice of the supreme court who shall serve in an ex officio, nonvoting capacity.

(5) Four members of the general assembly with not more than one member from each house being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

b. The members appointed pursuant to paragraph "a" shall serve four-year staggered terms and such appointments to the information technology council are subject to the requirements of sections 69.16, 69.16A, and 69.19. The four-year terms of members appointed by the governor shall be staggered as designated by the governor. Members appointed by the governor are subject to senate confirmation and may also be eligible to receive compensation as provided in section 7E.6. Members shall be reimbursed for actual and necessary expenses incurred in performance of the members' duties.

c. The information technology council shall annually elect its own chairperson from among the voting members of the council. A majority of the voting members of the council constitutes a quorum.

2. DUTIES. The information technology council shall do all of the following:

a. Advise the department in the development of recommended standards for consideration with respect to the procurement of information technology by all participating agencies.

b. Appoint advisory committees as appropriate to assist the department in developing strategies for the use and provision of information technology and establishing other advisory committees as necessary to assist the information technology council in carrying out its duties under this article. The number of advisory committees and their membership shall be determined by the information technology council to assure that the public and agencies and other governmental entities have an opportunity to comment on the services provided and the service goals and objectives of the department.

c. Advise the department in the preparation and annual update of the strategic information technology plan for the use of information technology throughout state government. The plan shall promote participation in cooperative projects with other governmental entities. The plan shall establish a mission, goals, and objectives for the use of information technology, including goals for electronic access to public records, information, and services. The plan shall be submitted annually to the governor and the general assembly.

d. Review, as deemed appropriate by the information technology council, legislative proposals recommended by the director, or other legislative proposals as developed and deemed necessary by the information technology council.

e. Review the recommendations of the IowAccess advisory council regarding rates to be charged for access to and for value-added services performed through IowAccess. The information technology council shall report the establishment of a new rate or change in the level of an existing rate to the department who will then notify the department of management, and the department of management shall notify the legislative fiscal bureau regarding the rate establishment or change.

Sec. 21. NEW SECTION. 8A.205 DIGITAL GOVERNMENT.

1. The department is responsible for initiating and supporting the development of electronic commerce, electronic government, and internet applications across participating agencies and in cooperation with other governmental entities.

2. In developing the concept of digital government, the department shall do all of the following:
 - a. Establish standards, consistent with other state law, for the implementation of electronic commerce, including standards for digital signatures, electronic currency, and other items associated with electronic commerce.
 - b. Establish guidelines for the appearance and functioning of applications.
 - c. Establish standards for the integration of electronic data across state agencies.
 - d. Foster joint development of electronic commerce and electronic government involving the public and private sectors.
 - e. Develop customer surveys and citizen outreach and education programs and material, and provide for citizen input regarding the state's electronic commerce and electronic government applications.
 - f. Provide staff support for the IowaAccess advisory council.

Sec. 22. NEW SECTION. 8A.206 INFORMATION TECHNOLOGY STANDARDS.

1. The department shall develop, in consultation with the information technology council, recommended standards for consideration with respect to the procurement of information technology by all participating agencies. It is the intent of the general assembly that information technology standards be established for the purpose of guiding such procurements. Such standards, unless waived by the department, shall apply to all information technology procurements for participating agencies.
2. The office of the governor or the office of an elective constitutional or statutory officer shall consult with the department prior to procuring information technology and consider the standards recommended by the department, and provide a written report to the department relating to the office's decision regarding such acquisitions.

Sec. 23. NEW SECTION. 8A.207 PROCUREMENT OF INFORMATION TECHNOLOGY.

1. Standards established by the department, unless waived by the department, shall apply to all information technology procurements for participating agencies.
2. The department shall institute procedures to ensure effective and efficient compliance with standards established by the department.
3. The department, by rule, may implement a prequalification procedure for contractors with which the department has entered or intends to enter into agreements regarding the procurement of information technology.
4. Notwithstanding the provisions governing purchasing as provided in article 3, the department may procure information technology as provided in this section. The department may cooperate with other governmental entities in the procurement of information technology in an effort to make such procurements in a cost-effective, efficient manner as provided in this section. The department, as deemed appropriate and cost-effective, may procure information technology using any of the following methods:
 - a. Cooperative procurement agreement. The department may enter into a cooperative procurement agreement with another governmental entity relating to the procurement of information technology, whether such information technology is for the use of the department or other governmental entities. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which such purpose will be accomplished. Any power exercised under such agreement shall not exceed the power granted to any party to the agreement.
 - b. Negotiated contract. The department may enter into an agreement for the purchase of information technology if any of the following applies:
 - (1) The contract price, terms, and conditions are pursuant to the current federal supply contract, and the purchase order adequately identifies the federal supply contract under which the procurement is to be made.
 - (2) The contract price, terms, and conditions are no less favorable than the contractor's current federal supply contract price, terms, and conditions; the contractor has indicated in

writing a willingness to extend such price, terms, and conditions to the department; and the purchase order adequately identifies the contract relied upon.

(3) The contract is with a vendor which has a current exclusive or nonexclusive price agreement with the state for the information technology to be procured, and such information technology meets the same standards and specifications as the items to be procured and both of the following apply:

(a) The quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement.

(b) The purchase order adequately identifies the price agreement relied upon.

c. Contracts let by another governmental entity. The department, on its own behalf or on the behalf of another participating agency or governmental entity, may procure information technology under a contract let by another agency or other governmental entity, or approve such procurement in the same manner by a participating agency or governmental entity.

d. Reverse auction.

(1) The department may enter into an agreement for the purchase of information technology utilizing a reverse auction process. Such process shall result in the purchase of information technology from the vendor submitting the lowest responsible bid amount for the information technology to be acquired. The department, in establishing a reverse auction process, shall do all of the following:

(a) Determine the specifications and requirements of the information technology to be acquired.

(b) Identify and provide notice to potential vendors concerning the proposed acquisition.

(c) Establish prequalification requirements to be met by a vendor to be eligible to participate in the reverse auction.

(d) Conduct the reverse auction in a manner as deemed appropriate by the department, and consistent with rules adopted by the department.

(2) Prior to conducting a reverse auction, the department shall establish a threshold amount which shall be the maximum amount which the department is willing to pay for the information technology to be acquired.

(3) The department shall enter into an agreement with a vendor who is the lowest responsible bidder which meets the specifications or description of the information technology to be procured, or the department may reject all bids and begin the process again. In determining the lowest responsible bidder, the department may consider various factors, including, but not limited to, the past performance of the vendor relative to quality of product or service, the past experience of the department in relation to the product or service, the relative quality of products or services, the proposed terms of delivery, and the best interest of the state.

e. Competitive bidding. The department may enter into an agreement for the procurement or acquisition of information technology in the same manner as provided under article III for the purchasing of service.

f. Other agreements. In addition to the competitive bidding procedure provided for under paragraph "e", the department may enter into an agreement for the purchase, disposal, or other disposition of information technology in the same manner and subject to the same limitations as otherwise provided in this chapter. The department, by rule, shall provide for such procedures.

5. The department shall adopt rules pursuant to chapter 17A to implement the procurement methods and procedures provided for in subsections 2 through 4.

IOWACCESS

Sec. 24. NEW SECTION. 8A.221 IOWACCESS ADVISORY COUNCIL ESTABLISHED — DUTIES — MEMBERSHIP.

1. ADVISORY COUNCIL ESTABLISHED. An IowAccess advisory council is established within the department for the purpose of creating and providing a service to the citizens of this state that is the gateway for one-stop electronic access to government information and trans-

actions, whether federal, state, or local. Except as provided in this section, IowAccess shall be a state-funded service providing access to government information and transactions. The department, in establishing the fees for value-added services, shall consider the reasonable cost of creating and organizing such government information through IowAccess.

2. DUTIES.

a. The advisory council shall do all of the following:

(1) Recommend to the information technology council rates to be charged for access to and for value-added services performed through IowAccess.

(2) Recommend to the director the priority of projects associated with IowAccess.

(3) Recommend to the director expected outcomes and effects of the use of IowAccess and determine the manner in which such outcomes are to be measured and evaluated.

(4) Review and recommend to the director the IowAccess total budget request and ensure that such request reflects the priorities and goals of IowAccess as established by the advisory council.

(5) Review and recommend to the director all rules to be adopted by the department that are related to IowAccess.

(6) Advocate for access to government information and services through IowAccess and for data privacy protection, information ethics, accuracy, and security in IowAccess programs and services.

(7) Receive status and operations reports associated with IowAccess.

(8) Other duties as assigned by the director.

b. The advisory council shall also advise the director with respect to the operation of IowAccess and encourage and implement access to government and its public records by the citizens of this state.

c. The advisory council shall serve as a link between the users of public records, the lawful custodians of such public records, and the citizens of this state who are the owners of such public records.

d. The advisory council shall ensure that IowAccess gives priority to serving the needs of the citizens of this state.

3. MEMBERSHIP.

a. The advisory council shall be composed of nineteen members including the following:

(1) Five persons appointed by the governor representing the primary customers of IowAccess.

(2) Six persons representing lawful custodians as follows:

(a) One person representing the legislative branch, who shall not be a member of the general assembly, to be appointed jointly by the president of the senate, after consultation with the majority and minority leaders of the senate, and by the speaker of the house of representatives, after consultation with the majority and minority leaders of the house of representatives.

(b) One person representing the judicial branch as designated by the chief justice of the supreme court.

(c) One person representing the executive branch as designated by the governor.

(d) One person to be appointed by the governor representing cities who shall be actively engaged in the administration of a city.

(e) One person to be appointed by the governor representing counties who shall be actively engaged in the administration of a county.

(f) One person to be appointed by the governor representing the federal government.

(3) Four members to be appointed by the governor representing a cross section of the citizens of the state.

(4) Four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in

an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

b. Members appointed by the governor are subject to confirmation by the senate and shall serve four-year staggered terms as designated by the governor. The advisory council shall annually elect its own chairperson from among the voting members of the board. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members appointed by the governor shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Such members may also be eligible to receive compensation as provided in section 7E.6.

4. This section shall not be construed to impair the right of a person to contract to purchase information or data from the Iowa court information system or any other governmental entity. This section shall not be construed to affect a data purchase agreement or contract in existence on April 25, 2000.

Sec. 25. NEW SECTION. 8A.222 FINANCIAL TRANSACTIONS.

1. Moneys paid to a participating agency from persons who complete an electronic financial transaction with the agency by accessing IowAccess shall be transferred to the treasurer of state for deposit in the general fund of the state, unless the disposition of the moneys is specifically provided for under other law. The moneys may include all of the following:

- a. Fees required to obtain an electronic public record as provided in section 22.3A.
- b. Fees required to process an application or file a document, including but not limited to fees required to obtain a license issued by a licensing authority.
- c. Moneys owed to a governmental entity by a person accessing IowAccess in order to satisfy a liability arising from the operation of law, including the payment of assessments, taxes, fines, and civil penalties.

2. Moneys transferred using IowAccess may include amounts owed by a governmental entity to a person accessing IowAccess in order to satisfy a liability of the governmental entity. The moneys may include the payment of tax refunds, and the disbursement of support payments as defined in section 252D.16 or 598.1 as required for orders issued pursuant to section 252B.14.

3. In addition to other forms of payment, credit cards shall be accepted in payment for moneys owed to or fees imposed by a governmental entity in the same manner as provided in section 8A.125.

4. Notwithstanding any other provision of this section, the department may establish for the fiscal years beginning July 1, 2003, and ending June 30, 2005, a pilot project for fee collection. Fees shall be collected based on the ability to access court information from remote locations.

Sec. 26. NEW SECTION. 8A.223 AUDITS REQUIRED.

A technology audit of the electronic transmission system by which government records are transmitted electronically to the public shall be conducted not less than once annually for the purpose of determining that government records and other electronic data are not misappropriated or misused by the department or a contractor of the department.

Sec. 27. NEW SECTION. 8A.224 IOWACCESS REVOLVING FUND.

An IowAccess revolving fund is created in the state treasury. The revolving fund shall be administered by the department and shall consist of moneys collected by the department as fees, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department to maintain, develop, operate, and expand IowAccess consistent with this article. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative fiscal bureau, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

ARTICLE 3
PHYSICAL RESOURCES
GENERAL PROVISIONS

Sec. 28. NEW SECTION. 8A.301 DEFINITIONS.

When used in this article, unless the context otherwise requires:

1. "Bid specification" means the standards or qualities which must be met before a contract to purchase will be awarded and any terms which the director has set as a condition precedent to the awarding of a contract.
2. "Competitive bidding procedure" means the advertisement for, solicitation of, or the procurement of bids; the manner and condition in which bids are received; and the procedure by which bids are opened, accessed, accepted, rejected, or awarded. A "competitive bidding procedure" may include a transaction accomplished in an electronic format.
3. "Life cycle cost" means the expected total cost of ownership during the life of a product.
4. "Printing" means, as used in chapter 7A and this article, the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by any library of the state or any of its offices, departments, boards, and commissions held as a part of their library collection.
5. "State buildings and grounds" excludes any building under the custody and control of the Iowa public employees' retirement system.

Sec. 29. NEW SECTION. 8A.302 DEPARTMENTAL DUTIES — PHYSICAL RESOURCES.

The duties of the department as it relates to the physical resources of state government shall include but not necessarily be limited to the following:

1. Providing a system of uniform standards and specifications for purchasing. When the system is developed, all items of general use shall be purchased by state agencies through the department, except items used by the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other agencies exempted by law. However, items of general use may be purchased through the department by any governmental entity.
2. Providing for the proper maintenance of the state capitol, grounds, and equipment, and all other state buildings and grounds, and equipment at the seat of government, and of the state laboratories facility in Ankeny, except those referred to in section 216B.3, subsection 6.
3. Providing for mail services for all state officials, agencies, and departments located at the seat of government. However, postage shall not be furnished to the general assembly, its members, officers, employees, or committees.
4. Providing architectural services, contracting for construction and construction oversight for state agencies except for the state board of regents, department of transportation, national guard, natural resource commission, and the Iowa public employees' retirement system. Capital funding appropriated to state agencies, except to the state board of regents, department of transportation, national guard, natural resource commission, and the Iowa public employees' retirement system, for property management shall be transferred for administration to the director of the department of administrative services.
5. Developing and implementing procedures to conduct transactions, including purchasing, authorized by this article in an electronic format to the extent determined appropriate by the department. The director shall adopt rules establishing criteria for competitive bidding procedures involving transactions in an electronic format, including criteria for accepting or rejecting bids which are electronically transmitted to the department, and for establishing with reasonable assurance the authenticity of the bid and the bidder's identity.
6. Providing insurance for motor vehicles owned by the state.

PURCHASING

Sec. 30. NEW SECTION. 8A.311 COMPETITIVE BIDDING — PREFERENCES — RECIPROCAL APPLICATION — DIRECT PURCHASING.

The director shall adopt rules establishing competitive bidding procedures.

1. All equipment, supplies, or services procured by the department shall be purchased by a competitive bidding procedure. However, the director may exempt by rule purchases of non-competitive items and purchases in lots or quantities too small to be effectively purchased by competitive bidding. Preference shall be given to purchasing Iowa products and purchases from Iowa-based businesses if the Iowa-based business bids submitted are comparable in price to bids submitted by out-of-state businesses and otherwise meet the required specifications. If the laws of another state mandate a percentage preference for businesses or products from that state and the effect of the preference is that bids of Iowa businesses or products that are otherwise low and responsive are not selected in the other state, the same percentage preference shall be applied to Iowa businesses and products when businesses or products from that other state are bid to supply Iowa requirements.

2. The director may also exempt the purchase of an item or service from a competitive bidding procedure when the director determines that the best interests of the state will be served by the exemption which shall be based on one of the following:

a. An immediate or emergency need existing for the item or service.

b. A need to protect the health, safety, or welfare of persons occupying or visiting a public improvement or property located adjacent to the public improvement.

3. a. The director may contract for the purchase of items or services by the department. Contracts for the purchase of items or services shall be awarded on the basis of the lowest competent bid. Contracts not based on competitive bidding shall be awarded on the basis of bidder competence and reasonable price.

b. Architectural and engineering services shall be procured in a reasonable manner, as the director by rule may determine, on the basis of competence and qualification for the type of services required and for a fair and reasonable price.

4. The director may refuse all bids on any item or service and request new bids.

5. The director shall establish by rule the amount of security, if any, to accompany a bid or as a condition precedent to the awarding of any contract and the circumstances under which a security will be returned to the bidder or forfeited to the state.

6. The director shall adopt rules providing a method for the various state agencies to file with the department a list of those supplies, equipment, machines, and all items needed to properly perform their governmental duties and functions.

7. The director shall furnish a list of specifications, prices, and discounts of contract items to any governmental subdivision which shall be responsible for payment to the vendor under the terms and conditions outlined in the state contract.

8. The director shall adopt rules providing that any state agency may, upon request, purchase directly from a vendor if the direct purchasing is as economical or more economical than purchasing through the department, or upon a showing that direct purchasing by the state agency would be in the best interests of the state due to an immediate or emergency need. The rules shall include a provision permitting a state agency to purchase directly from a vendor, on the agency's own authority, if the purchase will not exceed five thousand dollars and the purchase will contribute to the agency complying with or exceeding the targeted small business procurement goals under sections 73.15 through 73.21.

Any member of the executive council may bring before the executive council for review a decision of the director granting a state agency request for direct purchasing. The executive council shall hear and review the director's decision in the same manner as an appeal filed by an aggrieved bidder, except that the three-day period for filing for review shall not apply.

9. a. When the estimated total cost of construction, erection, demolition, alteration, or repair of a public improvement exceeds twenty-five thousand dollars, the department shall solicit bids on the proposed improvement by publishing an advertisement in a print format. The advertisement shall appear in two publications in a newspaper published in the county in

which the work is to be done. The first advertisement for bids appearing in a newspaper shall be not less than fifteen days prior to the date set for receiving bids. The department may publish an advertisement in an electronic format as an additional method of soliciting bids under this paragraph.

b. In awarding a contract under this subsection, the department shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if the department considers the bids received not to be acceptable, all bids may be rejected and new bids requested. A bid shall be accompanied by a certified or cashier's check or bid bond in an amount designated in the advertisement for bids as security that the bidder will enter into a contract for the work requested. The department shall establish the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The certified or cashier's checks or bid bonds of unsuccessful bidders shall be returned as soon as the successful bidder is determined. The certified or cashier's check or bid bond of the successful bidder shall be returned upon execution of the contract. This subsection does not apply to the construction, erection, demolition, alteration, or repair of a public improvement when the contracting procedure for the work requested is otherwise provided for in law.

10. The state and its political subdivisions shall give preference to purchasing Iowa products and purchasing from Iowa-based businesses if the bids submitted are comparable in price to those submitted by other bidders and meet the required specifications.

11. The director shall adopt rules which require that each bid received for the purchase of items purchased by the department includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

12. The director shall review and, where necessary, revise specifications used by state agencies to procure products in order to ensure all of the following:

a. The procurement of products containing recovered materials, including but not limited to lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires. The specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude products containing recovered materials unless the agency seeking the product can document that the use of recovered materials will hamper the intended use of the product.

b. The procurement by state agencies of bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans in accordance with the requirements of section 8A.316.

13. A bidder awarded a state construction contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract.

If a subcontractor named by a bidder awarded a state construction contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

14. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with mental retardation or other developmental disabilities or mental illness if the products meet the required specifications.

15. A state agency shall make every effort to purchase products produced for sale by employers of persons in supported employment.

16. The department shall not award a contract to a bidder for a construction, reconstruction, demolition, or repair project or improvement with an estimated cost that exceeds twenty-five thousand dollars in which the bid requires the use of inmate labor supplied by the department of corrections, but not employed by private industry pursuant to section 904.809, to perform the project or improvement.

17. This section does not apply to Iowa technology center contracts in support of activities performed for another governmental entity, either state or federal. The Iowa technology center is an entity created by a chapter 28E agreement entered into by the department of public defense.

18. Life cycle cost and energy efficiency shall be included in the criteria used by the department, institutions under the control of the state board of regents, the department of transportation, the department for the blind, and other state agencies in developing standards and specifications for purchasing energy-consuming products. For purposes of this subsection, the life cycle costs of American motor vehicles shall be reduced by five percent in order to determine if the motor vehicle is comparable to foreign-made motor vehicles. "American motor vehicles" includes those vehicles manufactured in this state and those vehicles in which at least seventy percent of the value of the motor vehicle was manufactured in the United States or Canada and at least fifty percent of the motor vehicle sales of the manufacturer are in the United States or Canada. In determining the life cycle costs of a motor vehicle, the costs shall be determined on the basis of the bid price, the resale value, and the operating costs based upon a useable life of five years or seventy-five thousand miles, whichever occurs first.

19. Preference shall be given to purchasing American-made products and purchases from American-based businesses if the life cycle costs are comparable to those products of foreign businesses and which most adequately fulfill the department's need.

Sec. 31. NEW SECTION. 8A.312 COOPERATIVE PURCHASING.

The director may purchase items through the department of transportation, institutions under the control of the state board of regents, and any other agency exempted by law from centralized purchasing. These state agencies shall upon request furnish the director with a list of and specifications for all items of office equipment, furniture, fixtures, motor vehicles, heavy equipment, and other related items to be purchased during the next quarter and the date by which the director must file with the agency the quantity of items to be purchased by the state agency for the department. The department shall be liable to the state agency for the proportionate costs the items purchased for the department bear to the total purchase price. When items purchased have been delivered, the state agency shall notify the director and after receipt of the purchase price shall release the items to the director or upon the director's order.

Sec. 32. NEW SECTION. 8A.313 DISPUTES INVOLVING PURCHASING FROM IOWA STATE INDUSTRIES.

Disputes arising between the department of corrections and a purchasing department or agency over the procurement of products from Iowa state industries as described in section 904.808 shall be referred to the director. The decision of the director is final unless a written appeal is filed with the executive council within five days of receipt of the decision of the director, excluding Saturdays, Sundays, and legal holidays. If an appeal is filed, the executive council shall hear and determine the appeal within thirty days. The decision of the executive council is final.

Sec. 33. NEW SECTION. 8A.314 PURCHASING REVOLVING FUND.

1. A purchasing revolving fund is established within the department. The director shall keep an accurate itemized account for each state agency purchasing through the department, using services provided for by the department, and using postage supplied by the department.

2. At the end of each month the director shall render a statement to each state agency for the actual cost of items purchased through the department, and the actual cost of services and postage used by the agency. The monthly statement shall also include a fair proportion of the administrative costs of the department during the month. The portion of administrative costs shall be determined by the director subject to review by the executive council upon complaint from any state agency adversely affected.

3. Statements rendered to the various state agencies shall be paid by the state agencies in the manner determined by the department. When the statements are paid the sums shall be credited to the purchasing revolving fund. If any funds accrue to the revolving fund in excess of two hundred twenty-five thousand dollars and there is no anticipated need or use for such funds, the governor shall order the excess funds credited to the general fund of the state.

Sec. 34. NEW SECTION. 8A.315 STATE PURCHASES — RECYCLED PRODUCTS — SOYBEAN-BASED INKS.

1. When purchasing paper products other than printing and writing paper, the department shall, when the price is reasonably competitive and the quality as intended, purchase the recycled product. The department shall also purchase, when the price is reasonably competitive and the quality as intended, and in keeping with the schedule established in this subsection, soybean-based inks and plastic products with recycled content including but not limited to plastic garbage can liners.

a. One hundred percent of the purchases of inks which are used for newsprint printing services performed internally or contracted for by the department shall be soybean-based.

b. One hundred percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the department, shall be soybean-based to the extent formulations for such inks are available.

c. A minimum of ten percent of the purchases of garbage can liners made by the department shall be plastic garbage can liners with recycled content. The percentage shall increase by ten percent annually until fifty percent of the purchases of garbage can liners are plastic garbage can liners with recycled content.

d. The department shall report to the general assembly on February 1 of each year the following:

(1) A listing of plastic products which are regularly purchased by the department and other state agencies for which recycled content product alternatives are available, including the cost of the plastic products purchased and the cost of the recycled content product alternatives.

(2) Information relating to soybean-based inks and plastic garbage can liners with recycled content regularly purchased by the department and other state agencies, including the cost of purchasing soybean-based inks and plastic garbage can liners with recycled content and the percentages of soybean-based inks and plastic garbage can liners with recycled content that have been purchased.

e. For purposes of this subsection, “recycled content” means that the content of the product contains a minimum of thirty percent postconsumer material.

2. a. Except as otherwise provided in this section, the department shall purchase and use recycled printing and writing paper so that ninety percent of the volume of printing and writing paper purchased is recycled paper. The recycled printing and writing paper shall meet the requirements for procuring recycled printing and writing paper set forth in 40 C.F.R. pt. 247, and in related recovered materials advisory notices issued by the United States environmental protection agency.

b. The department shall establish a prioritization procedure for the purchase of recycled paper which provides for a five percent differential in the cost of the purchase of paper which has been recycled through the use of a nonchlorinated process.

c. If a provision under this subsection results in the limitation of sources for the purchase of printing and writing paper to three or fewer sources, the department may waive the requirement in order to purchase necessary amounts of printing and writing paper.

d. Notwithstanding the requirements of this subsection regarding the purchase of recycled printing and writing paper, the department shall purchase acid-free permanent paper in the amount necessary for the production or reproduction of documents, papers, or similar materials produced or reproduced for permanent preservation pursuant to law.

3. The department, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials and soybean-based inks.

4. The department of natural resources shall assist the department in locating suppliers of recycled products and soybean-based inks and collecting data on recycled content and soybean-based ink purchases.

5. Information on recycled content shall be requested on all bids for paper products other

than printing and writing paper issued by the state and on other bids for products which could have recycled content such as oil, plastic products, including but not limited to compost materials, aggregate, solvents, soybean-based inks, and rubber products. Except for purchases of printing and writing paper made pursuant to subsection 2, paragraphs "c" and "d", the department shall require persons submitting bids for printing and writing paper to certify that the printing and writing paper proposed complies with the requirements referred to in subsection 2, paragraph "a".

6. The department, in conjunction with the department of natural resources, shall adopt rules to administer this section.

7. All state agencies shall fully cooperate with the department and with the department of natural resources in all phases of implementing this section.

8. The department, whenever technically feasible, shall purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 35. NEW SECTION. 8A.316 LUBRICANTS AND OILS — PREFERENCES.

The department shall do all of the following:

1. Revise its procedures and specifications for the purchase of lubricating oil and industrial oil to eliminate exclusion of recycled oils and any requirement that oils be manufactured from virgin materials.

2. Require that purchases of lubricating oil and industrial oil be made from the seller whose oil product contains the greatest percentage of recycled oil, unless one of the following circumstances regarding a specific oil product containing recycled oil exists:

a. The product is not available within a reasonable period of time or in quantities necessary or in container sizes appropriate to meet a state agency's needs.

b. The product does not meet the performance requirements or standards recommended by the equipment or vehicle manufacturer, including any warranty requirements.

c. The product is available only at a cost greater than one hundred five percent of the cost of comparable virgin oil products.

3. Establish and maintain a preference program for procuring oils containing the maximum content of recycled oil. The preference program shall include but is not limited to all of the following:

a. The inclusion of the preferences for recycled oil products in publications used to solicit bids from suppliers.

b. The provision of a description of the recycled oil procurement program at bidders' conferences.

c. Discussion of the preference program in lubricating oil and industrial oil procurement solicitations or invitations to bid.

d. Efforts to inform industry trade associations about the preference program.

4. a. Provide that when purchasing hydraulic fluids, greases, and other industrial lubricants, the department or a state agency authorized by the department to directly purchase hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans.

b. Provide for the implementation of requirements necessary in order to carry out this subsection by the department or state agency making the purchase, which shall include all of the following:

(1) Including the preference requirements in publications used to solicit bids for hydraulic fluids, greases, and other industrial lubricants.

(2) Describing the preference requirements at bidders' conferences in which bids for the sale of hydraulic fluids, greases, and other industrial lubricants are sought by the department or authorized state agency.

(3) Discussing the preference requirements in procurement solicitations or invitations to bid for hydraulic fluids, greases, and other industrial lubricants.

(4) Informing industry trade associations about the preference requirements.

c. As used in this subsection, unless the context otherwise requires:

(1) "Bio-based hydraulic fluids, greases, and other industrial lubricants" means the same as defined by the United States department of agriculture, if the department has adopted such a definition. If the United States department of agriculture has not adopted a definition, "bio-based hydraulic fluids, greases, and other industrial lubricants" means hydraulic fluids, greases, and other lubricants containing a minimum of fifty-one percent soybean oil.

(2) "Other industrial lubricants" means lubricants used or applied to machinery.

PHYSICAL RESOURCES AND FACILITY MANAGEMENT

Sec. 36. NEW SECTION. 8A.321 PHYSICAL RESOURCES AND FACILITY MANAGEMENT — DIRECTOR DUTIES — APPROPRIATION.

In managing the physical resources of government, the director shall perform all of the following duties:

1. Provide for supervision over the custodians, and other employees of the department in and about the capitol and other state buildings, and the state laboratories facility in Ankeny, except the buildings and grounds referred to in section 216B.3, subsection 6, at the seat of government.

2. Institute, in the name of the state, and with the advice and consent of the attorney general, civil and criminal proceedings against any person for injury or threatened injury to any public property, including but not limited to intangible and intellectual property, under the person's control.

3. Under the direction of the governor, provide, furnish, and pay for public utilities service, heat, maintenance, minor repairs, and equipment in operating and maintaining the official residence of the governor of Iowa.

4. Contract, with the approval of the executive council, for the repair, remodeling, or, if the condition warrants, demolition of all buildings and grounds of the state at the seat of government, at the state laboratories facility in Ankeny, and the institutions of the department of human services and the department of corrections for which no specific appropriation has been made, if the cost of repair, remodeling, or demolition will not exceed one hundred thousand dollars when completed. The cost of repair projects for which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.

5. Dispose of all personal property of the state under the director's control as provided by section 8A.324 when it becomes unnecessary or unfit for further use by the state. If the director concludes that the personal property is contaminated, contains hazardous waste, or is hazardous waste, the director may charge the state agency responsible for the property for removal and disposal of the personal property. The director shall adopt rules establishing the procedures for inspecting, selecting, and removing personal property from state agencies or from state storage.

6. a. Lease all buildings and office space necessary to carry out the provisions of this article or necessary for the proper functioning of any state agency at the seat of government. For state agencies at the seat of government, the director may lease buildings and office space in Polk county or in a county contiguous to Polk county. If no specific appropriation has been made, the proposed lease shall be submitted to the executive council for approval. The cost of any lease for which no specific appropriation has been made shall be paid from the fund provided in section 7D.29.

b. When the general assembly is not in session, the director may request moneys from the executive council for moving state agencies located at the seat of government from one location to another. The request may include moving costs, telecommunications costs, repair costs, or any other costs relating to the move. The executive council may approve and shall

pay the costs from funds provided in section 7D.29 if it determines the agency or department has no available funds for these expenses.

c. Coordinate the leasing of buildings and office space by state agencies throughout the state and develop cooperative relationships with the state board of regents in order to promote the colocation of state agencies.

7. Unless otherwise provided by law, coordinate the location, design, plans and specifications, construction, and ultimate use of the real or personal property to be purchased by a state agency for whose benefit and use the property is being obtained. If the purchase of real or personal property is to be financed pursuant to section 12.28, the department shall cooperate with the treasurer of state in providing the information necessary to complete the financing of the property.

A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the treasurer of state pursuant to section 12.28 is exempt from section 8A.311, subsections 1 and 9, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the treasurer of state under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

8. With the authorization of a constitutional majority of each house of the general assembly and approval by the governor, dispose of real property belonging to the state and its state agencies upon terms, conditions, and consideration as the director may recommend. If real property subject to sale under this subsection has been purchased or acquired from appropriated funds, the proceeds of the sale shall be deposited with the treasurer of state and credited to the general fund of the state or other fund from which appropriated. There is appropriated from that same fund, with the prior approval of the executive council and in cooperation with the director, a sum equal to the proceeds so deposited and credited to the state agency to which the disposed real property belonged or by which it was used, for purposes of the state agency.

9. Subject to the selection procedures of section 12.30, employ financial consultants, banks, insurers, underwriters, accountants, attorneys, and other advisors or consultants necessary to implement the provisions of subsection 7.

10. Prepare annual status reports for all ongoing capital projects of all state agencies, as defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

11. Call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsection 10 regarding capital project status reports. All state agencies, upon the request of the director and with the approval of the director of the department of management, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

12. In carrying out the requirements of section 64.6, purchase an individual or a blanket surety bond insuring the fidelity of state officers. The department may self-assume or self-insure fidelity exposures for state officials and employees. A state official is deemed to have furnished surety if the official has been covered by a program of insurance or self-insurance established by the department. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds.

13. Review the management of state property loss exposures and state liability risk exposures for the capitol complex. Insurance coverage may include self-insurance or any type of insurance protection sold by insurers, including, but not limited to, full coverage, partial coverage, coinsurance, reinsurance, and deductible insurance coverage.

14. Establish a monument maintenance account in the state treasury under the control of the department. Funds for the maintenance of a state monument, whether received by gift, devise, bequest, or otherwise, shall be deposited in the account. Funds in the account shall be deposited in an interest-bearing account. Notwithstanding section 12C.7, interest earned on the account shall be deposited in the account and shall be used to maintain the designated monument. Any maintenance funds for a state monument held by the state and interest

earned on the funds shall be used to maintain the designated monument. Notwithstanding section 8.33, funds in the monument maintenance account at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 37. NEW SECTION. 8A.322 BUILDINGS AND GROUNDS — SERVICES — PUBLIC USE.

1. The director shall provide necessary lighting, fuel, and water services for the state buildings and grounds located at the seat of government, and for the state laboratories facility in Ankeny, except the buildings and grounds referred to in section 216B.3, subsection 6.

2. Except for buildings and grounds described in section 216B.3, subsection 6; section 2.43, unnumbered paragraph 1; and any buildings under the custody and control of the Iowa public employees' retirement system, the director shall assign office space at the capitol, other state buildings, and elsewhere in the city of Des Moines, and the state laboratories facility in Ankeny, for all executive and judicial state agencies. Assignments may be changed at any time. The various officers to whom rooms have been so assigned may control the same while the assignment to them is in force. Official apartments shall be used only for the purpose of conducting the business of the state. The term "capitol" or "capitol building" as used in the Code shall be descriptive of all buildings upon the capitol grounds. The capitol building itself is reserved for the operations of the general assembly, the governor, and the courts and the assignment and use of physical facilities for the general assembly shall be pursuant to section 2.43.

3. The director shall establish, publish, and enforce rules regulating and restricting the use by the public of the capitol buildings and grounds and of the state laboratories facility in Ankeny. The rules when established shall be posted in conspicuous places about the capitol buildings and grounds and the state laboratories facility, as applicable. Any person violating any rule, except a parking regulation, shall be guilty of a simple misdemeanor.

Sec. 38. NEW SECTION. 8A.323 PARKING REGULATIONS.

1. The director shall establish, publish, and enforce rules regulating, restricting, or prohibiting the use by state officials, state employees, and the public, of motor vehicle parking facilities at the state capitol complex and at the state laboratories facility in Ankeny. The assignment of legislative parking spaces shall be under the control of the legislative council. The rules established by the director may establish fines for violations and a procedure for payment of the fines. The director may order payment of a fine and enforce the order in the district court.

2. Motor vehicles parked in violation of the rules may be removed without the owner's or operator's consent and at the owner's or operator's expense. Motor vehicles removed and not claimed within thirty days of their removal or vehicles abandoned within the capitol grounds may be disposed of in accordance with the provisions of sections 321.85 through 321.91.

3. The parking rules established shall be posted in conspicuous places at the capitol complex and at the state laboratories facility in Ankeny, as applicable. Copies of the rules shall be made available to all state officials and employees and any other person who requests a copy of the rules.

4. All fines collected by the department shall be forwarded to the treasurer of state and deposited in the general fund of the state.

Sec. 39. NEW SECTION. 8A.324 DISPOSAL OF PERSONAL PROPERTY.

The director may dispose of personal property of the state under the director's control by any of the following means:

1. The director may dispose of unfit or unnecessary personal property by sale. Proceeds from the sale of personal property shall be deposited in the general fund of the state.

2. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. The not-for-profit organization or governmental agency may charge the state agency in control of the property with the cost of removing and transporting the

property. Title to the personal property shall transfer when the personal property is in the possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state.

3. The director may dispose of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation.

Sec. 40. NEW SECTION. 8A.325 SERVICES AND COMMODITIES ACCEPTED.

The director may accept services, commodities, and surplus property and make provision for warehousing and distribution to various departments and governmental subdivisions of the state, and such other agencies, institutions, and authorized recipients within the state as may be from time to time designated in federal statutes and rules.

Sec. 41. NEW SECTION. 8A.326 TERRACE HILL COMMISSION.

1. The Terrace Hill commission is created consisting of nine persons, appointed by the governor, who are knowledgeable in business management and historic preservation and renovation. The governor shall appoint the chairperson. The terms of the commission members are for three years beginning on July 1 and ending on June 30.

2. The Terrace Hill commission may consult with the Terrace Hill society, Terrace Hill foundation, the executive and legislative branches of this state, and other persons interested in the property.

3. The Terrace Hill commission may enter into contracts, subject to this chapter, to execute its purposes.

4. The commission may adopt rules to administer the programs of the commission. The decision of the commission is final agency action under chapter 17A.

Sec. 42. NEW SECTION. 8A.327 RENT REVOLVING FUND CREATED — PURPOSE.

1. A rent revolving fund is created in the state treasury under the control of the department to be used by the department to pay the lease or rental costs of all buildings and office space necessary for the proper functioning of any state agency at the seat of state government as provided in section 8A.321, subsection 6, except that this fund shall not be used to pay the rental or lease costs of a state agency which has not received funds budgeted for rental or lease purposes.

2. The director shall pay the lease or rental fees to the renter or lessor and submit a monthly statement to each state agency for which building and office space is rented or leased. If the director pays the lease or rental fees on behalf of a state agency, the state agency's payment to the department shall be credited to the rent revolving fund established by this section. With the approval of the director, a state agency may pay the lease or rental cost directly to the person who is due the payment under the lease or rental agreement.

Sec. 43. NEW SECTION. 8A.328 RECYCLING REVOLVING FUND.

A recycling revolving fund is created within the state treasury under the control of the department. The fund shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund. The assets of the fund shall be used by the department only for supporting recycling operations. Moneys in the fund shall be drawn upon the written requisition of the director or an authorized representative of the director. The fund is subject to an annual audit by the auditor of state. Section 8.33 does not apply to any moneys in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 44. NEW SECTION. 8A.329 WASTEPAPER RECYCLING PROGRAM.

1. The department in accordance with recommendations made by the department of natural resources shall require all state agencies to establish an agency wastepaper recycling

program. The director shall adopt rules which require a state agency to develop a program to ensure the recycling of the wastepaper generated by the agency. All state employees shall practice conservation of paper materials.

2. For the purposes of this section, "agency wastepaper" means wastepaper or wastepaper products generated by the agency.

3. The rules adopted by the director shall provide for the continuation of existing state agency contracts which provide for alternative waste management not including incineration or land burial of agency wastepaper.

PRINTING

Sec. 45. NEW SECTION. 8A.341 STATE PRINTING — DUTIES.

The director shall do all of the following as it relates to printing:

1. Provide general supervision of all matters pertaining to public printing, including the enforcement of contracts for printing, except as otherwise provided by law. The supervision shall include providing guidelines for the letting of contracts for printing, the manner, form, style, and quantity of public printing, and the specifications and advertisements for public printing. In addition, the director shall have charge of office equipment and supplies and of the stock, if any, required in connection with printing contracts.

2. If money is appropriated for this purpose, by November 1 of each year supply a report which contains the name, gender, county, or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the director, the head of each department, board, or commission shall furnish the data covering that agency. The report shall be distributed upon request without charge to each caucus of the general assembly, the legislative service bureau, the legislative fiscal bureau, the chief clerk of the house of representatives, and the secretary of the senate. Copies of the report shall be made available to other persons in both print or electronic medium upon payment of a fee, which shall not exceed the cost of providing the copy of the report. Sections 22.2 through 22.6 apply to the report. All funds from the sale of the report shall be deposited in the printing revolving fund established in section 8A.345. Requests for print publications shall be handled only upon receipt of postage by the director.

3. Deposit receipts from the sale of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation in the printing revolving fund established in section 8A.345.

Sec. 46. NEW SECTION. 8A.342 CONTRACTS WITH STATE INSTITUTIONS.

The director may, without advertising for bids, enter into contracts or make provision for doing any of the work coming under the provisions of chapter 7A and this article at any school or institution under the ownership or control of the state. The work shall be done under conditions substantially the same as those provided for in the case of contracts with individuals and the same standard of quality or product shall be required.

Sec. 47. NEW SECTION. 8A.343 SPECIFICATIONS AND REQUIREMENTS.

The director shall, from time to time, adopt and print specifications and requirements covering all matters relating to printing that are the subject of contracts.

Sec. 48. NEW SECTION. 8A.344 PUBLIC PRINTING — BIDDING PROCEDURES.

1. The director shall advertise for bids for public printing. Advertisements shall state where

and how specifications and other necessary information may be obtained, the time during which the director will receive bids, and the day, hour, and place when bids will be publicly opened or accessed, and the manner by which the contracts will be awarded.

2. The director shall supply prospective bidders and others on request with the specifications and requirements, blank forms for bids, samples of printing so far as possible, and all other information pertaining to the subject.

3. The specifications shall be kept on file in the office of the director, open to public inspection, together with samples so far as possible, of the work to be done or the material to be furnished.

4. Bids submitted must be:

a. Secured in writing, by telephone, by facsimile, or in a format prescribed by the director as indicated in the bid specifications.

b. Signed by the bidder, or if a telephone or electronic bid, confirmed by the bidder in a manner prescribed by the director.

c. Submitted in a format prescribed by the director which reasonably assures the authenticity of the bid and the bidder's identity.

d. Submitted to the department as specified by the date and time established in the advertisements for bids.

5. When a bidder submits a bid to the department, the director may require the bidder to file a bid bond or a certified or cashier's check payable to the treasurer of state in an amount to be fixed in the bid specifications, either covering all classes or items or services, or separate certified or cashier's checks for each bid in case the bidder makes more than one bid. In lieu of a certified or cashier's check, the bidder may furnish a yearly bond in an amount to be established by the director. Certified or cashier's checks deposited by unsuccessful bidders, and by successful bidders when they have entered into the contract, shall be returned to them.

6. All bids shall be publicly opened or accessed and read and the contracts awarded in the manner designated in the bid specifications. In the award of a contract, due consideration shall be given to the price bid, mechanical and other equipment proposed to be used by the bidder, the financial responsibility of the bidder, the bidder's ability and experience in the performance of similar contracts, and any other factors that the department determines are relevant and that are included in the bid specifications.

7. The director shall have the right to reject any or all bids, and in case of rejection or because of failure of a bidder to enter into a contract, the director may advertise for and secure new bids.

8. When the director is satisfied that bidders have presented bids pursuant to an agreement, understanding, or combination to prevent free competition, the director shall reject all of them and readvertise for bids as in the first instance.

Sec. 49. NEW SECTION. 8A.345 PRINTING REVOLVING FUND.

A revolving fund is created in the state treasury under the control of the department and may be used in making payments for supplying paper stock, offset printing, copy preparation, binding, distribution costs, and original payment of printing and binding claims for any of the state departments, bureaus, commissions, or institutions. All salaries and expenses properly chargeable to the fund shall be paid from the fund. The director may also use the fund for the purchase of replacement or additional equipment, if a sufficient balance will remain in the fund to enable the continued operation of the printing operations of the department.

DOCUMENT MANAGEMENT

Sec. 50. NEW SECTION. 8A.351 DISTRIBUTION OF DOCUMENTS — GENERAL PROVISIONS.

If money is appropriated for this purpose, the director shall do all of the following:

1. The director shall require from officials or heads of departments mailing lists, or addressed labels or envelopes, for use in distribution of reports and documents. The director

shall revise such lists, eliminating duplications and adding to the lists libraries, institutions, public officials, and persons having actual use for the material. The director shall arrange the lists so as to reduce to the minimum the postage or other cost for delivery. Requests for publications shall be handled only upon receipt of postage by the director from the requesting agency or department.

2. The director shall furnish the various officials and departments with copies of their reports needed for office use or to be distributed to persons requesting the reports. Requests for publications shall be handled only upon receipt of postage by the director.

3. The director may send additional copies of publications to other state officials, individuals, institutions, libraries, or societies that may request them. Requests for publications shall be handled only upon receipt of postage by the director.

FLEET MANAGEMENT

Sec. 51. NEW SECTION. 8A.361 VEHICLE ASSIGNMENT — AUTHORITY IN DEPARTMENT.

The department shall provide for the assignment of all state-owned motor vehicles to all state officers and employees, and to all state offices, departments, bureaus, and commissions, except the department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other agencies exempted by law.

Sec. 52. NEW SECTION. 8A.362 FLEET MANAGEMENT — POWERS AND DUTIES — FUEL ECONOMY REQUIREMENTS.

1. The director may provide for the assignment to a state officer or employee or to a state agency, of one or more motor vehicles which may be required by the state officer or employee or state agency, after the state officer or employee or state agency has shown the necessity for such transportation. The director may assign a motor vehicle either for part-time or full-time use. The director may revoke the assignment at any time.

2. The director may cause all state-owned motor vehicles to be inspected periodically. Whenever the inspection reveals that repairs have been improperly made on the motor vehicle or that the operator is not giving the motor vehicle the proper care, the director shall report this fact to the head of the state agency to which the motor vehicle has been assigned, together with recommendation for improvement.

3. The director shall provide for a record system for the keeping of records of the total number of miles state-owned motor vehicles are driven and the per-mile cost of operation of each motor vehicle. Every state officer or employee shall keep a record book to be furnished by the director in which the officer or employee shall enter all purchases of gasoline, lubricating oil, grease, and other incidental expense in the operation of the motor vehicle assigned to the officer or employee, giving the quantity and price of each purchase, including the cost and nature of all repairs on the motor vehicle. Each operator of a state-owned motor vehicle shall promptly prepare a report at the end of each month on forms furnished by the director and forwarded to the director, giving the information the director may request in the report. Each month the director shall compile the costs and mileage of state-owned motor vehicles from the reports and keep a cost history for each motor vehicle and the costs shall be reduced to a cost-per-mile basis for each motor vehicle. The director shall call to the attention of an elected official or the head of any state agency to which a motor vehicle has been assigned any evidence of the mishandling or misuse of a state-owned motor vehicle which is called to the director's attention.

A motor vehicle operated under this subsection shall not operate on gasoline other than gasoline blended with at least ten percent ethanol, unless under emergency circumstances. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However,

the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

4. a. The director shall provide for the purchase of all motor vehicles for all branches of the state government, except the department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other state agency exempted by law. The director shall purchase new vehicles in accordance with competitive bidding procedures for items or services as provided in this article. The director may purchase used or preowned vehicles at governmental or dealer auctions if the purchase is determined to be in the best interests of the state.

b. The director, and any other state agency, which for purposes of this subsection includes but is not limited to community colleges and institutions under the control of the state board of regents, or local governmental subdivisions purchasing new motor vehicles, shall purchase new passenger vehicles and light trucks so that the average fuel efficiency for the fleet of new passenger vehicles and light trucks purchased in that year equals or exceeds the average fuel economy standard for the vehicles' model year as established by the United States secretary of transportation under 15 U.S.C. § 2002. This paragraph does not apply to vehicles purchased for law enforcement purposes or used for off-road maintenance work, or work vehicles used to pull loaded trailers.

c. Not later than February 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 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. As used in this paragraph, "corporate average fuel economy" means the corporate average fuel economy as defined in 49 C.F.R. § 533.5.

d. The director shall assign motor vehicles available for use to maximize the average passenger miles per gallon of motor vehicle fuel consumed. In assigning motor vehicles, the director shall consider standards established by the director, which may include but are not limited to the number of passengers traveling to a destination, the fuel economy of and passenger capacity of vehicles available for assignment, and any other relevant information, to assure assignment of the most energy-efficient vehicle or combination of vehicles for a trip from those vehicles available for assignment. The standards shall not apply to special work vehicles and law enforcement vehicles. The standards shall apply to the following agencies:

- (1) Department of transportation.
- (2) Institutions under the control of the state board of regents.
- (3) Department for the blind.
- (4) Any other state agency exempted from obtaining vehicles for use through the department.

e. As used in paragraph "d", "fuel economy" means the average number of miles traveled by an automobile per gallon of gasoline consumed as determined by the United States environmental protection agency administrator in accordance with 26 U.S.C. § 4064(c).

5. Of all new passenger vehicles and light pickup trucks purchased by the director, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion including but not limited to any of the following:

a. A flexible fuel, which is any of the following:

- (1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.
- (2) A fuel which is a mixture of diesel fuel and processed soybean oil. At least twenty percent of the mixed fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

- b. Compressed or liquefied natural gas.
- c. Propane gas.
- d. Solar energy.
- e. Electricity.

This subsection does not apply to vehicles and trucks purchased and directly used for law enforcement or purchased and used for off-road maintenance work or to pull loaded trailers.

6. All used motor vehicles turned in to the director shall be disposed of by public auction, and the sales shall be advertised in a newspaper of general circulation one week in advance of sale, and the receipts from the sale shall be deposited in the depreciation fund to the credit of the state agency turning in the vehicle; except that, in the case of a used motor vehicle of special design, the director may, instead of selling it at public auction, authorize the motor vehicle to be traded for another vehicle of similar design. If a vehicle sustains damage and the cost to repair exceeds the wholesale value of the vehicle, the director may dispose of the motor vehicle by obtaining two or more written salvage bids and the vehicle shall be sold to the highest responsible bidder.

7. The director may authorize the establishment of motor pools consisting of a number of state-owned motor vehicles under the director's supervision. The director may store the motor vehicles in a public or private garage. If the director establishes a motor pool, any state officer or employee desiring the use of a state-owned motor vehicle on state business shall notify the director of the need for a vehicle within a reasonable time prior to actual use of the motor vehicle. The director may assign a motor vehicle from the motor pool to the state officer or employee. If two or more state officers or employees desire the use of a state-owned motor vehicle for a trip to the same destination for the same length of time, the director may assign one vehicle to make the trip.

8. The director shall require that a sign be placed on each state-owned motor vehicle in a conspicuous place which indicates its ownership by the state. This requirement shall not apply to motor vehicles requested to be exempt by the director or by the commissioner of public safety. All state-owned motor vehicles shall display registration plates bearing the word "official" except motor vehicles requested to be furnished with ordinary plates by the director or by the commissioner of public safety pursuant to section 321.19. The director shall keep an accurate record of the registration plates used on all state-owned motor vehicles.

9. All fuel used in state-owned automobiles shall be purchased at cost from the various installations or garages of the department of transportation, state board of regents, department of human services, or state motor pools throughout the state, unless the state-owned sources for the purchase of fuel are not reasonably accessible. If the director determines that state-owned sources for the purchase of fuel are not reasonably accessible, the director shall authorize the purchase of fuel from other sources. The director may prescribe a manner, other than the use of the revolving fund, in which the purchase of fuel from state-owned sources is charged to the state agency responsible for the use of the motor vehicle. The director shall prescribe the manner in which oil and other normal motor vehicle maintenance for state-owned motor vehicles may be purchased from private sources, if they cannot be reasonably obtained from a state motor pool. The director may advertise for bids and award contracts in accordance with competitive bidding procedures for items and services as provided in this article for furnishing fuel, oil, grease, and vehicle replacement parts for all state-owned motor vehicles. The director and other state agencies, when advertising for bids for gasoline, shall also seek bids for ethanol blended gasoline.

Sec. 53. NEW SECTION. 8A.363 PRIVATE USE PROHIBITED — RATE FOR STATE BUSINESS.

1. A state officer or employee shall not use a state-owned motor vehicle for personal private use. A state officer or employee shall not be compensated for driving a privately owned motor

vehicle unless it is done on state business with the approval of the director. In that case the state officer or employee shall receive an amount to be determined by the director. The amount shall not exceed the maximum allowable under the federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. However, the director may authorize private motor vehicle rates in excess of the rate allowed under the federal internal revenue service rules for state business use of substantially modified or specially equipped privately owned vehicles required by persons with disabilities. A statutory provision establishing reimbursement for necessary mileage, travel, or actual expenses to a state officer falls under the private motor vehicle mileage rate limitation provided in this section unless specifically provided otherwise. Any peace officer employed by the state as defined in section 801.4 who is required to use a private motor vehicle in the performance of official duties shall receive the private vehicle mileage rate at the rate provided in this section. However, the director may delegate authority to officials of the state, and department heads, for the use of private vehicles on state business up to a yearly mileage figure established by the director. If a state motor vehicle has been assigned to a state officer or employee, the officer or employee shall not collect mileage for the use of a privately owned motor vehicle unless the state motor vehicle assigned is not useable.

2. This section does not apply to any of the following:

- a. Officials and employees of the state whose mileage is paid other than by a state agency.
- b. Elected officers of the state.
- c. Judicial officers or court employees.
- d. Members and employees of the general assembly who shall be governed by policies relating to motor vehicle travel, including but not limited to reimbursement for expenses, if such policies are otherwise established by the general assembly.

Sec. 54. NEW SECTION. 8A.364 FLEET MANAGEMENT REVOLVING FUND — REPLENISHMENT.

1. A fleet management revolving fund is created in the state treasury under the control of the department. There is appropriated from moneys in the state treasury not otherwise appropriated the sum of twenty-five thousand dollars to the revolving fund. All purchases of gasoline, oil, tires, repairs, and all other general expenses incurred in the operation of state-owned motor vehicles, and all salaries and expenses of employees providing fleet management services shall be paid from this fund.

2. At the end of each month the director shall render a statement to each state department or agency for the actual cost of operation of all motor vehicles assigned to such department or agency, together with a fair proportion of the administrative costs for providing fleet management services during such month, as determined by the director, all subject to review by the executive council upon complaint of any state department or agency adversely affected. Such expenses shall be paid by the state departments or agencies in the same manner as other expenses of such department are paid, and when such expenses are paid, such sums shall be credited to the fleet management revolving fund. If any surplus accrues to the revolving fund in excess of twenty-five thousand dollars for which there is no anticipated need or use, the governor may order such surplus transferred to the general fund of the state.

Sec. 55. NEW SECTION. 8A.365 VEHICLE REPLACEMENT — DEPRECIATION FUND.

1. The director shall maintain a depreciation fund for the purchase of replacement motor vehicles and additions to the fleet. The director's records shall show the total funds deposited by and credited to each department or agency. At the end of each month, the director shall render a statement to each state department or agency for additions to the fleet and total depreciation credited to that department or agency. Such depreciation expense shall be paid by the state departments or agencies in the same manner as other expenses are paid, and shall be deposited in the depreciation fund to the credit of the department or agency. The funds credited to each department or agency shall remain the property of the department or agency. However, at the end of each biennium, the director shall cause to revert to the fund from which it accumulated any unassigned depreciation.

2. The department of corrections is not obligated to pay the depreciation expense otherwise required by this section.

Sec. 56. NEW SECTION. 8A.366 VIOLATIONS — WITHDRAWING USE OF VEHICLE.
If any state officer or employee violates any of the provisions of sections 8A.361 through 8A.365, the director may withdraw the assignment of any state-owned motor vehicle to any such state officer or employee.

ARTICLE 4
HUMAN RESOURCES
STATE HUMAN RESOURCE MANAGEMENT — OPERATIONS

Sec. 57. NEW SECTION. 8A.401 DEFINITIONS.

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

1. "Appointing authority" means the chairperson or person in charge of any state agency including, but not limited to, boards, bureaus, commissions, and departments, or an employee designated to act for an appointing authority.
2. "Merit system" means the merit system established under this article.

Sec. 58. NEW SECTION. 8A.402 STATE HUMAN RESOURCE MANAGEMENT — RESPONSIBILITIES.

1. The department is the central agency responsible for state human resource management, including the following:

- a. Policy and program development, workforce planning, and research.
- b. Employment activities and transactions, including recruitment, examination, and certification of personnel seeking employment or promotion.
- c. Compensation and benefits, including position classification, wages and salaries, and employee benefits. Employee benefits include, but are not limited to, group medical, dental, life, and long-term disability insurance, workers' compensation, unemployment benefits, sick leave, deferred compensation, holidays and vacations, tuition reimbursement, and educational leaves.
- d. Equal employment opportunity, affirmative action, and workforce diversity programs.
- e. Education, training, and workforce development programs.
- f. Personnel records and administration, including the audit of all personnel-related documents.
- g. Employment relations, including the negotiation and administration of collective bargaining agreements on behalf of the executive branch of the state and its departments and agencies as provided in chapter 20. However, the state board of regents, for the purposes of implementing and administering collective bargaining pursuant to chapter 20, shall act as the exclusive representative of the state with respect to its faculty, scientific, and other professional staff.
- h. The coordination and management of the state's human resource information system, except as otherwise required for those employees governed by chapter 262.

2. The department, as it relates to the human resources of state government, shall do the following:

- a. Establish and maintain a list of all employees in the executive branch of state government and set forth, as to each employee, the class title, pay, status, and other pertinent data. For employees governed by chapter 262, the director shall work collaboratively with the state board of regents to collect such information.
- b. Foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling, and welfare.
- c. Encourage and exercise leadership in the development of effective personnel administration within the several state agencies, and to make available the facilities of the department to this end.

d. The director may delegate any or all aspects of the recruitment, examination, and selection processes to an agency in the executive branch upon request by that agency. The director shall oversee all activities delegated to that agency.

e. Utilize appropriate persons, including officers and employees in the executive branch, to assist in the recruitment and examination of applicants for employment. These officers and employees are not entitled to extra pay for their services, but shall be paid their necessary traveling and other expenses.

3. The human resource management powers and duties of the department do not extend to the legislative branch or the judicial branch of state government, except for functions related to administering compensation and benefit programs.

MERIT SYSTEM

Sec. 59. NEW SECTION. 8A.411 MERIT SYSTEM ESTABLISHED — COLLECTIVE BARGAINING — APPLICABILITY.

1. The general purpose of this article is to establish for the state of Iowa a system of human resource administration based on merit principles and scientific methods to govern the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees, and other incidents of state employment.

2. It is also the purpose of this article to promote the coordination of personnel rules and policies with collective bargaining agreements negotiated under chapter 20.

3. All appointments and promotions to positions covered by the state merit system shall be made solely on the basis of merit and fitness, to be ascertained by examinations or other appropriate screening methods, except as otherwise specified in this article.

4. Provisions of this article pertaining to qualifications, examination, certification, probation, and just cause apply only to employees covered by the merit system.

Sec. 60. NEW SECTION. 8A.412 MERIT SYSTEM — APPLICABILITY — EXCEPTIONS.

The merit system shall apply to all employees of the state and to all positions in state government now existing or hereafter established. In addition, the director shall negotiate an agreement with the director of the department for the blind concerning the applicability of the merit system to the professional employees of the department for the blind. However, the merit system shall not apply to the following:

1. The general assembly, employees of the general assembly, other officers elected by popular vote, and persons appointed to fill vacancies in elective offices.

2. All judicial officers and court employees.

3. The staff of the governor.

4. All board members and commissioners whose appointments are provided for by the Code.

5. All presidents, deans, directors, teachers, professional and scientific personnel, and student employees under the jurisdiction of the state board of regents. The state board of regents shall adopt rules not inconsistent with the objectives of this chapter for all of its employees not cited specifically in this subsection. The rules are subject to approval by the director. If at any time the director determines that the state board of regents merit system rules do not comply with the intent of this chapter, the director may direct the board to correct the rules. The rules of the board are not in compliance until the corrections are made.

6. All appointments which are by law made by the governor.

7. All personnel of the armed services under state jurisdiction.

8. Persons who are paid a fee on a contract-for-services basis.

9. Seasonal employees appointed during a state agency's designated six-month seasonal employment period during the same annual twelve-month period, as approved by the director.

10. Residents, patients, or inmates working in state institutions, or persons on parole working in work experience programs.

11. Professional employees under the supervision of the attorney general, the state public

defender, the auditor of state, the treasurer of state, and the public employment relations board. However, employees of the consumer advocate division of the department of justice, other than the consumer advocate, are subject to the merit system.

12. Production and engineering personnel under the jurisdiction of the Iowa public broadcasting board.

13. Members of the Iowa state patrol and other peace officers employed by the department of public safety. The commissioner of public safety shall adopt rules not inconsistent with the objectives of this article for the persons described in this subsection.

14. Professional employees of the arts division of the department of cultural affairs.

15. The chief deputy administrative officer and each division administrator of each state agency not otherwise specifically provided for in this section, and physicians not otherwise specifically provided for in this section. As used in this subsection, "division administrator" means a principal administrative or policymaking position designated by a chief administrative officer and approved by the director or as specified by law.

16. All confidential employees.

17. Other employees specifically exempted by law.

18. The administrator and the deputy administrator of the credit union division of the department of commerce, all members of the credit union review board, and all employees of the credit union division.

19. The superintendent and the deputy superintendent of the banking division of the department of commerce, all members of the state banking board, and all employees of the banking division.

20. Chief deputy industrial commissioners.

21. The appointee serving as the coordinator of the office of renewable fuels and coproducts, as provided in section 159A.3.

22. All employees of the Iowa state fair authority.

23. Up to six nonprofessional employees designated at the discretion of each statewide elected official.

24. The position classifications of employees of statewide elected officials that were exempt from the merit system as of June 30, 1994, shall remain exempt and any employees subsequently hired to fill any exempt position vacancies shall be classified as exempt employees.

Sec. 61. NEW SECTION. 8A.413 STATE HUMAN RESOURCE MANAGEMENT — RULES.

The department shall adopt rules for the administration of this article pursuant to chapter 17A. Rulemaking shall be carried out with due regard to the terms of collective bargaining agreements. A rule shall not supersede a provision of a collective bargaining agreement negotiated under chapter 20. The rules shall provide:

1. For the preparation, maintenance, and revision of a job classification plan that encompasses each job in the executive branch, excluding job classifications under the state board of regents, based upon assigned duties and responsibilities, so that the same general qualifications may reasonably be required for and the same pay plan may be equitably applied to all jobs in the same job classification. The director shall classify the position of every employee in the executive branch, excluding employees of the state board of regents, into one of the classes in the plan. An appointing authority or employee adversely affected by a classification or reclassification decision may file an appeal with the director. Appeals of a classification or reclassification decision shall be exempt from the provisions of section 17A.11 and shall be heard by a committee appointed by the director. The classification or reclassification of a position that would cause the expenditure of additional salary funds shall not become effective if the expenditure of funds would be in excess of the total amount budgeted for the department of the appointing authority until budgetary approval has been obtained from the director of the department of management.

When the public interest requires a decrease or increase of employees in any position or type of employment not otherwise provided by law, or the creation or abolishment of any position

or type of employment, the director, acting in good faith, shall so notify the governor. Thereafter, the position or type of employment shall stand abolished or created and the number of employees therein reduced or increased.

2. For pay plans covering all employees in the executive branch, excluding employees of the state board of regents, after consultation with the governor and appointing authorities, and consistent with the terms of collective bargaining agreements negotiated under chapter 20.

3. For examinations to determine the relative fitness of applicants for employment. Such examinations shall be practical in character and shall relate to such matters as will fairly assess the ability of the applicant to discharge the duties of the position to which appointment is sought.

Where the Code of Iowa establishes certification, registration, or licensing provisions, such documents shall be considered prima facie evidence of basic skills accomplishment and such persons shall be exempt from further basic skills examination.

Vacancies shall be announced publicly at least ten days in advance of the date fixed for the filing of applications for the vacancies, and shall be advertised through the communications media. The director may, however, in the director's discretion, continue to receive applications and examine candidates for a period adequate to assure a sufficient number of eligibles to meet the needs of the system, and may add the names of successful candidates to existing eligible lists.

4. For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct. A promotion means a change in the status of an employee from a position in one class to a position in another class having a higher pay grade.

5. For the establishment of lists for appointment and promotion, upon which lists shall be placed the names of successful candidates.

6. For the rejection of applicants who fail to meet reasonable requirements.

7. For the appointment by the appointing authority of a person on the appropriate list to fill a vacancy.

8. For a probation period of six months, excluding educational or training leave, before appointment may be made complete, and during which period a probationer may be discharged or reduced in class or pay. If the employee's services are unsatisfactory, the employee shall be dropped from the payroll on or before the expiration of the probation period. If satisfactory, the appointment shall be deemed permanent. The determination of the appointing authority shall be final and conclusive.

9. For temporary employment for not more than seven hundred eighty hours in a fiscal year.

10. For provisional employment when there is no appropriate list available. Such provisional employment shall not continue longer than one hundred eighty calendar days.

11. For transfer from a position in one state agency to a similar position in the same state agency or another state agency involving similar qualifications, duties, responsibilities, and salary ranges. Whenever an employee transfers or is transferred from one state agency to another state agency, the employee's seniority rights, any accumulated sick leave, and accumulated vacation time, as provided in the law, shall be transferred to the new place of employment and credited to the employee. Employees who are subject to contracts negotiated under chapter 20 which include transfer provisions shall be governed by the contract provisions.

12. For reinstatement of persons who have attained permanent status and who resign in good standing or who are laid off from their positions without fault or delinquency on their part.

13. For establishing in cooperation with the appointing authorities a performance management system for all employees in the executive branch, excluding employees of the state board of regents, which shall be considered in determining salary increases; as a factor in promotions; as a factor in determining the order of layoffs and in reinstatement; as a factor in demotions, discharges, and transfers; and for the regular evaluation, at least annually, of the qualifications and performance of those employees.

14. For layoffs by reason of lack of funds or work, or reorganization, and for the recall of employees so laid off, giving consideration in layoffs to the employee's performance record

and length of service. An employee who has been laid off may be on a recall list for one year, which list shall be exhausted by the organizational unit enforcing the layoff before selection of an employee may be made from the promotional or nonpromotional list in the employee's classification. Employees who are subject to contracts negotiated under chapter 20 which include layoff and recall provisions shall be governed by the contract provisions.

15. For imposition, as a disciplinary measure, of a suspension from service without pay.

16. For discharge, suspension, or reduction in job classification or pay grade for any of the following causes: failure to perform assigned duties; inadequacy in performing assigned duties; negligence; inefficiency; incompetence; insubordination; unrehabilitated alcoholism or narcotics addiction; dishonesty; unlawful discrimination; failure to maintain a license, certificate, or qualification necessary for a job classification or position; any act or conduct which adversely affects the employee's performance or the employing agency; or any other good cause for discharge, suspension, or reduction. The person discharged, suspended, or reduced shall be given a written statement of the reasons for the discharge, suspension, or reduction within twenty-four hours after the discharge, suspension, or reduction. All persons concerned with the administration of this article shall use their best efforts to ensure that this article and the rules adopted pursuant to this article shall not be a means of protecting or retaining unqualified or unsatisfactory employees, and shall discharge, suspend, or reduce in job classification or pay grade all employees who should be discharged, suspended, or reduced for any of the causes stated in this subsection.

17. For establishment of a uniform plan for resolving employee grievances and complaints. Employees who are subject to contracts negotiated under chapter 20 which include grievance and complaint provisions shall be governed by the contract provisions.

18. For attendance regulations, and special leaves of absence, with or without pay, or reduced pay, in the various classes of positions in the executive branch, excluding positions under the state board of regents. Employees who are subject to contracts negotiated under chapter 20 which include leave of absence provisions shall be governed by the contract provisions. Annual sick leave and vacation time shall be granted in accordance with section 70A.1.

19. For the development and operation of programs to improve the work effectiveness and morale of employees in the executive branch, excluding employees of the state board of regents, including training, safety, health, welfare, counseling, recreation, and employee relations.

20. Notwithstanding any provisions to the contrary, a rule or regulation shall not be adopted by the department which would deprive the state of Iowa, or any of its agencies or institutions, of federal grants or other forms of financial assistance.

21. For veterans preference through a provision that veterans, as defined in section 35.1, shall have five points added to the grade or score attained in qualifying examinations for appointment to jobs.

Veterans who have a service-connected disability or are receiving compensation, disability benefits, or pension under laws administered by the veterans administration shall have ten points added to the grades attained in qualifying examinations. A veteran who has been awarded the purple heart for disabilities incurred in action shall be considered to have a service-connected disability.

22. For acceptance of the qualifications, requirements, regulations, and general provisions established under other sections of the Code pertaining to professional registration, certification, and licensing.

Sec. 62. NEW SECTION. 8A.414 EXPERIMENTAL RESEARCH PROJECTS.

The director may conduct experimental or research personnel-related projects of limited duration designed to improve the quality of the employment system. The provisions of section 8A.413 or administrative rules adopted pursuant to that section are waived for the purposes of such projects. Projects adopted under this authority shall not violate existing collective bargaining agreements. Any projects that relate to issues covered by such agreements or issues that are mandatory subjects of collective bargaining are subject to negotiations as applicable.

The director shall notify the chairpersons of the standing committees on appropriations of the senate and the house of representatives and the chairpersons of the appropriate subcommittees of those committees of the proposed projects. The notice from the director shall include the purpose of the project, a description of the project, and how the project will be evaluated. Chairpersons notified shall be given at least two weeks to review and comment on the proposal before the project is implemented. The director shall report the results of the experimental research projects conducted in the preceding fiscal year to the legislative council by September 30 of each year.

Sec. 63. NEW SECTION. 8A.415 GRIEVANCES AND DISCIPLINE RESOLUTION.

1. GRIEVANCES. An employee, except an employee covered by a collective bargaining agreement which provides otherwise, who has exhausted the available agency steps in the uniform grievance procedure provided for in the department rules may, within seven calendar days following the date a decision was received or should have been received at the second step of the grievance procedure, file the grievance at the third step with the director. The director shall respond within thirty calendar days following receipt of the third step grievance.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. Decisions rendered shall be based upon a standard of substantial compliance with this article and the rules of the department. Decisions by the public employment relations board constitute final agency action.

For purposes of this subsection, "uniform grievance procedure" does not include procedures for discipline and discharge.

2. DISCIPLINE RESOLUTION. A merit system employee, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise reduced in pay, except during the employee's probationary period, may bypass steps one and two of the grievance procedure and appeal the disciplinary action to the director within seven calendar days following the effective date of the action. The director shall respond within thirty calendar days following receipt of the appeal.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board. The employee has the right to a hearing closed to the public, unless a public hearing is requested by the employee. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. If the public employment relations board finds that the action taken by the appointing authority was for political, religious, racial, national origin, sex, age, or other reasons not constituting just cause, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.

Sec. 64. NEW SECTION. 8A.416 DISCRIMINATION, POLITICAL ACTIVITY, USE OF OFFICIAL INFLUENCE PROHIBITED.

1. A person shall not be appointed or promoted to, or demoted or discharged from, any position in the merit system, or in any way favored or discriminated against with respect to employment in the merit system because of the person's political or religious opinions or affiliations or race or national origin or sex, or age.

2. A person holding a position in the classified service shall not, during the person's working hours or when performing the person's duties or when using state equipment or at any time on state property, take part in any way in soliciting any contribution for any political party or any person seeking political office, and such employee shall not engage in any political activity that will impair the employee's efficiency during working hours or cause the employee to be tardy or absent from work. This section does not preclude any employee from holding any office for which no pay is received or any office for which only token pay is received.

3. A person shall not seek or attempt to use any political endorsement in connection with any appointment to a position in the merit system.

4. A person shall not use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the merit system, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person or for any consideration.

5. An employee shall not use the employee's official authority or influence for the purpose of interfering with an election or affecting the results thereof.

6. Any officer or employee who violates this section shall be subject to suspension, dismissal, or demotion subject to the right of appeal provided in this article.

7. The director shall adopt any rules necessary for further restricting political activities of employees in the executive branch, but only to the extent necessary to comply with federal standards. Employees retain the right to vote as they please and to express their opinions on all subjects.

Sec. 65. NEW SECTION. 8A.417 PROHIBITED ACTIONS.

1. A person shall not make any false statement, certificate, mark, rating, or report with regard to any examination or appointment made under this article or in any manner commit or attempt to commit any fraud preventing the impartial execution of this article and the rules adopted pursuant to this article.

2. A person shall not, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the merit system.

3. An employee of the department or any other person shall not defeat, deceive, or obstruct any person in the person's right to examination or appointment under this article, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the merit system.

4. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered by, or subject to approval of, the director as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, or for a disclosure of information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer. This subsection does not apply if the disclosure of the information is prohibited by statute.

Sec. 66. NEW SECTION. 8A.418 FEDERAL PROGRAMS EXEMPTION EXCEPTIONS — PENALTY.

1. Notwithstanding the provisions of this article to the contrary, a person employed under a temporary, emergency employment utilization program funded by the federal government which program does not exceed one year and which program is not subject to merit system standards by federal law, shall be exempt from this article except as provided in this section.

2. A person employed as provided in this section shall be subject to the provisions of section 8A.416 relating to political activity and the civil penalties contained in such section and, consistent with subsection 1, the provisions of section 8A.417 relating to prohibited actions.

3. A person violating this section shall be subject to the penalty provided for in section 8A.458.

EMPLOYEE BENEFITS

Sec. 67. NEW SECTION. 8A.431 IOWA MANAGEMENT TRAINING SYSTEM — TRAINING REVOLVING FUND.

1. The department shall establish and administer an Iowa management training system for the state.

2. A training revolving fund is created in the state treasury under the control of the department. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the training system. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the training system courses shall be set by the director to cover the costs of course development, training materials, facilities and equipment, professional instructors, and administration. The fees shall be paid to the department by the state agency sending the employees for training and the payment shall be credited to the training revolving fund. Notwithstanding section 8.33, moneys in the revolving fund shall not revert. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 68. NEW SECTION. 8A.432 COMBINED CHARITABLE CAMPAIGN PROGRAM, FEES, REVOLVING FUND.

1. The department shall establish and administer a combined charitable campaign program for state employees.

2. A combined charitable campaign revolving fund is created in the state treasury under the control of the department. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the program. Administrative expenses shall not exceed five percent of the contributions pledged the previous year. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the program shall be set by the director to cover only the cost of administration and materials and shall not cover salaries of state employees involved in the administration of the program. The fees shall be paid to the department from the voluntary employee contributions and the payment shall be credited to the revolving fund. Notwithstanding section 8.33, any moneys in the fund shall not revert. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 69. NEW SECTION. 8A.433 DEFERRED COMPENSATION PLAN.

The department shall make available to eligible state employees the option of utilizing mutual funds as an investment alternative to the state's deferred compensation plan established under section 509A.12. Participating employees shall, to the extent permitted by law, be allowed to transfer moneys deferred under the plan to a mutual fund offered pursuant to section 509A.12. The department may make the deferred compensation plan established pursuant to this section available to governmental employees of a public entity authorized to establish a deferred compensation program pursuant to section 509A.12.

Sec. 70. NEW SECTION. 8A.434 IOWA STATE EMPLOYEE DEFERRED COMPENSATION TRUST FUND.

1. A separate, special Iowa state employee deferred compensation trust fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund pursuant to this section, any other assets that must be held in trust for the exclusive benefit of participants in the state's deferred compensation program as required by section 457 of the federal Internal Revenue Code, and interest and earnings thereon, and shall be used for the exclusive benefit of participants in a deferred compensation program established by the state under section 509A.12.

2. The director is the trustee of the fund and shall administer the fund. Any loss to the fund shall be charged against the fund and the director shall not be personally liable for such loss. In addition, the director is the trustee of any trusts referenced in section 457(g) of the federal

Internal Revenue Code. Any loss to the trusts shall be charged against the trusts and the director shall not be personally liable for such loss.

3. Any compensation or portion of compensation reduced by a participant in conjunction with a deferred compensation program established by the state under section 509A.12 and any earnings or income thereon shall be held in trust and used for the exclusive benefit of the participant or the participant's beneficiary as provided by section 457 of the federal Internal Revenue Code.

4. For purposes of this section, custodial accounts, annuity contracts, and any other contracts referenced in section 457(g) of the federal Internal Revenue Code shall be treated as trusts for purposes of section 457 of the federal Internal Revenue Code.

5. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 71. NEW SECTION. 8A.435 STATE EMPLOYEE DEFERRED COMPENSATION MATCH TRUST FUND.

1. A separate, special Iowa state employee deferred compensation match trust fund is created in the state treasury under the control of the department. The trust fund shall consist of all moneys deposited in the fund, and other assets that must be held in trust for the exclusive benefit of participants in the state's deferred compensation match program as required by section 401(a) of the federal Internal Revenue Code, and interest and earnings thereon, and shall be used for the exclusive benefit of participants and their beneficiaries in a deferred compensation match program established by the state under section 509A.12.

2. The director is the trustee of the fund and shall administer the fund. Any loss to the fund shall be charged against the trust and the director shall not be personally liable for such loss.

3. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 72. NEW SECTION. 8A.436 STATE EMPLOYEE DEPENDENT CARE SPENDING ACCOUNT TRUST FUND.

1. A separate, special Iowa state employee dependent care spending account trust fund is created in the state treasury under the control of the department. The trust fund consists of all moneys, including monthly administrative charges paid by a state department or agency as authorized by section 8A.451, held in trust for the exclusive benefit of participants in the state's dependent care spending account plan. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

2. The director shall serve as trustee of the trust fund and shall administer the fund as required by sections 125 and 129 of the federal Internal Revenue Code. Any loss to the fund shall be charged against the fund and the director shall not be personally liable for such loss. The director has the authority to direct expenditures as deemed appropriate to the exclusive benefit of the plan participants.

Sec. 73. NEW SECTION. 8A.437 STATE EMPLOYEE HEALTH FLEXIBLE SPENDING ACCOUNT TRUST FUND.

1. The director shall establish for state employees a health flexible spending account plan which offers multiple benefits to state employees. The state's health flexible spending account plan shall be established to meet the conditions of section 125 of the Internal Revenue Code of 1986.

2. A separate, special Iowa state employee health flexible spending account trust fund is created in the state treasury under the control of the department. The trust fund consists of all moneys appropriated to the fund, all monthly administrative charges paid by a state department or agency as authorized by section 8A.451, and any other assets directed to be held in trust for the exclusive benefit of participants in the state's health flexible spending account plan. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7,

interest and earnings from moneys in the trust fund shall be credited to the trust fund and shall be used exclusively for the benefit of plan participants.

3. The director shall serve as trustee of the trust fund and has the authority to direct expenditures as deemed appropriate to the exclusive benefit of the plan participants.

Sec. 74. NEW SECTION. 8A.438 ANNUITY CONTRACTS.

1. At the request of an employee of a state agency through contractual agreement, the director may arrange for the purchase of group or individual annuity contracts for any of the employees of that agency, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from any company the employee chooses that is authorized to do business in this state or through an Iowa-licensed salesperson that the employee selects, on a group or individual basis, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

2. Whenever an existing tax-sheltered annuity contract is to be replaced by a new contract, the agent or representative of the company shall send a letter of intent by registered mail at least thirty days prior to any action to the company being replaced, to the commissioner of insurance of this state, to the agent's own company, and to the director. The letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.

Sec. 75. NEW SECTION. 8A.439 LONGEVITY PAY PROHIBITED — EXCEPTION.

A state employee subject to the provisions of this article shall not be entitled to longevity pay except for those employees granted longevity pay pursuant to section 307.48.

STATE HUMAN RESOURCE MANAGEMENT OPERATIONS
MISCELLANEOUS PROVISIONS

Sec. 76. NEW SECTION. 8A.451 HUMAN RESOURCES ADMINISTRATIVE COSTS.

1. The department may quarterly render a statement to each department or agency which operates in whole or in part from other than general fund appropriations for a pro rata share of the cost of administration of the department, or a portion thereof, as it relates to the state human resources management duties of the department pursuant to this article. The expense shall be paid by the state department or agency in the same manner as other expenses of that department or agency are paid and all moneys received shall be deposited in the general fund of the state.

2. The department shall render monthly a statement to each state department or agency for a pro rata share of the cost of administration of the state employee flexible spending accounts. The expense shall be paid by the state department or agency in the same manner as other expenses of that state department or agency are paid and all moneys received for administration costs shall be deposited in the appropriate fund.

Sec. 77. NEW SECTION. 8A.452 USE OF PUBLIC BUILDINGS.

All officers and employees of the state and of political subdivisions of the state shall allow the department the reasonable use of public buildings under their control, and furnish heat, light, and furniture for any examination, hearing, or investigation authorized by this article. The department shall pay to a political subdivision the reasonable cost of any such facilities furnished.

Sec. 78. NEW SECTION. 8A.453 AID BY STATE EMPLOYEES — RECORDS AND INFORMATION.

1. All officers and employees of the state shall comply with and aid in all proper ways in carrying out the provisions of this article and the rules and orders under this article. All officers and employees shall furnish any records or information which the director requires for any purpose of this article. The director may institute and maintain any action or proceeding at law or in equity that the director considers necessary or appropriate to secure compliance with this article and the rules and orders under this article.

2. The director may delegate to a person in any department, agency, board, commission, or office, located away from the seat of government, any of the duties imposed by this article upon the director.

Sec. 79. NEW SECTION. 8A.454 HEALTH INSURANCE ADMINISTRATION FUND.

1. A separate, special Iowa state health insurance administration fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund from proceeds of a monthly per contract administrative charge assessed and collected by the department. Moneys deposited in the fund shall be expended by the department for health insurance program administration costs. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2. A monthly per contract administrative charge shall be assessed by the department on all health insurance plans administered by the department in which the contract holder has a state employer to pay the charge. The amount of the administrative charge shall be established by the general assembly. The department shall collect the administrative charge from each department utilizing the centralized payroll system and shall deposit the proceeds in the fund. In addition, the state board of regents, all library service areas, the state fair board, the state department of transportation, and each judicial district department of correctional services shall remit the administrative charge on a monthly basis to the department and shall submit a report to the department containing the number and type of health insurance contracts held by each of its employees whose health insurance is administered by the department.

3. The expenditure of moneys from the fund in any fiscal year shall not exceed the amount of the monthly charge established by the general assembly multiplied by the number of health insurance contracts in effect at the beginning of the same fiscal year in which the expenditures shall be made. Any unencumbered or unobligated moneys in the fund at the end of the fiscal year shall not revert but shall be transferred to the health insurance premium reserve fund established pursuant to section 509A.5.

4. This section is repealed July 1, 2007.

Sec. 80. NEW SECTION. 8A.455 CERTIFICATION OF PAYROLLS — ACTIONS.

1. A state disbursing or auditing officer shall not make or approve or take part in making or approving a payment for personnel services to any person unless the payroll voucher or account of the pay bears the certification of the director, or of the director's authorized agent, that the persons named have been appointed and employed in accordance with this article and the rules and orders under this article, and that funds are available for the payment of the persons.

2. The director may, for proper cause, withhold certification from an entire payroll or from any specific item or items on a payroll. The director may, however, provide that certification of payrolls may be made once every year, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of the officer's or employee's payroll. In the latter case a voucher for payment of salary to such employee shall not be issued or payment of salary shall not be made without further certification by the director.

3. Any citizen may maintain an action in accordance with chapter 17A to restrain a disbursing officer from making any payment in contravention of this article, or rule or order under this article. Any sum paid contrary to this article or any rule or order under this article may

be recovered in an action in accordance with chapter 17A maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check, or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the state treasury.

4. Any person appointed or employed in contravention of this article or of any rule or order under this article who performs service for which the person is not paid may maintain an action in accordance with chapter 17A against the officer or officers who purported so to appoint or employ the person to recover the agreed pay for such services or the reasonable value of the services if no pay was agreed upon. An officer shall not be reimbursed by the state at any time for any sum paid to such person on account of such services.

5. If the director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in accordance with chapter 17A in the courts to compel the director to certify such a payroll voucher or account.

Sec. 81. NEW SECTION. 8A.456 ACCESS TO RECORDS.

1. An employee subject to the provisions of this article shall have access to the employee's personal file.

2. An applicant for a position subject to the provisions of this article shall be permitted to review, in accordance with such rules as the director may prescribe, any evaluation resulting from the application for employment.

Sec. 82. NEW SECTION. 8A.457 WORKERS' COMPENSATION CLAIMS.

The director shall employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, 85B, and 86, or with the approval of the executive council contract for the services or purchase workers' compensation insurance coverage for state employees or selected groups of state employees. A state employee workers' compensation fund is created in the state treasury under the control of the department to pay state employee workers' compensation claims and administrative costs. The department shall establish a rating formula and assess premiums to all agencies, departments, and divisions of the state including those which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund of the state. The department shall collect the premiums and deposit them into the state employee workers' compensation fund. Notwithstanding section 8.33, moneys deposited in the state employee workers' compensation fund shall not revert to the general fund of the state at the end of any fiscal year, but shall remain in the state employee workers' compensation fund and be continuously available to pay state employee workers' compensation claims. The director may, to the extent practicable, contract with a private organization to handle the processing and payment of claims and services rendered under the provisions of this section.

Sec. 83. NEW SECTION. 8A.458 PENALTY.

A person who willfully violates this article or any rules adopted pursuant to this article, where no other penalty is prescribed, is guilty of a simple misdemeanor.

ARTICLE 5
FINANCIAL ADMINISTRATION

Sec. 84. NEW SECTION. 8A.502 FINANCIAL ADMINISTRATION DUTIES.

The department shall provide for the efficient management and administration of the financial resources of state government and shall have and assume the following powers and duties:

1. CENTRALIZED ACCOUNTING SYSTEM. To assume the responsibilities related to a centralized accounting system for state government.

2. SETOFF PROCEDURES. To establish and maintain a setoff procedure as provided in section 8A.504.

3. **COST ALLOCATION SYSTEM.** To establish a cost allocation system as provided in section 8A.505.

4. **COLLECTION AND PAYMENT OF FUNDS — MONTHLY PAYMENTS.** To control the payment of all moneys into the state treasury, and all payments from the state treasury by the preparation of appropriate warrants, or warrant checks, directing such collections and payment, and to advise the treasurer of state monthly in writing of the amount of public funds not currently needed for operating expenses. Whenever the state treasury includes state funds that require distribution to counties, cities, or other political subdivisions of this state, and the counties, cities, and other political subdivisions certify to the director that warrants will be stamped for lack of funds within the thirty-day period following certification, the director may partially distribute the funds on a monthly basis. Whenever the law requires that any funds be paid by a specific date, the director shall prepare a final accounting and shall make a final distribution of any remaining funds prior to that date.

5. **PREAUDIT SYSTEM.** To establish and fix a reasonable imprest cash fund for each state department and institution for disbursement purposes where needed. These revolving funds shall be reimbursed only upon vouchers approved by the director. It is the purpose of this subsection to establish a preaudit system of settling all claims against the state, but the preaudit system is not applicable to any of the following:

- a. Institutions under the control of the state board of regents.
- b. The state fair board as established in chapter 173.
- c. The Iowa dairy industry commission as established in chapter 179, the Iowa beef cattle producers association as established in chapter 181, the Iowa pork producers council as established in chapter 183A, the Iowa egg council as established in chapter 184, the Iowa turkey marketing council as established in chapter 184A, the Iowa soybean promotion board as established in chapter 185, and the Iowa corn promotion board as established in chapter 185C.

6. **AUDIT OF CLAIMS.** To set rules and procedures for the preaudit of claims by individual agencies or organizations. The director reserves the right to refuse to accept incomplete or incorrect claims and to review, preaudit, or audit claims as determined by the director.

7. **CONTRACTS.** To certify, record, and encumber all formal contracts to prevent overcommitment of appropriations and allotments.

8. **ACCOUNTS.** To keep the central budget and proprietary control accounts of the general fund of the state and special funds, as defined in section 8.2, of the state government. Upon elimination of the state deficit under generally accepted accounting principles, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year, the recognition of revenues received and expenditures paid and transfers received and paid within the time period required pursuant to section 8.33 shall be in accordance with generally accepted accounting principles. Budget accounts are those accounts maintained to control the receipt and disposition of all funds, appropriations, and allotments. Proprietary accounts are those accounts relating to assets, liabilities, income, and expense. For each fiscal year, the financial position and results of operations of the state shall be reported in a comprehensive annual financial report prepared in accordance with generally accepted accounting principles, as established by the governmental accounting standards board.

9. **FAIR BOARD AND BOARD OF REGENTS.** To control the financial operations of the state fair board and the institutions under the state board of regents:

- a. By charging all warrants issued to the respective educational institutions and the state fair board to an advance account to be further accounted for and not as an expense which requires no further accounting.
- b. By charging all collections made by the educational institutions and state fair board to the respective advance accounts of the institutions and state fair board, and by crediting all such repayment collections to the respective appropriations and special funds.
- c. By charging all disbursements made to the respective allotment accounts of each educational institution or state fair board and by crediting all such disbursements to the respective advance and inventory accounts.

d. By requiring a monthly abstract of all receipts and of all disbursements, both money and stores, and a complete account current each month from each educational institution and the state fair board.

10. ENTITIES REPRESENTING AGRICULTURAL PRODUCERS. To control the financial operations of the Iowa dairy industry commission as provided in chapter 179, the Iowa beef cattle producers association as provided in chapter 181, the Iowa pork producers council as provided in chapter 183A, the Iowa egg council as provided in chapter 184, the Iowa turkey marketing council as provided in chapter 184A, the Iowa soybean promotion board as provided in chapter 185, and the Iowa corn promotion board as provided in chapter 185C.

11. CUSTODY OF RECORDS. To have the custody of all books, papers, records, documents, vouchers, conveyances, leases, mortgages, bonds, and other securities appertaining to the fiscal affairs and property of the state, which are not required to be kept in some other office.

12. INTEREST OF THE PERMANENT SCHOOL FUND. To transfer the interest of the permanent school fund to the credit of the interest for Iowa schools fund.

13. FORMS. To prescribe all accounting and business forms and the system of accounts and reports of financial transactions by all departments and agencies of the state government other than those of the legislative branch.

14. FEDERAL CASH MANAGEMENT AND IMPROVEMENT ACT ADMINISTRATOR. To serve as administrator for state actions relating to the federal Cash Management and Improvement Act of 1990, Pub. L. No. 101-453, as codified in 31 U.S.C. § 6503. The director shall perform the following duties relating to the federal law:

a. Act as the designated representative of the state in the negotiation and administration of contracts between the state and federal government relating to the federal law.

b. Modify the centralized statewide accounting system and develop, or require to be developed by the appropriate departments of state government, the necessary reports and procedures necessary to complete the managerial and financial reports required to comply with the federal law.

There is annually appropriated from the general fund of the state to the department an amount sufficient to pay interest costs that may be due the federal government as a result of implementation of the federal law. This paragraph does not authorize the payment of interest from the general fund of the state for any departmental revolving, trust, or special fund where monthly interest earnings accrue to the credit of the departmental revolving, trust, or special fund. For any departmental revolving, trust, or special fund where monthly interest is accrued to the credit of the fund, the director may authorize a supplemental expenditure to pay interest costs from the individual fund which are due the federal government as a result of implementation of the federal law.

Sec. 85. NEW SECTION. 8A.503 RULES — DEPOSIT OF DEPARTMENTAL MONEYS.

The director shall prescribe by rule the manner and methods by which all departments and agencies of the state who collect money for and on behalf of the state shall cause the money to be deposited with the treasurer of state or in a depository designated by the treasurer of state. All such moneys collected shall be deposited at such times and in such depositories to permit the state of Iowa to deposit the funds in a manner consistent with the state's investment policies. All such moneys shall be promptly deposited, as directed, even though the individual amount remitted may not be correct. If any individual amount remitted is in excess of the amount required, the department or agency receiving the same shall refund the excess amount. If the individual amount remitted is insufficient, the person, firm, or corporation concerned shall be immediately billed for the amount of the deficiency.

Sec. 86. NEW SECTION. 8A.504 SETOFF PROCEDURES.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Collection entity" means the department of administrative services and any other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

- b. "Person" does not include a state agency.
 - c. "Qualifying debt" includes, but is not limited to, the following:
 - (1) Any debt, which is assigned to the department of human services, or which the child support recovery unit is otherwise attempting to collect, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services.
 - (2) An amount that is due because of a default on a guaranteed student or parental loan under chapter 261.
 - (3) Any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court.
 - d. "State agency" means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report. "State agency" does include the clerk of the district court as it relates to the collection of a qualifying debt. "State agency" does not include the general assembly, the governor, or any political subdivision of the state, or its offices and units.
2. SETOFF PROCEDURE. The collection entity shall establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency, a support debt being enforced by the child support recovery unit pursuant to chapter 252B, or such other qualifying debt. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:
- a. Before setoff, a person's liability to a state agency and the person's claim on a state agency shall be in the form of a liquidated sum due, owing, and payable.
 - b. Before setoff, the state agency shall obtain and forward to the collection entity the full name and social security number of the person liable to it or to whom a claim is owing who is a natural person. If the person is not a natural person, before setoff, the state agency shall forward to the collection entity the information concerning the person as the collection entity shall, by rule, require. The collection entity shall cooperate with other state agencies in the exchange of information relevant to the identification of persons liable to or claimants of state agencies. However, the collection entity shall provide only relevant information required by a state agency. The information shall be held in confidence and used for the purpose of setoff only. Section 422.72, subsection 1, does not apply to this paragraph.
 - c. Before setoff, a state agency shall, at least annually, submit to the collection entity the information required by paragraph "b" along with the amount of each person's liability to and the amount of each claim on the state agency. The collection entity may, by rule, require more frequent submissions.
 - d. Before setoff, the amount of a person's claim on a state agency and the amount of a person's liability to a state agency shall constitute a minimum amount set by rule of the collection entity.
 - e. Upon submission of an allegation of liability by a state agency, the collection entity shall notify the state agency whether the person allegedly liable is entitled to payment from a state agency, and, if so entitled, shall notify the state agency of the amount of the person's entitlement and of the person's last address known to the collection entity. Section 422.72, subsection 1, does not apply to this paragraph.
 - f. Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency's assertion of its rights to all or a portion of the payment and of the state agency's entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person's opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.
- However, upon submission of an allegation of the liability of a person which is owing and payable to the clerk of the district court and upon the determination by the collection entity

that the person allegedly liable is entitled to payment from a state agency, the collection entity shall send written notification to the person which states the assertion by the clerk of the district court of rights to all or a portion of the payment, the clerk's entitlement to recover the liability through the setoff procedure, the basis of the assertions, the person's opportunity to request within fifteen days of the mailing of the notice that the collection entity divide a jointly or commonly owned right to payment between owners, the opportunity to contest the liability to the clerk by written application to the clerk within fifteen days of the mailing of the notice, and the person's opportunity to contest the collection entity's setoff procedure.

g. Upon the timely request of a person liable to a state agency or of the spouse of that person and upon receipt of the full name and social security number of the person's spouse, a state agency shall notify the collection entity of the request to divide a jointly or commonly owned right to payment. Any jointly or commonly owned right to payment is rebuttably presumed to be owned in equal portions by its joint or common owners.

h. The collection entity shall, after the state agency has sent notice to the person liable or, if the liability is owing and payable to the clerk of the district court, the collection entity has sent notice to the person liable, set off the amount owed to the agency against any amount which a state agency owes that person. The collection entity shall refund any balance of the amount to the person. The collection entity shall periodically transfer amounts set off to the state agencies entitled to them. If a person liable to a state agency gives written notice of intent to contest an allegation, a state agency shall hold a refund or rebate until final disposition of the allegation. Upon completion of the setoff, a state agency shall notify in writing the person who was liable or, if the liability is owing and payable to the clerk of the district court, shall comply with the procedures as provided in paragraph "j".

i. The department of revenue and finance's existing right to credit against tax due or to become due under section 422.73 is not to be impaired by a right granted to or a duty imposed upon the collection entity or other state agency by this section. This section is not intended to impose upon the collection entity or the department of revenue and finance any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73.

j. If the alleged liability is owing and payable to the clerk of the district court and setoff as provided in this section is sought, all of the following shall apply:

(1) The judicial branch shall prescribe procedures to permit a person to contest the amount of the person's liability to the clerk of the district court.

(2) The collection entity shall, except for the procedures described in subparagraph (1), prescribe any other applicable procedures concerning setoff as provided in this subsection.

(3) Upon completion of the setoff, the collection entity shall file, at least monthly, with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all monies collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected and a separate written notice is not required.

3. In the case of multiple claims to payments filed under this section, priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit, next priority shall be given to claims filed by the college student aid commission, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals, next priority shall be given to claims filed by a clerk of the district court, and last priority shall be given to claims filed by other state agencies. In the case of multiple claims in which the priority is not otherwise provided by this subsection, priority shall be determined in accordance with rules to be established by the director.

4. The director shall have the authority to enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation that is substantially equivalent to the setoff procedure provided in this section for the recovery of an amount due because of a default on a guaranteed student or parental loan under chapter 261. A reciprocal agreement shall also be approved by the college student aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending

lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

5. Under substantive rules established by the director, the department shall seek reimbursement from other state agencies to recover its costs for setting off liabilities.

Sec. 87. NEW SECTION. 8A.505 COST ALLOCATION SYSTEM.

The department shall develop and administer an indirect cost allocation system for state agencies. The system shall be based upon standard cost accounting methodologies and shall be used to allocate both direct and indirect costs of state agencies or state agency functions in providing centralized services to other state agencies. A cost that is allocated to a state agency pursuant to this system shall be billed to the state agency and the cost is payable to the general fund of the state. The source of payment for the billed cost shall be any revenue source except for the general fund of the state. If a state agency is authorized by law to bill and recover direct expenses, the state agency shall recover indirect costs in the same manner.²

Sec. 88. NEW SECTION. 8A.506 ACCOUNTING.

The director may at any time require any person receiving money, securities, or property belonging to the state, or having the management, disbursement, or other disposition of them, an account of which is kept in the department, to render statements of them and information in reference to them.

Sec. 89. NEW SECTION. 8A.507 STATING ACCOUNT.

If an officer who is accountable to the state treasury for any money or property neglects to render an account to the director within the time prescribed by law, or, if no time is so prescribed, within twenty days after being required to do so by the director, the director shall state an account against the officer from the books of the officer's office, charging ten percent damages on the whole sum appearing due, and interest at the rate of six percent per annum on the aggregate from the time when the account should have been rendered; all of which may be recovered by action brought on the account, or on the official bond of the officer.

Sec. 90. NEW SECTION. 8A.508 COMPELLING PAYMENT.

If an officer fails to pay into the state treasury the amount received by the officer within the time prescribed by law, or, having settled with the director, fails to pay the amount found due, the director shall charge the officer with twenty percent damages on the amount due, with interest on the aggregate from the time the amount became due at the rate of six percent per annum, and the whole may be recovered by an action brought on the account, or on the official bond of the officer, and the officer shall forfeit the officer's commission.

Sec. 91. NEW SECTION. 8A.509 DEFENSE TO CLAIM.

The penal provisions in sections 8A.507 and 8A.508 are subject to any legal defense which the officer may have against the account as stated by the director, but judgment for costs shall be rendered against the officer in the action, whatever its result, unless the officer rendered an account within the time named in those sections.

Sec. 92. NEW SECTION. 8A.510 REQUESTED CREDITS — OATH REQUIRED.

When a county treasurer or other receiver of public money seeks to obtain credit on the books of the department for payment made to the county treasurer, before giving such credit the director shall require that person to take and subscribe an oath that the person has not used, loaned, or appropriated any of the public money for the person's private benefit, nor for the benefit of any other person.

Sec. 93. NEW SECTION. 8A.511 REQUISITION FOR INFORMATION.

In those cases where the director is authorized to call upon persons or officers for information, or statements, or accounts, the director may issue a requisition therefor in writing to the

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §34 herein

person or officer called upon, allowing reasonable time, which, having been served and return made to the director, as a notice in a civil action, is evidence of the making of the requisition.

Sec. 94. NEW SECTION. 8A.512 LIMITS ON CLAIMS.

The director is limited in authorizing the payment of claims, as follows:

1. FUNDING LIMIT.

a. A claim shall not be allowed by the department if the appropriation or fund of certification available for paying the claim has been exhausted or proves insufficient.

b. The authority of the director is subject to the following exceptions:

(1) Claims by state employees for benefits pursuant to chapters 85, 85A, 85B, and 86 are subject to limitations provided in those chapters.

(2) Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department of human services.

(3) Claims approved by an agency according to the provisions of sections 25.1 and 25.2.

2. CONVENTION EXPENSES. Claims for expenses in attending conventions, meetings, conferences, or gatherings of members of an association or society organized and existing as a quasi-public association or society outside the state of Iowa shall not be allowed at public expense, unless authorized by the executive council; and claims for these expenses outside of the state shall not be allowed unless the voucher is accompanied by the portion of the minutes of the executive council, certified to by its secretary, showing that the expense was authorized by the council. This section does not apply to claims in favor of the governor, attorney general, utilities board members, or to trips referred to in sections 97B.7A and 217.20.

3. PAYMENT FROM FEES. Claims for per diem and expenses payable from fees shall not be approved for payment in excess of those fees if the law provides that such expenditures are limited to the special funds collected and deposited in the state treasury.

Sec. 95. NEW SECTION. 8A.513 CLAIMS — APPROVAL.

The director before approving a claim on behalf of the department shall determine:

1. That the creation of the claim is clearly authorized by law. Statutes authorizing the expenditure may be referenced through account coding authorized by the director.

2. That the claim has been authorized by an officer or official body having legal authority to so authorize and that the fact of authorization has been certified to the director by such officer or official body.

3. That all legal requirements have been observed, including notice and opportunity for competition, if required by law.

4. That the claim is in proper form as the director may provide.

5. That the charges are reasonable, proper, and correct and no part of the claim has been paid.

Sec. 96. NEW SECTION. 8A.514 VOUCHERS — INTEREST — PAYMENT OF CLAIMS.

1. Before a warrant or its equivalent is issued for a claim payable from the state treasury, the department shall file an itemized voucher showing in detail the items of service, expense, item furnished, or contract for which payment is sought. However, the director may authorize the prepayment of claims when the best interests of the state are served under rules adopted by the director. The claimant's original invoice shall be attached to a department's approved voucher. The director shall adopt rules specifying the form and contents for invoices submitted by a vendor to a department. The requirements apply to acceptance of an invoice by a department. A department shall not impose additional or different requirements on submission of invoices than those contained in rules of the director unless the director exempts the department from the invoice requirements or a part of the requirements upon a finding that compliance would result in poor accounting or management practices.

2. Vouchers for postage, stamped envelopes, and postal cards may be audited as soon as an order for them is entered.

3. The departments, the general assembly, and the courts shall pay their claims in a timely

manner. If a claim for services, supplies, materials, or a contract which is payable from the state treasury remains unpaid after sixty days following the receipt of the claim or the satisfactory delivery, furnishing, or performance of the services, supplies, materials, or contract, whichever date is later, the state shall pay interest at the rate of one percent per month on the unpaid amount of the claim. This subsection does not apply to claims against the state under chapters 25 and 669 or to claims paid by federal funds. The interest shall be charged to the appropriation or fund to which the claim is certified. Departments may enter into contracts for goods or services on payment terms of less than sixty days if the state may obtain a financial benefit or incentive which would not otherwise be available from the vendor. The department, in consultation with other affected departments, shall develop policies to promote consistency and fiscal responsibility relating to payment terms authorized under this subsection. The director shall adopt rules under chapter 17A relating to the administration of this subsection.

Sec. 97. NEW SECTION. 8A.515 WARRANTS — FORM.

A warrant shall bear on its face the signature of the director or its facsimile, or the signature of an assistant or its facsimile in case of a vacancy in the office of the director; a proper number, date, amount, and name of payee; a reference to the law under which it is drawn; whether for salaries or wages, services, or supplies, and what kind of supplies; and from what office or department, or for what other general or special purposes; or in lieu thereof, a coding system may be used, which particulars shall be entered in a warrant register kept for that purpose in the order of issuance; and as soon as practicable after issuing a warrant register, the director shall certify a duplicate of it to the treasurer of state.

Sec. 98. NEW SECTION. 8A.516 REQUIRED PAYEE.

All warrants shall be drawn to the order of the person entitled to payment or compensation, except that when goods or materials are purchased in foreign countries, warrants may be drawn upon the treasurer of state, payable to the bearer for the net amount of invoice and current exchange, and the treasurer of state shall furnish a foreign draft payable to the order of the person from whom purchase is made.

Sec. 99. NEW SECTION. 8A.517 PROHIBITED PAYEE.

In no case shall warrants be drawn in the name of the certifying office, department, board, or institution, or in the name of an employee, except for personal service rendered or expense incurred by the employee, unless express statutory authority exists therefor.

Sec. 100. NEW SECTION. 8A.518 CLAIMS EXCEEDING APPROPRIATIONS.

A claim shall not be allowed when the claim will exceed the amount specifically appropriated for the claim.

Sec. 101. NEW SECTION. 8A.519 CANCELLATION OF STATE WARRANTS.

On the last business day of each month, the director shall cancel and request the treasurer of state to stop payment on all state warrants which have been outstanding and unredeemed by the treasurer of state for six months or longer.

DIVISION II
CONFORMING AND MISCELLANEOUS CHANGES

Sec. 102. Section 2.9, Code 2003, is amended to read as follows:

2.9 JOURNALS — BILLS AND AMENDMENTS.

1. a. The senate and house of representatives shall each publish a daily journal of the transactions of their respective bodies. The secretary of the senate and the chief clerk of the house shall each determine the format and manner of the journal's publication, the procurement procedures for the journal's publication, and the journal's distribution for their respective bodies.

b. The secretary of the senate and the clerk of the house of representatives shall each preserve copies of the printed daily journals of their respective bodies, as corrected, certify to their correctness, and file them with the secretary of state at the adjournment of each session of the general assembly. The secretary of state shall cause the journals to be bound and preserved as preserve the original journals of the senate and the house in the manner specified by the majority leader of the senate and speaker of the house.

2. a. The senate and house of representatives shall each publish bills and amendments of their respective bodies. The secretary of the senate and the chief clerk of the house shall each determine the procurement procedures for the publication of the bills and amendments and the distribution of the bills and amendments for their respective bodies.

b. A bill that seeks to legalize the acts of any official or board or other official body, in regard to any matter of public nature or for any person or persons, company, or corporation, shall not be considered by the senate or house of representatives until the bill is published and distributed to members of the general assembly, and the publication shall be without expense to the state. The senate and house shall not order any such bill published until the secretary of the senate or chief clerk of the house has received a deposit to cover the cost of the publication. The newspaper publication of such bill shall be without expense to the state, and the bill shall not be published in a newspaper until the costs of the newspaper publication has been paid to the secretary of state.

Sec. 103. Section 2.10, subsection 1, Code 2003, is amended to read as follows:

1. Every member of the general assembly except the presiding officer of the senate, the speaker of the house, the majority and minority floor leader of each house, and the president pro tempore of the senate and speaker pro tempore of the house, shall receive an annual salary of twenty thousand one hundred twenty dollars for the year 1997 and subsequent years while serving as a member of the general assembly. In addition, each such member shall receive the sum of eighty-six dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that if the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, the payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. Members from Polk county shall receive sixty-five dollars per day. Each member shall receive a two hundred dollar per month allowance for legislative district constituency postage, travel, telephone costs, and other expenses. Travel expenses shall be paid at the rate established by section ~~18.117 8A.363~~ for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session unless the general assembly otherwise provides.

Sec. 104. Section 2.43, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The legislative council in cooperation with the officers of the senate and house shall have the duty and responsibility for preparing for each session of the general assembly. Pursuant to such duty and responsibility, the legislative council shall assign the use of areas in the state capitol except for the areas used by the governor as of January 1, 1986, and by the courts as of ~~November 1, 2002~~ July 1, 2003, and, in consultation with the director of the department of general services and the capitol planning commission, may assign areas in other state office buildings for use of the general assembly or legislative agencies. The legislative council may authorize the renovation, remodeling and preparation of the physical facilities used or to be used by the general assembly or legislative agencies subject to the jurisdiction of the legislative council and award contracts pursuant to such authority to carry out such preparation. The legislative council may purchase supplies and equipment deemed necessary for the proper functioning of the legislative branch of government.

Sec. 105. Section 2.47A, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. Receive annual status reports for all ongoing capital projects of state agencies, pursuant to section ~~18.12~~ 8A.321, subsection 14 10.

Sec. 106. Section 7A.1, unnumbered paragraph 4, Code 2003, is amended to read as follows:

This section shall not be construed as depriving the ~~state printing administrator~~ director of the department of administrative services of the right to edit and revise said report.

Sec. 107. Section 7A.2, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Reports after being filed with the governor and considered by the governor shall be delivered to the ~~state printing administrator~~ director of the department of administrative services.

Sec. 108. Section 7A.3, subsection 1, Code 2003, is amended to read as follows:

1. Director of ~~revenue and finance~~ the department of administrative services on the fiscal condition of the state.

Sec. 109. Section 7A.3, subsection 6, Code 2003, is amended by striking the subsection.

Sec. 110. Section 7A.3, subsection 10, Code 2003, is amended to read as follows:

10. Department of ~~general~~ administrative services.

Sec. 111. Section 7A.14, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The annual and biennial reports shall be published, printed, and bound in such number as the ~~state printing administrator~~ director of the department of administrative services may order. The officials and heads of departments shall furnish the ~~administrator~~ director with information necessary to determine the number of copies to be printed.

Sec. 112. Section 7A.23, Code 2003, is amended to read as follows:

7A.23 PRICE OF DEPARTMENTAL REPORTS.

The ~~state printing administrator~~ director of the department of administrative services shall establish and fix a selling price for all state departmental reports and any other state publications the ~~administrator~~ director may designate, which price per volume shall be the amount charged any person, other than public officials, who purchases the publication. The price shall cover the cost of printing and distribution. The ~~administrator~~ director may distribute gratis to state or local public officials or offices, as the ~~administrator~~ director deems necessary, copies of departmental annual reports.

Sec. 113. Section 7A.27, Code 2003, is amended to read as follows:

7A.27 OTHER NECESSARY PUBLICATIONS — WHEN NECESSARY TO SELL.

~~There may be published other~~ Other miscellaneous documents, reports, bulletins, books, and booklets may be published that are needed for the use of the various officials and departments of state, or are of value for the information of the general assembly or the public, in form and number most useful and convenient, to be determined by the ~~state printing administrator~~ director of the department of administrative services.

When such publications, except supplements to the Iowa administrative code, paid for by public funds furnished by the state, contain reprints of statutes or rules, or both, they shall be sold and distributed at cost by the department ordering ~~same~~ the publication if the cost per publication is one dollar or more, unless a central library or depository is established. Such publications shall be obtained from the ~~state printing administrator~~ director of the department of administrative services on requisition by the department ordering the publication and the

selling price, if any, shall be determined by the ~~administrator~~ director of the department of administrative services by dividing the total cost of printing, paper, distribution, and binding by the number printed. ~~Said~~ The price shall be set at the nearest multiple of ten to the quotient thus obtained. Distribution of such publications shall be made by the ~~administrator~~ director gratis to public officers, purchasers of licenses from state departments required by statute and departments. Funds from the sale of such publications shall be deposited monthly in the general fund of the state except the cost of distribution shall be deposited in the ~~permanent printing~~ revolving fund established in section ~~18.57~~ 8A.345.

Sec. 114. Section 7A.28, Code 2003, is amended to read as follows:
7A.28 GOVERNOR MAY FIX FILING DATE.

The governor shall have the right to fix a date for the completion of or filing of any copy or manuscript for any miscellaneous document or other publication, or for any portion of the manuscript, and to compel compliance with such orders the same as in the case of the official reports. ~~The state printing administrator~~ director of the department of administrative services shall report to the governor any failure to furnish manuscript or other delay affecting any publication.

Sec. 115. Section 7A.29, Code 2003, is amended to read as follows:
7A.29 TITLE PAGES — COMPLIMENTARY INSERTIONS.

~~The state printing administrator~~ director of the department of administrative services shall provide the necessary printer's copy for a suitable title page for each publication requiring such title which shall contain the name of the author, but ~~no~~ such title shall not have written or printed thereon or attached thereto the words "Compliments of" followed by the name of the author, nor any other words of similar import.

Sec. 116. Section 7E.5, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. The department of ~~personnel~~ administrative services, created in section ~~19A.1~~ 8A.102, which has primary responsibility for ~~personnel~~ the management and coordination of the major resources of state government.

Sec. 117. Section 7E.5, subsection 1, paragraph c, Code 2003, is amended by striking the paragraph.

Sec. 118. Section 7E.5, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. The department of revenue ~~and finance~~, created in section 421.2, which has primary responsibility for revenue collection and revenue law compliance, ~~financial management and assistance~~, and the Iowa lottery.

Sec. 119. Section 7E.5, subsection 1, paragraph x, Code 2003, is amended by striking the paragraph.

Sec. 120. Section 7F.1, subsection 3, Code 2003, is amended to read as follows:

3. OFFICE ESTABLISHED. A state-federal relations office is established as an independent agency. The office shall be located in Washington D.C. and shall be administered by the director of the office who is appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor. The office and its personnel are exempt from the merit system provisions of chapter ~~19A~~ 8A, ~~article 4~~.

Sec. 121. Section 8.31, unnumbered paragraph 6, Code 2003, is amended to read as follows:

The procedure to be employed in controlling the expenditures and receipts of the state fair

board and the institutions under the state board of regents, whose collections are not deposited in the state treasury, is that outlined in section ~~421.31~~ 8A.502, subsection ~~6~~ 9.

Sec. 122. Section 8.36A, Code 2003, is amended to read as follows:

8.36A FULL-TIME EQUIVALENT POSITION POSITIONS.

1. For purposes of making appropriations and financial reports and as used in appropriations statutes, "full-time equivalent position" means a budgeting and monitoring unit that equates the aggregate of full-time positions, part-time positions, a vacancy and turnover factor, and other adjustments. One full-time equivalent position represents two thousand eighty working hours, which is the regular number of hours one full-time person works in one fiscal year. The number of full-time equivalent positions shall be calculated by totaling the regular number of hours that could be annually worked by persons in all authorized positions, reducing those hours by a vacancy and turnover factor and dividing that amount by two thousand eighty hours. In order to achieve the full-time equivalent position level, the number of filled positions may exceed the number of full-time equivalent positions during parts of the fiscal year to compensate for time periods when the number of filled positions is below the authorized number of full-time equivalent positions.

2. If a department or establishment has reached or anticipates reaching the full-time equivalent position level authorized for the department but determines that conversion of a contract position to a full-time equivalent position would result in cost savings while providing comparable or better services, the department or establishment may request the director of the department of management to approve the conversion and addition of the full-time equivalent position. The request shall be accompanied by evidence demonstrating how the cost savings and service quality will be achieved through the conversion. If approved by the director of the department of management, the department's or establishment's authorized full-time equivalent position level shall be increased accordingly and the revised level shall be reported to the fiscal committee of the legislative council and the legislative fiscal bureau.

Sec. 123. Section 8.47, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The department of ~~general~~ administrative services, in cooperation with the office of attorney general, ~~and~~ the department of management, ~~the department of personnel, and the department of revenue and finance,~~ shall adopt uniform terms and conditions for service contracts executed by a department or establishment benefiting from service contracts. The terms and conditions shall include but are not limited to all of the following:

Sec. 124. Section 8.47, subsection 2, Code 2003, is amended to read as follows:

2. Departments or establishments, with the approval of the department of management acting in cooperation with the office of attorney general, ~~the department of general services, the department of personnel, and the department of revenue and finance~~ administrative services, may adopt special terms and conditions for use by the departments or establishments in their service contracts.

Sec. 125. Section 8.63, Code 2003, is amended to read as follows:

8.63 INNOVATIONS FUND.

1. An innovations fund is created in the state treasury under the control of the department of management for the purpose of stimulating and encouraging innovation and entrepreneurship in state government by the awarding of repayable loans to state agencies.

2. The director of the department of management shall establish an eight-member committee to be called the state innovations fund committee. The committee shall review all requests for funds and approve loans of funds if the committee determines that the loan meets the requirements for a project loan or an enterprise loan as provided in this section.

3. A project loan can be funded if the committee determines that an agency request would result in cost savings or added revenue to the general fund of the state. Eligible projects are

projects which cannot be funded from an agency's operating budget without adversely affecting the agency's normal service levels. Projects may include, but are not limited to, purchase of advanced technology, contracting for expert services, and acquisition of equipment or supplies.

~~4.~~ 4. An enterprise loan can be funded if the committee determines that the agency or business unit has a viable business plan and the capability to use the loan to provide internal services to government. The enterprise is expected to receive payment for services from its customers and use those payments to cover its expenses, including repayment of the loan.

~~3- 5.~~ 5. A state agency seeking a loan from the innovations fund shall complete an application form designed by the state innovations fund committee which employs, for projects, a return on investment concept and demonstrates how state general fund expenditures will be reduced or how state general fund revenues will increase, or, for enterprises, a business plan that shows how the enterprise will meet customer needs, provide value to customers, and demonstrate financial viability. Minimum loan requirements for state agency requests shall be determined by the committee. As an incentive to increase state general fund revenues, an agency may retain up to fifty percent of savings realized in connection with a project loan from the innovations fund. The amount retained shall be determined by the innovations fund committee.

~~4.~~ 6. a. In order for the innovations fund to be self-supporting, the innovations fund committee shall establish repayment schedules for each ~~innovation~~ innovations fund loan awarded. Agencies shall repay the funds over a period not to exceed five years with interest, at a rate to be determined by the innovations fund committee.

b. If the department of management and the department of revenue and finance certify that the savings from a proposed innovations fund project will result in a net increase in the balance of the general fund of the state without a corresponding cost savings to the requesting agency, and if the requesting agency meets all other eligibility requirements, the innovations fund committee may approve the loan for the project and not require repayment by the requesting agency. There is appropriated from the general fund of the state to the department of ~~revenue and finance~~ management for deposit in the innovations fund an amount sufficient to repay the loan amount.

~~5- 7.~~ 7. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the innovations fund shall be credited to the innovations fund. Notwithstanding section 8.33, moneys remaining in the innovations fund at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 126. Section 8D.4, Code 2003, is amended to read as follows:
8D.4 EXECUTIVE DIRECTOR APPOINTED.

The commission, in consultation with the director of the department of administrative services shall appoint an executive director of the commission, subject to confirmation by the senate. Such individual shall not serve as a member of the commission. The executive director shall serve at the pleasure of the commission. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation. The governor shall establish the salary of the executive director within range nine as established by the general assembly. The salary and support of the executive director shall be paid from funds deposited in the Iowa communications network fund.

Sec. 127. Section 9.3, Code 2003, is amended to read as follows:
9.3 COMMISSIONS.

All commissions issued by the governor shall be countersigned by the secretary, who shall register each commission in a book to be kept for that purpose, specifying the office, name of officer, date of commission, and tenure of office, and forthwith forward to the directors of the departments of management and of ~~revenue and finance~~ administrative services copies of the registration.

Sec. 128. Section 10A.104, subsection 2, Code 2003, is amended to read as follows:

2. Appoint the administrators of the divisions within the department and all other personnel

deemed necessary for the administration of this chapter, except the state public defender, assistant state public defenders, administrator of the racing and gaming commission, members of the employment appeal board, and administrator of the child advocacy board created in section 237.16. All persons appointed and employed in the department are covered by the provisions of chapter ~~19A~~ 8A, article 4, but persons not appointed by the director are exempt from the merit system provisions of chapter ~~19A~~ 8A, article 4.

Sec. 129. Section 10A.601, subsections 1 and 7, Code 2003, are amended to read as follows:

1. A full-time employment appeal board is created within the department of inspections and appeals to hear and decide contested cases under ~~chapter 8A, article 4, and chapters 19A, 80, 88, 89A, 91C, 96, and 97B.~~

7. An application for rehearing before the appeal board shall be filed pursuant to section 17A.16, unless otherwise provided in chapter ~~19A, 8A, article 4, or chapter~~ 80, 88, 89A, 91C, 96, or 97B. A petition for judicial review of a decision of the appeal board shall be filed pursuant to section 17A.19. The appeal board may be represented in any such judicial review by an attorney who is a regular salaried employee of the appeal board or who has been designated by the appeal board for that purpose, or at the appeal board's request, by the attorney general. Notwithstanding the petitioner's residency requirement in section 17A.19, subsection 2, a petition for judicial review may be filed in the district court of the county in which the petitioner was last employed or resides, provided that if the petitioner does not reside in this state, the action shall be brought in the district court of Polk county, Iowa, and any other party to the proceeding before the appeal board shall be named in the petition. Notwithstanding the thirty-day requirement in section 17A.19, subsection 6, the appeal board shall, within sixty days after filing of the petition for judicial review or within a longer period of time allowed by the court, transmit to the reviewing court the original or a certified copy of the entire records of a contested case. The appeal board may also certify to the court, questions of law involved in any decision by the appeal board. Petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law of this state. No bond shall be required for entering an appeal from any final order, judgment, or decree of the district court to the supreme court.

Sec. 130. Section 10A.801, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. The department shall employ a sufficient number of administrative law judges to conduct proceedings for which agencies are required, by section 17A.11 or any other provision of law, to use an administrative law judge employed by the division. An administrative law judge employed by the division shall not perform duties inconsistent with the judge's duties and responsibilities as an administrative law judge and shall be located in an office that is separated from the offices of the agencies for which that person acts as a presiding officer. Administrative law judges shall be covered by the merit system provisions of chapter ~~19A~~ 8A, article 4.

Sec. 131. Section 11.2, subsection 1, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Provided further, that a preliminary audit of the educational institutions and the state fair board shall be made periodically, at least quarterly, to check the monthly reports submitted to the director of ~~revenue and finance~~ the department of administrative services as required by section ~~421.31~~ 8A.502, subsection 4 ~~9~~, and that a final audit of such state agencies shall be made at the close of each fiscal year.

Sec. 132. Section 12E.8, subsection 2, Code 2003, is amended to read as follows:

2. The authority is exempt from the requirements of chapter ~~18~~ 8A, article 3.

Sec. 133. Section 13.13, subsection 2, Code 2003, is amended to read as follows:

2. The farm assistance program coordinator shall contract with a nonprofit organization

chartered in this state to provide mediation services as provided in chapters 654A, 654B, and 654C. The contract may be terminated by the coordinator upon written notice and for good cause. The organization awarded the contract is designated as the farm mediation service for the duration of the contract. The organization may, upon approval by the coordinator, provide mediation services other than as provided by law. The farm mediation service is not a state agency for the purposes of chapter 8A, article 4, and chapters 19A, 20, and 669.

Sec. 134. Section 13.22, subsection 6, Code 2003, is amended to read as follows:

6. Cooperate to the fullest extent feasible with the existing informational and referral networks among farmers, farmer advocates, and others concerned with the economic crisis in agricultural areas. The legal services provider is not a state agency for the purposes of chapter 8A, article 4, and chapters 19A, 20, and 669.

Sec. 135. Section 13.34, subsection 4, Code 2003, is amended to read as follows:

4. The contracting nonprofit organization is not a state agency for the purposes of chapter 8A, article 4, and chapters 19A, 20, and 669.

Sec. 136. Section 13B.5, Code 2003, is amended to read as follows:

13B.5 STAFF.

The state public defender may appoint assistant state public defenders who, subject to the direction of the state public defender, shall have the same duties as the state public defender and shall not engage in the private practice of law. The salaries of the staff shall be fixed by the state public defender. The state public defender and the state public defender's staff shall receive actual and necessary expenses, including travel at the state rate set forth in section ~~18.117~~ 8A.363.

Sec. 137. Section 15.106, subsection 2, Code 2003, is amended to read as follows:

2. Employ personnel as necessary to carry out the duties and responsibilities of the department, consistent with the merit system provisions of chapter ~~19A~~ 8A, article 4, for nonprofessional employees. Professional staff of the department are exempt from the merit system provisions of chapter ~~19A~~ 8A, article 4.

Sec. 138. Section 15.108, subsection 9, paragraph c, Code 2003, is amended to read as follows:

c. Except as otherwise provided in sections ~~7D.33~~ 8A.110, 260C.14, and 262.9, provide that an inventor whose research is funded in whole or in part by the state shall assign to the state a proportionate part of the inventor's rights to a letter patent resulting from that research. Royalties or earnings derived from a letter patent shall be paid to the treasurer of state and credited by the treasurer to the general fund of the state. However, the department in conjunction with other state agencies, including the board of regents, shall provide incentives to inventors whose research is funded in whole or in part by the state for having their products produced in the state. These incentives may include taking a smaller portion of the inventor's royalties or earnings than would otherwise occur under this paragraph or other provisions of the law.

Sec. 139. Section 16.2, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A title guaranty division is created within the authority. The powers of the division relating to the issuance of title guaranties are vested in and shall be exercised by a division board of five members appointed by the governor subject to confirmation by the senate. The membership of the board shall include an attorney, an abstractor, a real estate broker, a representative of a mortgage-lender, and a representative of the housing development industry. The executive director of the authority shall appoint an attorney as director of the title guaranty division who shall serve as an ex officio member of the board. The appointment of and compensation for the division director are exempt from the merit system provisions of chapter ~~19A~~ 8A, article 4.

Sec. 140. Section 16A.5, subsection 2, Code 2003, is amended to read as follows:

2. The executive director is a nonvoting ex officio member of the board, and shall advise the authority on matters relating to finance, carry out all directives from the authority, and hire and supervise the authority's staff pursuant to its directions and under the merit system provisions of chapter ~~19A 8A, article 4~~, except that principal administrative assistants with responsibilities in operating loan programs, accounting, and processing of applications for interest reduction are exempt from the merit system.

Sec. 141. Section 17A.6, subsection 5, Code 2003, is amended to read as follows:

5. The Iowa administrative code, its supplements, and the Iowa administrative bulletin shall be made available upon request to all persons who subscribe to any of them ~~through the state printing division. Copies of this code so made available shall be kept current by the division.~~

Sec. 142. Section 19B.5, subsection 2, Code 2003, is amended to read as follows:

2. The department of ~~personnel~~ administrative services shall submit a report on the condition of affirmative action, diversity, and multicultural programs in state agencies covered by subsection 1 by September 30 of each year to the governor and the general assembly. ~~The report shall include information identifying funding sources and itemized costs, including administrative costs, for these programs.~~

Sec. 143. Section 19B.12, subsection 4, Code 2003, is amended to read as follows:

4. The department of ~~personnel~~ administrative services for all state agencies, and the state board of regents for its institutions, shall adopt rules and appropriate internal, confidential grievance procedures to implement this section, and shall adopt procedures for determining violations of this section and for ordering appropriate dispositions that may include, but are not limited to, discharge, suspension, or reduction in rank or grade as defined in section ~~19A.9 8A.413~~, subsection 16.

Sec. 144. Section 20.5, subsection 4, Code 2003, is amended to read as follows:

4. The board may employ such persons as are necessary for the performance of its functions. Personnel of the board shall be employed pursuant to the provisions of chapter ~~19A 8A, article 4~~.

Sec. 145. Section 20.18, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Public employees of the state or public employees covered by civil service shall follow either the grievance procedures provided in a collective bargaining agreement, or in the event that grievance procedures are not provided, shall follow grievance procedures established pursuant to chapter ~~19A 8A, article 4~~, or chapter 400, as applicable.

Sec. 146. Section 23A.2, subsection 10, paragraph o, Code 2003, is amended to read as follows:

o. The performance of an activity authorized pursuant to section ~~14B.102 8A.202~~, subsection 2, paragraph ~~"l"~~ "k".

Sec. 147. Section 29A.13, Code 2003, is amended to read as follows:

29A.13 APPROPRIATED FUNDS.

Operating expenses for the national guard including the purchase of land, maintenance of facilities, improvement of state military reservations, installations, and weapons firing ranges owned or leased by the state of Iowa or the United States shall be paid from funds appropriated for the support and maintenance of the national guard. Claims for payment of such expenses shall be subject to the approval of the adjutant general. Upon approval of the adjutant general the claim shall be submitted to the director of ~~revenue and finance in accordance with the procedures established by the director of revenue and finance under chapter 421~~ the department of administrative services.

Payment for personnel compensation and authorized benefits shall be approved by the adjutant general prior to submission to the director of ~~revenue and finance~~ the department of administrative services for payment.

Sec. 148. Section 35A.8, subsection 3, Code 2003, is amended to read as follows:

3. Except for the employment duties and responsibilities assigned to the commandant for the Iowa veterans home, the executive director shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the commission. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter ~~19A 8A, article 4~~.

Sec. 149. Section 35A.10, Code 2003, is amended to read as follows:

35A.10 MULTIYEAR CONSTRUCTION PROGRAM — CONSTRUCTION, REPAIR, AND IMPROVEMENT PROJECTS.

1. The commission shall work with the department of ~~general administrative services~~ to prepare and submit to the director of the department of management, as provided in section 8.23, a multiyear construction program including estimates of the expenditure requirements for the construction, repair, or improvement of buildings, grounds, or equipment at the commission of veterans affairs building at Camp Dodge and the Iowa veterans home in Marshalltown.

2. The commandant and the commission shall have plans and specifications prepared by the department of ~~general administrative services~~ for authorized construction, repair, or improvement projects in excess of twenty-five thousand dollars. An appropriation for a project shall not be expended until the department of ~~general administrative services~~ has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer.

3. The director of the department of ~~general administrative services~~ shall, in writing, let all contracts for authorized improvements in excess of twenty-five thousand dollars in accordance with chapter ~~18 8A, article 3~~. The director of the department of ~~general administrative services~~ shall not authorize payment for construction purposes until satisfactory proof has been furnished by the proper officer or supervising architect that the parties have complied with the contract.

Sec. 150. Section 35D.14, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The commandant or the commandant's designee shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the commandant. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter ~~19A 8A, article 4~~.

Sec. 151. Section 42.1, subsection 5, paragraph b, Code 2003, is amended to read as follows:

b. An elective office in the executive or legislative branch of the government of this state, or an office which is filled by appointment and is exempt from the merit system under section ~~19A.3 8A.412~~.

Sec. 152. Section 47.8, subsection 3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The commission may authorize the registrar to employ such additional staff personnel as it deems necessary to permit the duties of the registrar's office to be adequately and promptly discharged. Such personnel shall be employed pursuant to chapter ~~19A 8A, article 4~~.

Sec. 153. Section 55.1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A leave of absence for a person regularly employed pursuant to chapter ~~19A 8A, article 4~~, is subject to section ~~19A.18 8A.416~~.

Sec. 154. Section 55.4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any public employee who becomes a candidate for any elective public office shall, upon request of the employee and commencing any time within thirty days prior to a contested primary, special, or general election and continuing until after the day following that election, automatically be given a period of leave. If the employee is under chapter ~~19A 8A, article 4~~, the employee may choose to use accrued vacation leave, accrued compensatory leave or leave without pay to cover these periods. The appointing authority may authorize other employees to use accrued vacation leave or accrued compensatory leave instead of leave without pay to cover these periods. An employee who is a candidate for any elective public office shall not campaign while on duty as an employee.

Sec. 155. Section 68B.32, subsection 5, Code 2003, is amended to read as follows:

5. The board shall employ a full-time executive director who shall be the board's chief administrative officer. The board shall employ or contract for the employment of legal counsel notwithstanding section 13.7, and any other personnel as may be necessary to carry out the duties of the board. The board's legal counsel shall be the chief legal officer of the board, and shall advise the board on all legal matters relating to the administration of this chapter and chapter 56. The state may be represented by the board's legal counsel in any civil action regarding the enforcement of this chapter or chapter 56, or, at the board's request, the state may be represented by the office of the attorney general. Notwithstanding section ~~19A.3 8A.412~~, all of the board's employees, except for the executive director and legal counsel, shall be employed subject to the merit system provisions of chapter ~~19A 8A, article 4~~. The salary of the executive director shall be fixed by the board, within the range established by the general assembly. The salary of the legal counsel shall be fixed by the board, within a salary range established by the department of personnel for a position requiring similar qualifications and experience.

Sec. 156. Section 70A.38, subsection 8, Code 2003, is amended to read as follows:

8. This section is repealed June 30, ~~2003~~ 2008.

Sec. 157. Section 84A.7, subsection 5, Code 2003, is amended to read as follows:

5. PARTICIPANT ELIGIBILITY. Notwithstanding any contrary provision of ~~chapters 19A chapter 8A, article 4, and chapter 96~~, a person employed through an Iowa conservation corps program shall be exempt from merit system requirements and shall not be eligible to receive unemployment compensation benefits.

Sec. 158. Section 86.2, subsection 1, Code 2003, is amended to read as follows:

1. Chief deputy workers' compensation commissioners for whose acts the commissioner is responsible, who are exempt from the merit system provisions of chapter ~~19A 8A, article 4~~, and who shall serve at the pleasure of the commissioner.

Sec. 159. Section 88.2, subsection 3, Code 2003, is amended to read as follows:

3. Personnel administering the chapter shall be employed pursuant to chapter ~~19A 8A, article 4~~.

Sec. 160. Section 88A.6, Code 2003, is amended to read as follows:

88A.6 PERSONNEL.

The commissioner may employ inspectors and any other personnel deemed necessary to carry out the provisions of this chapter, subject to the provisions of chapter ~~19A 8A, article 4~~.

Sec. 161. Section 89.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The labor commissioner shall enforce the provisions of this chapter and may employ qualified personnel under the provisions of chapter ~~19A 8A, article 4~~, to administer the provisions of this chapter.

Sec. 162. Section 89A.4, Code 2003, is amended to read as follows:

89A.4 COMMISSIONER'S DUTIES AND PERSONNEL.

The commissioner shall enforce the provisions of this chapter. The commissioner shall employ personnel for the administration of this chapter pursuant to chapter ~~19A 8A, article 4.~~

Sec. 163. Section 91A.9, subsection 3, Code 2003, is amended to read as follows:

3. The commissioner may employ such qualified personnel as are necessary for the enforcement of this chapter. Such personnel shall be employed pursuant to chapter ~~19A 8A, article 4.~~

Sec. 164. Section 96.11, subsection 16, Code 2003, is amended to read as follows:

16. Reimbursement of setoff costs. The department shall include in the amount set off in accordance with section ~~421.17, subsection 29 8A.504,~~ for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of ~~revenue and finance administrative services.~~

Sec. 165. Section 97.51, subsection 1, Code 2003, is amended to read as follows:

1. The treasurer of state is the custodian and trustee of this fund and shall administer the fund in accordance with the directions of the ~~department of personnel Iowa public employees' retirement system created in section 97B.1.~~ It is the duty of the trustee:

a. To hold said trust funds.

b. Under the direction of the department³ and as designated by the department,⁴ invest such portion of said trust funds as are not needed for current payment of benefits, in interest-bearing securities issued by the United States, or interest-bearing bonds issued by the state of Iowa, or bonds issued by counties, school districts or general obligations or limited levy bonds issued by municipal corporations in this state as authorized by law; also to sell and dispose of same when needed for the payment of benefits.

c. To disburse the trust funds upon warrants drawn by the director of revenue and finance pursuant to the order of the ~~department of personnel Iowa public employees' retirement system created in section 97B.1.~~

Sec. 166. Section 97.51, subsection 3, Code 2003, is amended to read as follows:

3. The ~~department of personnel Iowa public employees' retirement system created in section 97B.1~~ shall administer the Iowa old-age and survivors' insurance liquidation fund and shall also administer all other provisions of this chapter.

Sec. 167. Section 97.52, Code 2003, is amended to read as follows:

97.52 ADMINISTRATION AGREEMENTS.

The ~~department of personnel Iowa public employees' retirement system created in section 97B.1~~ may enter into agreements whereby services performed by the ~~department system~~ and its employees under chapters 97, 97B, and 97C shall be equitably apportioned among the funds provided for the administration of those chapters. The money spent for personnel, rentals, supplies, and equipment used by the ~~department system~~ in administering the chapters shall be equitably apportioned and charged against the funds.

Sec. 168. Section 97A.5, subsections 5 and 6, Code 2003, are amended to read as follows:

5. STAFF. The department of ~~personnel public safety~~ shall provide administrative services to the board of trustees. Investments shall be administered through the office of the treasurer of state.

6. DATA — RECORDS — REPORTS.

a. The department of ~~personnel public safety~~ shall keep in convenient form the data necessary for actuarial valuation of the various funds of the system and for checking the expense of the system. The ~~director of the department commissioner~~ of ~~personnel public safety~~ shall

³ The word "system" probably intended

⁴ The word "system" probably intended

keep a record of all the acts and proceedings of the board, which records shall be open to public inspection. The board of trustees shall biennially make a report to the general assembly showing the fiscal transactions of the system for the preceding biennium, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the system.

b. The ~~director of the department~~ commissioner of personnel public safety shall maintain records, including but not limited to names, addresses, ages, and lengths of service, salaries and wages, contributions, designated beneficiaries, benefit amounts, if applicable, and other information pertaining to members as necessary in the administration of this chapter, as well as the names, addresses, and benefit amounts of beneficiaries. For the purpose of obtaining these facts, the ~~director~~ commissioner of personnel public safety shall have access to the records of the various departments of the state and the departments shall provide such information upon request. Member and beneficiary records containing personal information are not public records for the purposes of chapter 22. However, summary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.

Sec. 169. Section 97A.7, subsection 4, Code 2003, is amended to read as follows:

4. A member of the board of trustees or an employee of the department of ~~personnel~~ public safety shall not have a direct interest in the gains or profits of any investment made by the board of trustees. A trustee shall not receive any pay or emolument for the trustee's services. A trustee or employee of the department of ~~personnel~~ public safety shall not directly or indirectly use the assets of the system except to make current and necessary payments as authorized by the board of trustees, nor shall a trustee or employee of the department of ~~personnel~~ public safety become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board of trustees.

Sec. 170. Section 97B.1, Code 2003, is amended to read as follows:

97B.1 SYSTEM CREATED — ORGANIZATIONAL DEFINITIONS.

1. The "Iowa Public Employees' Retirement System" is ~~created~~ established as an independent agency within the executive branch of state government. The Iowa public employees' retirement system ~~division, a separate and distinct division within the department of personnel,~~ shall administer the retirement system established under this chapter.

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

- a. "Board" means the investment board created by section 97B.8A.
- b. "Chief executive officer" means the chief executive officer of the Iowa public employees' retirement system ~~division, notwithstanding section 7E.2, subsection 3, paragraph "c", sub-~~paragraph (1).
- c. "Committee" means the benefits advisory committee created by section 97B.8B.
- d. "Division" means ~~the Iowa public employees' retirement system division.~~
- e. d. "System" means the Iowa public employees' retirement system.

Sec. 171. Section 97B.1A, subsection 23, Code 2003, is amended to read as follows:

~~23.~~ 19A. "System" "Retirement system" means the retirement plan as contained ~~herein in~~ this chapter or as duly amended.

Sec. 172. Section 97B.4, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. In administering this chapter, the ~~division shall~~ system may enter into a biennial agreement with the department of ~~personnel~~ administrative services concerning the sharing of resources between the ~~division~~ system and department which are of benefit to each and which are consistent with the mission of the ~~division~~ system and the department. The budget program for the ~~division~~ system shall be established by the chief executive officer in consultation

with the board and other staff of the division system and shall be compiled by the department of personnel in collaboration with the division and submitted on behalf of the division by the department system pursuant to section 8.23.

Sec. 173. Section 97B.4, subsection 3, paragraphs a, b, c, and d, Code 2003, are amended to read as follows:

a. CHIEF INVESTMENT OFFICER. The chief executive officer, following consultation with the board, shall employ a chief investment officer who shall be appointed pursuant to chapter 19A 8A, article 4, and shall be responsible for administering the investment program for the retirement fund pursuant to the investment policies of the board.

b. CHIEF BENEFITS OFFICER. The chief executive officer, following consultation with the benefits advisory committee, shall employ a chief benefits officer who shall be appointed pursuant to chapter 19A 8A, article 4, and shall be responsible for administering the benefits and other services provided under the retirement system.

c. ACTUARY. The division system shall employ an actuary who shall be selected by the board and shall serve at the pleasure of the board. The actuary shall be the technical advisor for the system on matters regarding the operation of the retirement fund.

d. DIVISION SYSTEM EMPLOYEES. Subject to other provisions of this chapter, the division system may employ all other personnel as necessary for the administration of the retirement system. The maximum number of full-time equivalent employees specified by the general assembly for the division system for administration of the retirement system for a fiscal year shall not be reduced by any authority other than the general assembly. The personnel of the division system shall be appointed pursuant to chapter 19A 8A, article 4. The division system shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for a partisan elective public office.

Sec. 174. Section 97B.7A, subsection 5, Code 2003, is amended to read as follows:

5. TRAVEL. In the administration of the investment of moneys in the retirement fund, employees of the division system and members of the board may travel outside the state for the purpose of meeting with investment firms and consultants and attending conferences and meetings to fulfill their fiduciary responsibilities. This travel is not subject to section ~~421.38~~ 8A.512, subsection 2.

Sec. 175. Section 97B.43, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Each member in service on July 4, 1953, who made contributions under the abolished system, and who has not applied for and qualified for benefit payments under the abolished system, shall receive credit for years of prior service in the determination of retirement allowance payments under this chapter, if the member elects to become a member on or before October 1, 1953, the member has not made application for a refund of the part of the member's contributions under the abolished system which are payable under sections 97.50 to 97.53, and the member gives written authorization prior to October 1, 1953, to the commission to credit to the retirement fund the amount of the member's contribution which would be subject to a claim for refund. The amount so credited shall, after transfer, be considered as a contribution to the retirement system made as of July 4, 1953, by the member and shall be included in the determination of the amount of moneys payable under this chapter. However, an employee who was under a contract of employment as a teacher in the public schools of the state of Iowa at the end of the school year 1952-1953, or any person covered by section 97B.1A, subsection 20, paragraph "c" or "d", shall be considered as in service as of July 4, 1953, if they were members of the abolished system.

Sec. 176. Section 97B.49B, subsection 1, paragraph e, subparagraph (3), Code 2003, is amended to read as follows:

(3) A correctional officer or correctional supervisor employed by the Iowa department of

corrections, and any other employee of that department whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. The Iowa department of corrections and the ~~personnel division of the department of personnel~~ administrative services shall jointly determine which job classifications are covered under this subparagraph.

Sec. 177. Section 97B.49B, subsection 1, paragraph e, subparagraph (7), Code 2003, is amended to read as follows:

(7) An employee covered by the merit system as provided in chapter ~~19A.8A, article 4~~, whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.

Sec. 178. Section 97B.49F, subsection 2, paragraph c, subparagraph (5), Code 2003, is amended to read as follows:

(5) As used in this paragraph, "favorable actuarial experience" means the difference, if positive, between the anticipated and actual experience of the retirement system's actuarial assets and liabilities as measured by the system's actuary in the most recent annual actuarial valuation of the retirement system pursuant to rules adopted by the ~~division~~ system.

Sec. 179. Section 97B.50, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. A vested member who terminated service due to a disability, who has been issued payment for a refund pursuant to section 97B.53, and who subsequently commences receiving disability benefits as a result of that disability pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq. or the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., may receive credit for membership service for the period covered by the refund payment, upon repayment to the ~~division system~~ of the actuarial cost of receiving service credit for the period covered by the refund payment, as determined by the ~~division system~~. For purposes of this paragraph, the actuarial cost of the service purchase shall be determined as provided in section 97B.74. The payment to the ~~division system~~ as provided in this paragraph shall be made within ninety days after July 1, 2000, or the date federal disability payments commenced, whichever occurs later. For purposes of this paragraph, the date federal disability payments commence shall be the date that the member actually receives the first such payment, regardless of any retroactive payments included in that payment. A member who repurchases service credit under this paragraph and applies for retirement benefits shall have the member's monthly allowance, including retroactive adjustment payments, determined in the same manner as provided in paragraph "a" or "b", as applicable. This paragraph shall not be implemented until the system has received a determination letter from the federal internal revenue service approving the system's plan's qualified status under Internal Revenue Code section 401(a).

Sec. 180. Section 97B.64, Code 2003, is amended to read as follows:

97B.64 INSURANCE LAWS NOT APPLICABLE.

None of the laws of this state regulating insurance or insurance companies shall apply to the ~~division system~~ or to the ~~Iowa public employees'~~ retirement system or any of its funds.

Sec. 181. Section 97C.2, subsection 8, Code 2003, is amended to read as follows:

8. The term "state agency" means the ~~department of personnel~~ Iowa public employees' retirement system created in section 97B.1.

Sec. 182. Section 99E.3, subsection 3, Code 2003, is amended to read as follows:

3. The commissioner may employ, with the approval of the director, clerks, stenographers, inspectors, agents, and other employees pursuant to chapter ~~19A.8A, article 4~~, as necessary to carry out this chapter, except as provided in section 99E.14. The commissioner may require a background investigation to be conducted in connection with the employment of lottery

employees. The board shall define, by rule, the employment categories subject to investigation. The background investigation by the division of criminal investigation of the department of public safety may include a national criminal history record check through the federal bureau of investigation. The screening of lottery employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation.

Sec. 183. Section 99E.14, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The commissioner shall designate three administrative positions within the division which require specific areas of expertise relating to the operation of the lottery. These three administrative positions are exempt from the merit system provisions of chapter ~~19A 8A, article 4~~. The commissioner shall designate one of these three administrators to serve as acting commissioner in the commissioner's absence.

Sec. 184. Section 103A.6, Code 2003, is amended to read as follows:

103A.6 MERIT SYSTEM.

Employees of the commissioner, if required by federal statutes, are covered by the merit system provisions of chapter ~~19A 8A, article 4~~.

Sec. 185. Section 123.20, subsection 4, Code 2003, is amended to read as follows:

4. To appoint clerks, agents, or other employees required for carrying out the provisions of this chapter; to dismiss employees for cause; to assign employees to bureaus as created by the administrator within the division; and to designate their title, duties, and powers. All employees of the division are subject to chapter ~~19A 8A, article 4~~, unless exempt under section ~~19A.3 8A.412~~.

Sec. 186. Section 135.2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The governor shall appoint the director of the department, subject to confirmation by the senate. The director shall serve at the pleasure of the governor. The director is exempt from the merit system provisions of chapter ~~19A 8A, article 4~~. The governor shall set the salary of the director within the range established by the general assembly.

Sec. 187. Section 135C.16, subsection 1, Code 2003, is amended to read as follows:

1. In addition to the inspections required by sections 135C.9 and 135C.38, the department shall make or cause to be made such further unannounced inspections as it deems necessary to adequately enforce this chapter. At least one general unannounced inspection shall be conducted for each health care facility within a thirty-month period. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. An employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant to the merit system provisions of chapter ~~19A 8A, article 4~~, the discipline shall not exceed the discipline authorized pursuant to that ~~chapter article~~.

Sec. 188. Section 135C.18, Code 2003, is amended to read as follows:

135C.18 EMPLOYEES.

The department may employ, pursuant to chapter ~~19A 8A, article 4~~, such assistants and inspectors as may be necessary to administer and enforce the provisions of this chapter.

Sec. 189. Section 137.6, subsection 4, Code 2003, is amended to read as follows:

4. Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of chapter ~~19A 8A, article 4~~, or any civil service provision adopted under chapter 400.

Sec. 190. Section 142A.5, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. Employ a division administrator who shall be responsible for the administration and oversight of the division. The division administrator shall report to and shall serve at the pleasure of the director. The administrator shall be exempt from the merit system provisions of chapter ~~19A 8A, article 4.~~

Sec. 191. Section 142A.6, subsection 5, Code 2003, is amended to read as follows:

5. Procurement of goods and services necessary to implement the initiative is subject to approval of the commission. Notwithstanding chapter ~~18 8A, article 3,~~ or any other provision of law to the contrary, such procurement may be accomplished by the commission under its own competitive bidding process which shall provide for consideration of such factors as price, bidder competence, and expediency in procurement.

Sec. 192. Section 147.98, Code 2003, is amended to read as follows:

147.98 SECRETARY OF PHARMACY EXAMINERS.

The pharmacy examiners shall have the right to employ a full-time secretary, who shall not be a member of the examining board, at such compensation as may be fixed pursuant to chapter ~~19A 8A, article 4,~~ but the provisions of section 147.22 providing for a secretary for each examining board shall not apply to the pharmacy examiners.

Sec. 193. Section 147.102, Code 2003, is amended to read as follows:

147.102 PSYCHOLOGISTS, CHIROPRACTORS, AND DENTISTS.

Notwithstanding the provisions of this subtitle, every application for a license to practice psychology, chiropractic, or dentistry shall be made directly to the chairperson, executive director, or secretary of the examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining board for such profession. All examination, license, and renewal fees received from persons licensed to practice any of such professions shall be paid to and collected by the chairperson, executive director, or secretary of the examining board of such profession, who shall transmit the fees to the treasurer of state for deposit into the general fund of the state. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section ~~19A.9 8A.413,~~ subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 194. Section 147.103, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The board of physician assistant examiners may appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to physician assistants. The amount of compensation for the investigators shall be determined pursuant to chapter ~~19A 8A, article 4.~~

Sec. 195. Section 147.103A, subsections 3 and 4, Code 2003, are amended to read as follows:

3. The board may appoint investigators, who shall not be members of the examining board, and whose compensation shall be determined pursuant to chapter ~~19A 8A, article 4.~~ Investigators appointed by the board have the powers and status of peace officers when enforcing this chapter and chapters 148, 150, 150A, and 272C.

4. Applications for a license shall be made to the chairperson, executive director, or secretary of the board. All examination, license, and renewal fees shall be paid to and collected by the chairperson, executive director, or secretary of the board, who shall transmit the fees to the treasurer of state for deposit in the general fund of the state. The salary of the executive director of the board shall be established by the governor with approval of the executive council pursuant to section ~~19A.9 8A.413,~~ subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 196. Section 147.114, Code 2003, is amended to read as follows:
147.114 INSPECTOR.

An inspector may be appointed by the board of dental examiners pursuant to the provisions of chapter ~~19A 8A, article 4.~~

Sec. 197. Section 152.2, Code 2003, is amended to read as follows:
152.2 EXECUTIVE DIRECTOR — ASSISTANTS.

The board shall appoint a full-time executive director. The executive director shall be a registered nurse and shall not be a member of the board. The governor, with the approval of the executive council pursuant to section ~~19A.9 8A.413,~~ subsection 2, under the pay plan for exempt positions in the executive branch of government, shall set the salary of the executive director.

Sec. 198. Section 152.3, subsection 6, Code 2003, is amended to read as follows:

6. To appoint assistants to the director and persons necessary to administer this Act ~~chap-~~
~~ter.~~ Any appointments shall be merit appointments made pursuant to chapter ~~19A 8A, article~~
~~4.~~

Sec. 199. Section 152.11, Code 2003, is amended to read as follows:
152.11 INVESTIGATORS FOR NURSES.

The board of nursing may appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provisions of law related to those licensed to practice nursing. The amount of compensation for the investigators shall be determined pursuant to chapter ~~19A 8A, article 4.~~ Investigators authorized by the board of nursing have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 200. Section 153.33, subsection 2, Code 2003, is amended to read as follows:

2. To appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter ~~19A 8A,~~
~~article 4.~~ Investigators authorized by the board of dental examiners have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 201. Section 157.7, Code 2003, is amended to read as follows:
157.7 INSPECTORS AND CLERICAL ASSISTANTS.

The department of inspections and appeals shall employ personnel ~~under pursuant to chap-~~
~~ter 19A 8A, article 4,~~ to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 158.

The Iowa department of public health may employ clerical assistants ~~under pursuant to~~
~~chapter 19A 8A, article 4,~~ to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

Sec. 202. Section 158.6, Code 2003, is amended to read as follows:
158.6 INSPECTORS AND CLERICAL ASSISTANTS.

The department of inspections and appeals shall employ personnel ~~under pursuant to chap-~~
~~ter 19A 8A, article 4,~~ to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 157.

The Iowa department of public health may employ clerical assistants ~~under pursuant to~~
~~chapter 19A 8A, article 4,~~ to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

Sec. 203. Section 175.7, subsection 3, Code 2003, is amended to read as follows:

3. The executive director shall advise the authority on matters relating to agricultural land and property and agricultural finance, and carry out all directives from the authority, and shall hire and supervise the authority's staff pursuant to its directions and under the merit system provisions of chapter ~~19A 8A, article 4~~, except that principal administrative assistants with responsibilities in beginning farm loan programs, accounting, mortgage loan processing, and investment portfolio management are exempt from the merit system.

Sec. 204. Section 189.2, subsection 4, Code 2003, is amended to read as follows:

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208. These bulletins shall be printed in such numbers as may be approved by the ~~state printing administrator~~ director of the department of administrative services and shall be distributed to the newspapers of the state and to all interested persons.

Sec. 205. Section 216A.2, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The governor shall appoint the administrators of each of the divisions subject to confirmation by the senate. Each administrator shall serve at the pleasure of the governor and is exempt from the merit system provisions of chapter ~~19A 8A, article 4~~. The governor shall set the salary of the division administrators within the ranges set by the general assembly.

Sec. 206. Section 216A.145, Code 2003, is amended to read as follows:

216A.145 EMPLOYEES AND RESPONSIBILITY.

The administrator shall be the administrative officer of the division and shall be responsible for implementing policies and programs. The administrator may employ, in accordance with chapter ~~19A 8A, article 4~~, other persons necessary to carry out the programs of the division.

Sec. 207. Section 216B.3, subsections 14 and 17, Code 2003, are amended to read as follows:

14. Purchase and use recycled printing and writing paper in accordance with the schedule established in section ~~18-18 8A.315~~; establish a wastepaper recycling program, ~~by January 1, 1990~~, in accordance with the recommendations made by the department of natural resources and requirements of section ~~18-20 8A.329~~; and, in accordance with section ~~18-6 8A.311~~, require product content statements and compliance with requirements regarding contract bidding.

17. Comply with the requirements for the purchase of lubricating oils, industrial oils, greases, and hydraulic fluids as established pursuant to section ~~18-22 8A.316~~.

Sec. 208. Section 217.23, subsection 1, Code 2003, is amended to read as follows:

1. The director of human services or the director's designee, shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the department. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter ~~19A 8A, article 4~~.

Sec. 209. Section 217.34, Code 2003, is amended to read as follows:

217.34 DEBT SETOFF.

The investigations division of the department of inspections and appeals and the department of human services shall provide assistance to set off against a person's or provider's income tax refund or rebate any debt which has accrued through written contract, subrogation, departmental recoupment procedures, or court judgment and which is in the form of a liquidated sum due and owing the department of human services. The department of inspections and appeals, with approval of the department of human services, shall adopt rules under chapter

17A necessary to assist the department of ~~revenue and finance~~ administrative services in the implementation of the setoff under section ~~421.17, subsection 21 8A.504~~ in regard to money owed to the state for public assistance overpayments. The department of human services shall adopt rules under chapter 17A necessary to assist the department of ~~revenue and finance~~ administrative services in the implementation of the setoff under section ~~421.17, subsection 21 8A.504~~, in regard to collections by the child support recovery unit and the foster care recovery unit.

Sec. 210. Section 218.10, Code 2003, is amended to read as follows:
218.10 SUBORDINATE OFFICERS AND EMPLOYEES.

The administrator in charge of a particular institution, with the consent and approval of the director of human services, shall determine the number of subordinate officers and employees for the institution. Subject to this chapter, the officers and employees shall be appointed and discharged by the superintendent or business manager pursuant to chapter ~~19A 8A, article 4~~. The superintendent shall keep, in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of each discharge, and the reasons for discharge.

Sec. 211. Section 218.58, subsections 3 and 5, Code 2003, are amended to read as follows:
3. The department of ~~general~~ administrative services shall let all contracts under chapter ~~18 8A, article 3~~ for authorized construction, repair, or improvement of departmental buildings, grounds, or equipment.

5. A claim for payment relating to a project shall be itemized on a voucher form pursuant to section ~~421.40 8A.514~~, certified by the claimant and the architect or engineer in charge, and audited and approved by the department of ~~general~~ administrative services. Upon approval by the department of ~~general~~ administrative services, the voucher shall be forwarded to the director of ~~revenue and finance~~, who ~~the department of administrative services~~ shall draw a warrant to be paid by the treasurer of state from funds appropriated for the project. A partial payment made before completion of the project does not constitute final acceptance of the work or a waiver of any defect in the work.

Sec. 212. Section 218.85, Code 2003, is amended to read as follows:
218.85 UNIFORM SYSTEM OF ACCOUNTS.

The director of human services through the administrators in control of the institutions shall install in all the institutions the most modern, complete, and uniform system of accounts, records, and reports possible. The system shall be prescribed by the director of ~~revenue and finance~~ the department of administrative services as authorized in section ~~421.31 8A.502, subsection 10 13~~, and, among other matters, shall clearly show the detailed facts relative to the handling and uses of all purchases.

Sec. 213. Section 218.100, Code 2003, is amended to read as follows:
218.100 CENTRAL WAREHOUSE AND SUPPLY DEPOT.

The department of human services shall establish a fund for maintaining and operating a central warehouse as a supply depot and distribution facility for surplus government products, carload canned goods, paper products, other staples and such other items as determined by the department. The fund shall be permanent and shall be composed of the receipts from the sales of merchandise, recovery of handling, operating and delivery charges of such merchandise and from the funds contributed by the institutions now in a contingent fund being used for this purpose. All claims for purchases of merchandise, operating and salary expenses shall be subject to the provisions of sections 218.86 to ~~218.89~~ 218.88.

Sec. 214. Section 231.22, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The governor, subject to confirmation by the senate, shall appoint a director of the department of elder affairs who shall, subject to chapter ~~19A 8A, article 4~~, employ and direct staff as

necessary to carry out the powers and duties created by this chapter. The director shall serve at the pleasure of the governor. However, the director is subject to reconfirmation by the senate as provided in section 2.32, subsection 8. The governor shall set the salary for the director within the range set by the general assembly.

Sec. 215. Section 231.58, subsection 4, paragraph d, Code 2003, is amended to read as follows:

d. Develop procedures for coordination at the local and state level among the providers of long-term care, including when possible co-campusing of services. The director of the department of ~~general~~ administrative services shall give particular attention to this section when arranging for office space pursuant to section ~~18.12~~ 8A.321 for these three departments.

Sec. 216. Section 234.8, Code 2003, is amended to read as follows:

234.8 FEES FOR CHILD WELFARE SERVICES.

The department of human services may charge a fee for child welfare services to a person liable for the cost of the services. The fee shall not exceed the reasonable cost of the services. The fee shall be based upon the person's ability to pay and consideration of the fee's impact upon the liable person's family and the goals identified in the case permanency plan. The department may assess the liable person for the fee and the means of recovery shall include a setoff against an amount owed by a state agency to the person assessed pursuant to section ~~421.17, subsection 29~~ 8A.504. In addition the department may establish an administrative process to recover the assessment through automatic income withholding. The department shall adopt rules pursuant to chapter 17A to implement the provisions of this section. This section does not apply to court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141 and services for which the department has established a support obligation pursuant to section 234.39.

Sec. 217. Section 235A.15, subsection 5, Code 2003, is amended to read as follows:

5. Access to disposition data subject to placement in the central registry pursuant to section 232.71D is authorized to the department of personnel or to the personnel office of a public employer, as defined in section 20.3, as necessary for presentation in grievance or arbitration procedures provided for in sections ~~19A.14~~ 8A.415 and 20.18. Disposition data introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

Sec. 218. Section 236.15B, unnumbered paragraph 5, Code 2003, is amended to read as follows:

The department of ~~revenue and finance~~ administrative services shall consult the crime victim assistance board concerning the adoption of rules to implement this section. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of ~~revenue and finance~~ administrative services and accounts identified as owing under section ~~421.17~~ 8A.504 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 219. Section 252B.5, subsection 4, Code 2003, is amended to read as follows:

4. Assistance to set off against a debtor's income tax refund or rebate any support debt, which is assigned to the department of human services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support, or maintenance of a child. Unless the periodic payment plan provisions for a retroactive modification pursuant to section 598.21, subsection 8, apply, the entire amount of a judgment for accrued support, notwithstanding compliance with a periodic payment plan or regardless of the date of entry of the judgment, is due and owing as of the date of entry of the judgment and is delinquent for the purposes of setoff, including for setoff against a debtor's federal income tax refund or other

federal nontax payment. The department of human services shall adopt rules pursuant to chapter 17A necessary to assist the department of ~~revenue and finance~~ administrative services in the implementation of the child support setoff as established under section 421.17, ~~subsection 21~~ 8A.504.

Sec. 220. Section 252B.5, subsection 8, Code 2003, is amended to read as follows:

8. a. Assistance, in consultation with the department of ~~revenue and finance~~ administrative services, in identifying and taking action against self-employed individuals as identified by the following conditions:

(1) The individual owes support pursuant to a court or administrative order being enforced by the unit and is delinquent in an amount equal to or greater than the support obligation amount assessed for one month.

(2) The individual has filed a state income tax return in the preceding twelve months.

(3) The individual has no reported tax withholding amount on the most recent state income tax return.

(4) The individual has failed to enter into or comply with a formalized repayment plan with the unit.

(5) The individual has failed to make either all current support payments in accordance with the court or administrative order or to make payments against any delinquency in each of the preceding twelve months.

b. Notwithstanding section 252B.9, the unit may forward information to the department of ~~revenue and finance~~ administrative services as necessary to implement this subsection, including but not limited to both of the following:

(1) The name and social security number of the individual.

(2) Support obligation information in the specific case, including the amount of the delinquency.

Sec. 221. Section 255.27, Code 2003, is amended to read as follows:

255.27 FACULTY TO PREPARE BLANKS — PRINTING.

The medical faculty of the state university hospital shall from time to time prepare blanks containing questions and requiring information that it finds necessary and proper to be obtained by the physician who examines a patient under order of court. The blanks shall be printed by the state, and a sufficient supply shall be furnished by the ~~state printing administrator~~ director of the department of administrative services to the clerk of each juvenile court in the state. The cost of printing the blanks shall be audited, allowed, and paid in the same manner as other bills for public printing.

Sec. 222. Section 256.9, subsection 4, Code 2003, is amended to read as follows:

4. Employ personnel and assign duties and responsibilities of the department. The director shall appoint a deputy director and division administrators deemed necessary. They shall be appointed on the basis of their professional qualifications, experience in administration, and background. Members of the professional staff are not subject to the merit system provisions of chapter ~~19A~~ 8A, article 4, and are subject to section 256.10.

Sec. 223. Section 256.52, subsection 3, paragraph d, Code 2003, is amended to read as follows:

d. Appoint and approve the technical, professional, excepting the medical librarian and the law librarian, secretarial, and clerical staff necessary to accomplish the purposes of the division subject to chapter ~~19A~~ 8A, article 4.

Sec. 224. Section 256.54, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The medical library shall be administered by a medical librarian, appointed by the director subject to chapter ~~19A~~ 8A, article 4, who shall do all of the following:

Sec. 225. Section 256.54, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The law library shall be administered by a law librarian appointed by the director subject to chapter ~~19A~~ 8A, ~~article 4~~, who shall do all of the following:

Sec. 226. Section 257C.6, subsection 11, Code 2003, is amended to read as follows:

11. The authority is exempt from chapter ~~18~~ 8A, ~~article 3~~.

Sec. 227. Section 260C.19B, Code 2003, is amended to read as follows:

260C.19B PURCHASE OF BIO-BASED HYDRAULIC FLUIDS, GREASES, AND OTHER INDUSTRIAL LUBRICANTS.

Hydraulic fluids, greases, and other industrial lubricants purchased by or used under the direction of the board of directors to provide services to a merged area shall be purchased in compliance with the preference requirements for purchasing bio-based hydraulic fluids, greases, and other industrial lubricants as provided pursuant to section ~~18.22~~ 8A.316.

Sec. 228. Section 261.37, subsection 7, Code 2003, is amended to read as follows:

7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the Iowa department of ~~revenue and finance~~ administrative services to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed or parental loan made under this division. The commission shall adopt rules under chapter 17A necessary to assist the department of ~~revenue and finance~~ administrative services in the implementation of the student loan setoff program as established under section ~~421.17, subsection 23~~ 8A.504.

Sec. 229. Section 261A.6, subsection 10, Code 2003, is amended to read as follows:

10. All employees of the authority are exempt from ~~chapters 19A~~ chapter 8A, ~~article 4~~, and ~~chapter~~ 97B.

Sec. 230. Section 262.9, subsection 6, Code 2003, is amended to read as follows:

6. Purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section ~~18.18~~ 8A.315; establish a wastepaper recycling program for all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section ~~18.20~~ 8A.329; shall, in accordance with the requirements of section ~~18.6~~ 8A.311, require product content statements and compliance with requirements regarding procurement specifications; and shall comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section ~~18.22~~ 8A.316.

Sec. 231. Section 262.25A, subsection 1, Code 2003, is amended to read as follows:

1. Institutions under the control of the state board of regents shall purchase only new automobiles which have at least the fuel economy required for purchase of new automobiles by the ~~state fleet administrator~~ director of the department of administrative services under section ~~18.115~~ 8A.362, subsection 4. This subsection does not apply to automobiles purchased for law enforcement purposes.

Sec. 232. Section 262.25B, Code 2003, is amended to read as follows:

262.25B PURCHASE OF BIO-BASED HYDRAULIC FLUIDS, GREASES, AND OTHER INDUSTRIAL LUBRICANTS.

The state board of regents and institutions under the control of the board purchasing hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing bio-based hydraulic fluids, greases, and other industrial lubricants as provided in section ~~18.22~~ 8A.316.

Sec. 233. Section 272C.7, subsection 1, Code 2003, is amended to read as follows:

1. As an alternative to authority contained elsewhere in this chapter, a licensing board may employ within the limits of available funds an executive secretary, one or more inspectors, and such clerical personnel as may be necessary for the administration of the duties of the board. Employees of the board shall be employed subject to chapter ~~19A~~ 8A, article 4. The qualifications of the executive secretary shall be determined by the board.

Sec. 234. Section 298.14, Code 2003, is amended to read as follows:

298.14 SCHOOL DISTRICT INCOME SURTAXES.

For each fiscal year, the cumulative total of the percents of surtax approved by the board of directors of a school district and collected by the department of revenue ~~and finance~~ under sections 257.21, 257.29, and 298.2, and the enrichment surtax under section 442.15, Code 1989, and an income surtax collected by a political subdivision under chapter 422D, shall not exceed twenty percent.

A school district income surtax fund is created in the office of treasurer of state. Income surtaxes collected by the department of revenue ~~and finance~~ under sections 257.21, 257.29, and 298.2 and section 442.15, Code 1989, shall be deposited in the school district income surtax fund to the credit of each school district. A separate accounting of each surtax, by school district, shall be maintained.

The director of ~~revenue and finance~~ the department of administrative services shall draw warrants in payment of the surtaxes collected in each school district. Warrants shall be payable in two installments to be paid on approximately the first day of December and the first day of February following collection of the taxes and shall be delivered to the respective school districts.

Sec. 235. Section 303.1A, subsection 5, Code 2003, is amended to read as follows:

5. Appoint and approve the technical, professional, secretarial, and clerical staff necessary to accomplish the purposes of the department subject to chapter ~~19A~~ 8A, article 4.

Sec. 236. Section 303.2, subsection 2, paragraph i, Code 2003, is amended to read as follows:

i. Buy or receive by other means historical materials including, but not limited to, artifacts, art, books, manuscripts, and images. Such materials are not personal property under ~~section 18.12~~ sections 8A.321 and 8A.324 and shall be received and cared for under the rules of the department. The historical division may sell or otherwise dispose of those materials according to the rules of the department and be credited for any revenues credited by the disposal less the costs incurred.

Sec. 237. Section 303.9, subsection 2, Code 2003, is amended to read as follows:

2. The department may sell mementos and other items relating to Iowa history and historic sites on the premises of property under control of the department and at the state capitol. Notwithstanding ~~sections 18.12 8A.321 and 18.16 8A.327~~, the department may directly and independently enter into rental and lease agreements with private vendors for the purpose of selling mementos. All fees and income produced by the sales and rental or lease agreements shall be credited to the account of the department. The mementos and other items sold by the department or vendors under this subsection are exempt from ~~section 18.6~~ 8A.311. The department is not a retailer under chapter 422 and the sale of such mementos and other items by the department is not a retail sale under chapter 422 and is exempt from the sales tax.

Sec. 238. Section 304.3, subsections 8 and 9, Code 2003, are amended to read as follows:

8. The director of the department of ~~general~~ administrative services.

~~9. The director of the information technology department.~~

Sec. 239. Section 307.12, subsection 2, Code 2003, is amended to read as follows:

2. Employ personnel as necessary to carry out the duties and responsibilities of the department, consistent with chapter ~~19A~~ 8A, article 4.

Sec. 240. Section 307.12, unnumbered paragraph 2, Code 2003, is amended to read as follows:

If in the interest of the state, the director may allow a subsistence expense to an employee under the supervision of the department's administrator for highways for continuous stay in one location while on duty away from established head-quarters and place of domicile for a period not to exceed forty-five days; and allow automobile expenses in accordance with section ~~18.117~~ 8A.363, for moving an employee and the employee's family from place of present domicile to new domicile, and actual transportation expense for moving of household goods. The household goods for which transportation expense is allowed shall not include pets or animals.

Sec. 241. Section 307.21, subsection 4, paragraphs a and b, Code 2003, are amended to read as follows:

a. Provide centralized purchasing services for the department, in cooperation with the department of ~~general administrative~~ administrative services. The administrator shall, when the price is reasonably competitive and the quality as intended, purchase soybean-based inks and plastic products with recycled content, including but not limited to plastic garbage can liners, and shall purchase these items in accordance with the schedule established in section ~~18.18~~ 8A.315. However, the administrator need not purchase garbage can liners in accordance with the schedule if the liners are utilized by a facility approved by the environmental protection commission created under section 455A.6, for purposes of recycling. For purposes of this subsection, "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.

b. The administrator shall do all of the following:

(1) Purchase and use recycled printing and writing paper in accordance with the schedule established in section ~~18.18~~ 8A.315.

(2) Establish a wastepaper recycling program by January 1, 1990, in accordance with recommendations made by the department of natural resources and the requirements of section ~~18.20~~ 8A.329.

(3) Require in accordance with section ~~18.6~~ 8A.311 product content statements and compliance with requirements regarding procurement specifications.

(4) Comply with the requirements for the purchase of lubricating oils, industrial oils, greases, and hydraulic fluids as established pursuant to section ~~18.22~~ 8A.316.

Sec. 242. Section 307.21, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The administrator of administrative services may purchase items from the department of ~~general administrative~~ administrative services and may cooperate with the director of ~~general the department of administrative~~ administrative services by providing centralized purchasing services for the department of ~~general administrative~~ administrative services.

Sec. 243. Section 313.4, subsection 3, Code 2003, is amended to read as follows:

3. There is appropriated from funds appropriated to the department which would otherwise revert to the primary road fund pursuant to the provisions of the Act appropriating the funds or chapter 8, an amount sufficient to pay the increase in salaries, which increase is not otherwise provided for by the general assembly in an appropriation bill, resulting from the annual review of the merit pay plan as provided in ~~subsection 2 of section 19A.9~~ 8A.413, subsection 2. The appropriation herein provided shall be in effect from the effective date of the revised pay plan to the end of the fiscal biennium in which it becomes effective.

Sec. 244. Section 321.19, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa state patrol vehicles shall bear the word "official" and the department shall keep a separate record. Registration plates issued for

Iowa state patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer's badge number. Registration plates issued for county sheriff's patrol vehicles shall display one seven-pointed gold star followed by the letter "S" and the call number of the vehicle. However, the director of ~~general~~ the department of administrative services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, disease investigators of the Iowa department of public health, the department of inspections and appeals, and the department of revenue and finance, who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying "official" state registration plates, persons in the lottery division of the department of revenue and finance whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates, and persons in the department of economic development who are regularly assigned duties relating to existing industry expansion or business attraction. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 245. Section 321.30, subsection 13, Code 2003, is amended to read as follows:

13. The department or the county treasurer knows that an applicant for renewal of a registration has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the state, from information received pursuant to ~~section sections~~ sections 421.17 and 8A.504. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to ~~section 421.17~~ 8A.504. This subsection shall apply only to a renewal of registration and shall not apply to the issuance of an original registration or to the issuance of a certificate of title.

Sec. 246. Section 321.31, subsection 1, unnumbered paragraph 3, Code 2003, is amended to read as follows:

The director shall maintain a records system of delinquent accounts owed to the state using information provided through the computerized data bank established in section 421.17. The department and county treasurers shall use the information maintained in the records system to determine if applicants for renewal of registration have delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state as provided pursuant to ~~section 421.17~~ 8A.504. The director, ~~the director of the department of administrative services~~, and the director of revenue and finance shall establish procedures for updating the delinquent accounts records to add and remove accounts, as applicable.

Sec. 247. Section 321.35, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The department shall not enter into any contract requiring an expenditure of at least five hundred thousand dollars for the manufacture of motor vehicle registration plates to be reissued to owners under this chapter unless competitive bidding procedures as provided in chapter ~~18~~ 8A, article 3, are followed.

Sec. 248. Section 321.40, unnumbered paragraph 6, Code 2003, is amended to read as follows:

The county treasurer shall refuse to renew the registration of a vehicle registered to the

applicant if the county treasurer knows that the applicant has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the state, from information provided pursuant to ~~section sections 8A.504 and~~ 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 421.17 8A.504.

Sec. 249. Section 321.149, Code 2003, is amended to read as follows:
321.149 BLANKS.

The department shall not later than November 15 of each year prepare and furnish the treasurer of each county all blank books, blank forms, and all supplies required for the administration of this chapter, including applications for registration and transfer of vehicles, quintuple receipts, and original remittance sheets to be used in remitting fees to the department, in such form as the department may prescribe. Contracts for the blank books, blank forms, and supplies shall be awarded by the ~~state printing administrator~~ director of the department of administrative services to persons, firms, partnerships, or corporations engaged in the business of printing in Iowa unless, or through them, the persons, firms, partnerships or corporations cannot provide the required printing set forth in this section. In lieu of purchasing under competitive bids the ~~state printing administrator~~ director of the department of administrative services shall have authority to arrange with the director of the department of corrections to furnish the supplies as can be made in the state institutions.

Sec. 250. Section 321.210B, Code 2003, is amended to read as follows:

321.210B NONRENEWAL OR SUSPENSION FOR FAILURE TO PAY INDEBTEDNESS OWED TO THE STATE.

The department shall suspend or refuse to renew the driver's license of a person who has a delinquent account owed to the state according to records provided by the department of revenue ~~and finance~~ pursuant to section 421.17. A license shall be suspended or shall not be renewed until such time as the department of ~~revenue and finance~~ administrative services notifies the state department of transportation that the licensee has made arrangements for payment of the debt with the agency which is owed or is collecting the debt. This section is only applicable to those persons residing in a county which is participating in the driver's license indebtedness clearance pilot project.

Sec. 251. Section 331.502, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 252. Section 331.552, subsection 5, Code 2003, is amended to read as follows:

5. Account for, report, and pay into the state treasury any money, property, or securities received on behalf of the state as provided in sections ~~421.32 8A.506 to 421.34 8A.508~~.

Sec. 253. Section 405A.10, Code 2003, is amended to read as follows:

405A.10 FRANCHISE TAX REVENUE ALLOCATION.

For the fiscal year beginning July 1, 1997, and each subsequent fiscal year, there is appropriated from the general fund of the state to the department of revenue and finance the sum of eight million eight hundred thousand dollars which shall be paid quarterly on warrants by the director of the department of administrative services as allocated pursuant to section 422.65.

Sec. 254. Section 421.17, subsections 21, 23, 24, 25, 26, 28, 29, 30, and 33, Code 2003, are amended by striking the subsections.

Sec. 255. Section 422.12A, subsection 2, Code 2003, is amended to read as follows:

2. The director of revenue ~~and finance~~ shall draft the income tax form to allow the designation of contributions to the keep Iowa beautiful fund on the tax return. The department of revenue ~~and finance~~, on or before January 31, shall certify the total amount designated on the tax

return forms due in the preceding calendar year and shall report the amount to the treasurer of state. The treasurer of state shall credit the amount to the keep Iowa beautiful fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 256. Section 422.20, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Unless otherwise expressly permitted by section 8A.504, section 421.17, subsections ~~21, 22, 22A, 23, 25, 29,~~ and 32, sections 252B.9, 421.19, 421.28, 422.72, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 257. Section 422.72, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Unless otherwise expressly permitted by section 8A.504, section 421.17, subsections ~~21, 22, 22A, 23, 25, 29,~~ and 32, sections 252B.9, 421.19, 421.28, 422.20, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 258. Section 425.1, subsection 1, Code 2003, is amended to read as follows:

1. A homestead credit fund is created. There is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the homestead credit fund, an amount sufficient to implement this chapter.

The director of ~~revenue and finance~~ the department of administrative services shall issue warrants on the homestead credit fund payable to the county treasurers of the several counties of the state under this chapter.

Sec. 259. Section 432.13, unnumbered paragraph 2, Code 2003, is amended to read as follows:

Premiums received for benefits acquired by the department of ~~personnel~~ administrative services on behalf of state employees pursuant to section ~~19A.1~~ 8A.402, subsection ~~2~~ 1, are exempt from premium tax.

Sec. 260. Section 450.84, Code 2003, is amended to read as follows:

450.84 COSTS CHARGED AGAINST ESTATE — EXCEPTIONS.

If an estate or interest in an estate passes so as to be liable to taxation under this chapter, all costs of the proceedings for the assessment of the tax are chargeable to the estate as other costs in probate proceedings and, to discharge the lien, all costs as well as the taxes must be paid. In all other cases the costs are to be paid as ordered by the court. When a decision adverse to the state has been rendered, with an order that the state pay the costs, the clerk of the court in which the action was pending shall certify the amount of the costs to the director of revenue and finance, who shall, if the costs are correctly certified and the case has been finally terminated and the tax, if any is due, has been paid, audit the claim and direct the department of administrative services to issue a warrant on the treasurer of state in payment of the costs.

Sec. 261. Section 452A.77, unnumbered paragraph 1, Code 2003, is amended to read as follows:

All fees, taxes, interest and penalties imposed under this chapter must be paid to the department of revenue and finance or the state department of transportation, whichever is responsible for the collection. The appropriate state agency shall transmit each payment daily to the treasurer of state. Such payments shall be deposited by the treasurer of state in a fund, hereby

created, within the state treasury which shall be known as the "motor fuel tax fund," the net proceeds of which fund, after deductions by lawful transfers and refunds, shall be known as the "motor vehicle fuel tax fund". The department of revenue and finance and the state department of transportation shall certify monthly to the director of revenue and finance the department of administrative services amounts of refunds of tax approved during each month, and the director of revenue and finance the department of administrative services shall draw warrants in such amounts on the motor fuel tax fund and transmit them. There is hereby appropriated out of the money received under the provisions of this chapter and deposited in the motor fuel tax fund sufficient funds to pay such refunds as may be authorized in this chapter.

Sec. 262. Section 455A.4, subsection 1, paragraph e, Code 2003, is amended to read as follows:

e. Employ personnel as necessary to carry out the functions vested in the department consistent with chapter ~~19A 8A, article 4~~, unless the positions are exempt from that ~~chapter article~~.

Sec. 263. Section 455G.3, subsection 5, Code 2003, is amended to read as follows:

5. For purposes of payment of refunds of the environmental protection charge under section 424.15 by the department of revenue and finance, the treasurer of state shall allocate to the department of revenue and finance administrative services the total amount budgeted by the fund's board for environmental protection charge refunds. Any unused funds shall be remitted to the treasurer of state.

Sec. 264. Section 459.505, subsection 2, paragraph b, Code 2003, is amended to read as follows:

b. Obtain a lower fixed amount bid for the work from another qualified person, other than a governmental entity, and pay the amount of the claim required in this section, based on the fixed amount in this bid upon completion of the work. The department is not required to comply with section ~~18.6 8A.311~~ in implementing this section.

Sec. 265. Section 474.1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The utilities board shall organize by appointing an executive secretary, who shall take the same oath as the members. The board shall set the salary of the executive secretary within the limits of the pay plan for exempt positions provided for in section ~~19A.9 8A.413~~, subsection 2, unless otherwise provided by the general assembly. The board may employ additional personnel as it finds necessary. Subject to confirmation by the senate, the governor shall appoint a member as the chairperson of the board. The chairperson shall be the administrator of the utilities division. The appointment as chairperson shall be for a two-year term which begins and ends as provided in section 69.19.

Sec. 266. Section 474.10, Code 2003, is amended to read as follows:

474.10 GENERAL COUNSEL.

The board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board and is exempt from the merit system provisions of chapter ~~19A 8A, article 4~~. Assistants to the general counsel are subject to the merit system provisions of chapter ~~19A 8A, article 4~~. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and represent the board in all actions instituted in a state or federal court challenging the validity of a rule or order of the board. The existence of a fact which disqualifies a person from election or from acting as a utilities board member disqualifies the person from employment as general counsel or assistant general counsel. The general counsel shall devote full time to the duties of the office. During employment the counsel shall not be a member of a political committee, contribute to a political campaign fund other than through the income tax checkoff for

contributions to the Iowa election campaign fund and the presidential election campaign fund, participate in a political campaign, or be a candidate for a political office.

Sec. 267. Section 475A.3, subsection 2, Code 2003, is amended to read as follows:

2. EMPLOYEES. The consumer advocate may employ attorneys, legal assistants, secretaries, clerks, and other employees the consumer advocate finds necessary for the full and efficient discharge of the duties and responsibilities of the office. The consumer advocate may employ consultants as expert witnesses or technical advisors pursuant to contract as the consumer advocate finds necessary for the full and efficient discharge of the duties of the office. Employees of the consumer advocate division, other than the consumer advocate, are subject to merit employment, except as provided in section ~~19A.3~~ 8A.412.

Sec. 268. Section 502.601, subsection 1, Code 2003, is amended to read as follows:

1. This chapter shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provided for in chapter ~~19A~~ 8A, ~~article 4~~. The deputy administrator is the principal operations officer of the securities bureau and is responsible to the administrator for the routine administration of the chapter and the management of the securities bureau. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability, or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the administrator in this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as needed for the administration of the chapter.

Sec. 269. Section 505.4, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The commissioner may appoint a deputy commissioner for supervision whom the commissioner may appoint as supervisory or special deputy pursuant to chapter 507C and who shall perform such other duties as may be assigned by the commissioner. The deputy commissioner for supervision shall receive a salary to be fixed by the commissioner. The deputy commissioner for supervision shall be an exempt employee ~~from the merit system provisions of chapter 8A, article 4~~, under section ~~19A.3~~ 8A.412, subsection 17.

Sec. 270. Section 507.5, Code 2003, is amended to read as follows:

507.5 CHIEF EXAMINER.

The commissioner may appoint a chief examiner who shall supervise insurance company examinations and perform such other duties as may be assigned by the commissioner. The chief examiner shall receive a salary to be fixed by the commissioner. The chief examiner shall be an exempt employee ~~from the merit system provisions of chapter 8A, article 4~~, under section ~~19A.3~~ 8A.412, subsection 17.

Sec. 271. Section 602.1204, subsection 3, Code 2003, is amended to read as follows:

3. The supreme court shall compile and publish all procedures and directives relating to the supervision and administration of the internal affairs of the judicial branch, and shall distribute a copy of the compilation and all amendments to each operating component of the judicial branch. ~~Copies also shall be distributed to agencies referred to in section 18.97 upon request.~~

Sec. 272. Section 602.8102, subsection 58A, Code 2003, is amended to read as follows:

58A. Assist the department of ~~revenue and finance~~ administrative services in setting off against debtors' income tax refunds or rebates under section ~~421.17, subsection 25~~ 8A.504, debts which are due, owing, and payable to the clerk of the district court as criminal fines, civil penalties, surcharges, or court costs.

Sec. 273. Section 602.8107, subsection 4, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, law enforcement initiative surcharge, amounts collected as a result of procedures initiated under subsection 5 or under section 421.17, ~~subsection 25~~ 8A.504, or sheriff's room and board fees.

Sec. 274. Section 618.11, Code 2003, is amended to read as follows:
618.11 FEES FOR PUBLICATION.

The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law shall be at a rate of thirty-four cents for one insertion and twenty-three cents for each subsequent insertion for each line of eight point type two inches in length, or its equivalent. Beginning June 1, 2001, and each June 1 thereafter, the ~~state printing administrator~~ director of the department of administrative services shall calculate a new rate for the following fiscal year as prescribed in this section, and shall publish this rate as a notice in the Iowa administrative bulletin prior to the first day of the following calendar month. The new rate shall be effective on the first day of the calendar month following its publication. The rate shall be calculated by applying the percentage change in the consumer price index for all urban consumers for the last available twelve-month period published in the federal register by the federal department of labor, bureau of labor statistics, to the existing rate as an increase or decrease in the rate rounded to the nearest one-tenth of a cent. The calculation and publication of the rate by the ~~state printing administrator~~ director of the department of administrative services shall be exempt from the provisions of chapters 17A and 25B.

Sec. 275. Section 625.29, subsection 1, paragraph g, Code 2003, is amended to read as follows:

g. The proceeding involved the department of ~~personnel under administrative services under chapter 19A~~ 8A, article 4.

Sec. 276. Section 691.1, Code 2003, is amended to read as follows:
691.1 LABORATORY CREATED.

There is hereby created under the control, direction and supervision of the commissioner of public safety a state criminalistics laboratory. The commissioner of public safety may assign the criminalistics laboratory to a division or bureau within the public safety department. The laboratory shall, within its capabilities, conduct analyses, comparative studies, fingerprint identification, firearms identification, questioned documents studies, and other studies normally performed by a criminalistics laboratory when requested by a county attorney, medical examiner, or law enforcement agency of this state to aid in any criminal investigation. Agents of the division of criminal investigation and bureau of identification may be assigned to the criminalistics laboratory by the commissioner. New employees shall be appointed pursuant to chapter ~~19A~~ 8A, article 4, and need not qualify as agents for the division of criminal investigation and bureau of identification, and shall not participate in the peace officers' retirement plan established pursuant to chapter 97A.

Sec. 277. Section 809A.17, subsection 4, Code 2003, is amended to read as follows:

4. Forfeited property which is not used by the department of justice in the enforcement of the law may be requisitioned by the department of public safety or any law enforcement agency within the state for use in enforcing the criminal laws of this state. Forfeited property not requisitioned may be delivered to the director of the department of general services to be disposed of in the same manner as property received pursuant to section ~~18.15~~ 8A.325.

Sec. 278. Section 904.108, subsection 1, paragraph e, Code 2003, is amended to read as follows:

e. Employ, assign, and reassign personnel as necessary for the performance of duties and

responsibilities assigned to the department. Employees shall be selected on the basis of fitness for work to be performed with due regard to training and experience and are subject to chapter ~~19A~~ 8A, article 4.

Sec. 279. Section 904.108, subsection 3, Code 2003, is amended to read as follows:

3. The director may establish a sales bonus system for the sales representatives for prison industry products. If a sales bonus system is established, the system shall not affect the status of the sales representatives under chapter ~~19A~~ 8A, article 4.

Sec. 280. Section 904.303, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The director shall determine the number and compensation of subordinate officers and employees for each institution subject to chapter ~~19A~~ 8A, article 4. Subject to this chapter, the officers and employees shall be appointed and discharged by the superintendent who shall keep in the record of each subordinate officer and employee, the date of employment, the compensation, and the date of and the reasons for each discharge.

Sec. 281. Section 904.312B, Code 2003, is amended to read as follows:

904.312B PURCHASE OF BIO-BASED HYDRAULIC FLUIDS, GREASES, AND OTHER INDUSTRIAL LUBRICANTS.

The department when purchasing hydraulic fluids, greases, and other industrial lubricants shall give preference to purchasing bio-based hydraulic fluids, greases, and other industrial lubricants as provided in section ~~18-22~~ 8A.316.

Sec. 282. Section 904.315, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The director of the department of ~~general~~ administrative services shall, in writing, let all contracts for authorized improvements costing in excess of twenty-five thousand dollars under chapter ~~18~~ 8A, article 3. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent of any institution.

Sec. 283. Section 904.706, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A revolving farm fund is created in the state treasury in which the department shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the general assembly. Before the department sells farmland under the control of the department, the director shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and cochairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past session of the general assembly. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter ~~18~~ 8A, article 3. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 284. Section 904.808, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. When the state director releases, in writing, the obligation of the department or agency to purchase the product from Iowa state industries, after determining that Iowa state indus-

tries is unable to meet the performance characteristics of the purchase request for the product, and a copy of the release is attached to the request to the director of ~~revenue and finance~~ the department of administrative services for payment for a similar product, or when Iowa state industries is unable to furnish needed products, comparable in both quality and price to those available from alternative sources, within a reasonable length of time. Any disputes arising between a purchasing department or agency and Iowa state industries regarding similarity of products, or comparability of quality or price, or the availability of the product, shall be referred to the director of the department of ~~general~~ administrative services, whose decision shall be subject to appeal as provided in section ~~18.7~~ 8A.313. However, if the purchasing department is the department of ~~general~~ administrative services, any matter which would be referred to the director under this paragraph shall be referred to the executive council in the same manner as if the matter were to be heard by the director of the department of ~~general~~ administrative services. The decision of the executive council is final.

Sec. 285. Section 904A.4B, subsection 3, Code 2003, is amended to read as follows:

3. Hire and supervise all of the board's staff pursuant to the provisions of chapter ~~19A~~ 8A, article 4.

Sec. 286. AMENDMENTS CHANGING TERMINOLOGY — DIRECTIVE TO CODE EDITOR. Except as otherwise provided in this Act:

1. a. The Iowa Code editor is directed to strike the words "information technology department" and insert the words "department of administrative services" wherever the words "information technology department" appear in the Iowa Code unless a contrary intent is clearly evident.

b. The Iowa Code editor is directed to strike the words "director of the information technology department" or "information technology department director" and insert the words "director of the department of administrative services" wherever the words "director of the information technology department" or "information technology department director" appear in the Iowa Code unless a contrary intent is clearly evident.

2. a. The Iowa Code editor is directed to strike the words "department of general services" and insert the words "department of administrative services" wherever the words "department of general services" appear in the Iowa Code unless a contrary intent is clearly evident.

b. The Iowa Code editor is directed to strike the words "director of the department of general services" or "general services department director" and insert the words "director of the department of administrative services" wherever the words "director of the department of general services" or "general services department director" appear in the Iowa Code unless a contrary intent is clearly evident.

3. a. The Iowa Code editor is directed to strike the words "department of personnel" and insert the words "department of administrative services" wherever the words "department of personnel" appear in the Iowa Code unless a contrary intent is clearly evident.

b. The Iowa Code editor is directed to strike the words "director of the department of personnel" or "personnel department director" and insert the words "director of the department of administrative services" wherever the words "director of the department of personnel" or "personnel department director" appear in the Iowa Code unless a contrary intent is clearly evident.

4. a. Sections 1.15, 2.10, subsection 4, 2.12, 2.13, 2B.10, subsection 4, 7.13, 7D.13, 7D.14, 8.35A, 11.20, 12.3, 12.4, 12.5, 12.6, 12.8, 12.15, 12.26, 12B.16, 12B.17, 12B.18, 15.354, 15E.112, 15E.117, 16.31, 17A.4, 25.2, 29C.14, 35.10, 49A.9, 53.50, 56.3A, 56.22, 56.23, 74.9, 96.7, subsection 7, 96.9, 96.14, 97.51, 97A.8, 97A.11, 97B.7, 97B.33, 100B.11, 123.53, 152.3, 159.21, 159.23, 159A.7, 161.7, 161C.5, 169A.13A, 175.22, subsection 3, 179.5, 186.5, 218.50, 218.57, 218.86, 218.87, 225.22, 225.23, 225.28, 225.30, 225C.12, 227.7, 229.35, 233B.14, 234.6, 249.8, 251.5, 255.24, 255.26, 257B.11, 257B.18, 257B.35, 257B.37, 257B.39, 257B.40, 257B.42, 257C.9, subsection 3, 261.4, 262.22, 262.29, 270.5, 270.6, 270.7, 272.11, 272C.7, 298.11, 304A.29, 310.7, 313.18, 313.19, 313.20, 313.28, 314.3, 315.7, 324A.5, 331.555, 452A.72, 455B.107, 455B.183A,

455B.246, 456A.19, 456A.21, 459.401, 459.501, 460.303, 473.11, 504A.63, 515.129, 518B.2, 518B.5, 524.209, 533.62, 534.403, 546.10, 568.16, 568.20, 568.24, 569.4, 602.1304, 602.9109, 641.5, 663.44, 679B.7, 820.24, and 904.311, Code 2003, are amended by striking from the applicable section or subsection the words “director of revenue and finance” and inserting in lieu thereof the following: “director of the department of administrative services”.

b. Sections 2.49, subsection 5, 8.34, 8.61, 8D.13, subsection 11, 11.28, 12.6, 12.14, 12.28, 12B.2, 12B.17, 16.31, 16A.13, 22.7, subsection 32, 25.6, 74.9, 100B.11, 175.22, 179.5, 181.13, 183A.7, 184.13, 184A.4, 185.26, 185C.26, 252B.22, 255.24A, 256.12, 256.19, 256.20, 256D.4, 257.32, 257B.1B, 257C.9, subsection 4, 260C.18B, subsection 4, 260C.24, 282.28, 282.31, 283.1, 285.2, 294A.6, 294A.9, 294A.22, 303.14, 313.7, 405A.9, 455G.5, 541A.3, 541A.5, 602.8102, subsection 4, 602.9104, 633.545, 804.28, and 904.507A, Code 2003, are amended by striking from the sections the words “department of revenue and finance” and inserting in lieu thereof the following: “department of administrative services”.

c. Except as otherwise provided in this Act, the Iowa Code editor is directed to strike the words “revenue and finance” and insert the word “revenue” wherever the words “revenue and finance” appear in the Iowa Code and the reference to “revenue and finance” means the department of revenue and finance or the director of revenue and finance unless a contrary intent is clearly evident.

5. a. Except as otherwise provided in this Act, the Iowa Code editor is directed to strike the words “division” and “division’s” and insert the words “system” and “system’s” wherever the words “division” and “division’s” appear in chapter 97B of the Iowa Code and the reference means the Iowa public employee’s retirement system division of the department of personnel unless a contrary intent is clearly evident.

b. Except as otherwise provided in this Act, the Iowa Code editor is directed to strike the word “system” and insert the words “retirement system” in the following sections wherever “system” but not “retirement system” appears in chapter 97B of the Iowa Code and the reference means the retirement plan established under chapter 97B:

Sections 97B.1A, subsections 3, 7, 9, 11, 14, 26; 97B.4; 97B.7A, subsection 1; 97B.8A, subsection 3, paragraph “b”, 97B.8A, subsections 4 and 5; 97B.8B; 97B.11; 97B.17; 97B.42A, subsections 3, 4, and 5; 97B.49F; 97B.49G; 97B.49H; 97B.50; 97B.50A, subsections 2 and 3; 97B.52A, subsection 3; 97B.53, unnumbered paragraph 1; 97B.65; 97B.66; 97B.72; 97B.72A; 97B.73; 97B.73A; 97B.74; 97B.80; 97B.80A; 97B.80B; 97B.80C; 97B.81; 97B.82.

Sec. 287. ADMINISTRATIVE RULES — TRANSITION PROVISIONS.

1. Any rule, regulation, form, order, or directive promulgated by any state agency mentioned in this Act, including any agency abolished, merged, or altered in this Act, and in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the appropriate state agency under the duties and powers of state agencies as established in this Act and under the procedure established in subsection 2.

Any license or permit issued by any state agency mentioned in this Act, including any agency abolished, merged, or altered in this Act, and in effect on the effective date of this Act shall continue in full force and effect until expiration or renewal.

2. In regard to updating references and format in the Iowa administrative code in order to correspond to the restructuring of state government as established in this Act, the administrative rules coordinator and the administrative rules review committee, in consultation with the administrative code editor, shall jointly develop a schedule for the necessary updating of the Iowa administrative code.

Sec. 288. MISCELLANEOUS TRANSITION PROVISIONS.

1. Any personnel in the state merit system of employment who are mandatorily transferred due to the effect of this Act shall be so transferred without any loss in salary, benefits, or accrued years of service.

2. Any funds in any account or fund of a department eliminated due to the effect of this Act shall be transferred to the comparable fund or account as provided by this Act.

3. Any cause of action or statute of limitation relating to a department or division transferred to another department or division as provided by this Act shall not be affected as a result of the transfer and such cause or statute of limitation shall apply to the successor department or division.

4. Any replacement of signs, logos, stationery, insignia, uniforms, and related items that is made due to the effect of this Act should be done as part of the normal replacement cycle for such items.

Sec. 289. DEPARTMENT PROGRESS REPORTS. The department of administrative services shall report to the committees on government oversight of the senate and house of representatives on or before each July 31 and January 31 between July 1, 2003, and February 1, 2006, regarding the activities of the department in implementing the requirements of this Act, including but not limited to the department's decisions concerning which services should be provided solely by the department and which services should be available from a variety of providers.

Sec. 290. STATE ADMINISTRATIVE SERVICES — MISCELLANEOUS PROVISIONS.

1. As used in this section, unless the context otherwise requires:

a. "Agency" or "state agency" means as defined in section 8A.101. "Agency" includes the state board of regents subject to the requirements of section 8A.122.

b. "Designated state service" means one of the following services provided to state agencies: printing, information technology, mail, human resource benefits and payroll, financial accounting, property management, fleet management, and purchasing services.

c. "Managed competition" means a process that allows both state agencies and other entities to submit competitive bids to provide designated state services, which process takes into account the true cost-accounting costs for state agencies. Managed competition may result in multiple providers, which may be state agencies or nongovernmental entities, of the same designated state service to state agencies. The use of managed competition shall not preclude the use of other entrepreneurial steps in any area.

2. The following duties relating to state administrative services shall be performed, subject to the requirements of chapter 8A, as provided by this subsection:

a. (1) The department of administrative services shall, pursuant to the requirements of this section, select a designated state service and conduct a pilot project to determine the feasibility of conducting a managed competition for delivery of the service and shall submit a report, with its findings and recommendations, to the legislative fiscal bureau and the committees on government oversight of the senate and house of representatives by July 1, 2005.

(2) In addition, the department of administrative services may, pursuant to the requirements of this section, determine how the designated state services of all executive branch agencies, community-based corrections districts, and other state governmental entities shall be delivered.

b. By July 1, 2005, the department of administrative services shall submit a request for proposals for a managed competition for printing services unless more efficient results can be obtained through the use of other entrepreneurial methods as authorized by chapter 8A. The request for proposals shall allow for the awarding of all or parts of printing services to the department or another governmental agency or nongovernmental entity.

c. By September 1, 2004, the department of administrative services, with the assistance of the department of management, shall conduct a comprehensive study of the impact of transferring all state agency employees delivering information technology services to the department of administrative services and of the impact of physically merging the data centers of the department, the state department of transportation, and the department of workforce development, into one data center. The study shall include an assessment of advantages and disadvantages, economies of scale, cost, and space availability, and shall solicit input from outside

vendors, both public and private. The department shall report to the legislative fiscal bureau and the committees on government oversight of the senate and house of representatives on the department's findings and recommendations by November 1, 2004.

d. The department of administrative services may limit unified fleet management responsibilities to cars and small trucks. By July 1, 2005, the fleet management operations shall be subject to a managed competition process conducted by the department of administrative services unless more efficient results can be obtained through the use of other entrepreneurial methods as authorized by chapter 8A. The request for proposals shall allow for the awarding of all or parts of fleet management to the department of administrative services, other governmental agencies, or nongovernmental entities.

3. The auditor of state shall be consulted regarding the process for issuance of requests for proposals for managed competition. The role of the auditor of state is to provide advice as to whether an approach offers the best opportunity for reducing state government costs.

Sec. 291.

1. Sections 7A.15, 7A.16, 7A.17, 7A.18, 7A.19, 7A.21, 7A.22, 7A.25, 7A.26, 7D.33, 218.89, 421.6, 421.31, 421.32, 421.33, 421.34, 421.35, 421.36, 421.37, 421.38, 421.39, 421.40, 421.41, 421.42, 421.43, 421.44, 421.45, Code 2003, are repealed.

2. Chapters 14B, 18, and 19A, Code 2003, are repealed.

Sec. 292. PREVAILING PROVISIONS. The provisions of House File 636⁵ relating to legislative branch consolidation of functions, or a similar bill enacted by the Eightieth General Assembly, 2003 Regular Session, which provisions relate to official legal and other publications, procurements, special distribution of legal publications, and restrictions on free distributions by the legislative service bureau or its successor agency, shall prevail over any conflicting provisions of this Act.

Sec. 293. EFFECTIVE DATE. The sections of this Act amending sections 8.63 and 70A.38, and enacting section 8A.204, being deemed of immediate importance, take effect upon enactment.

Approved May 23, 2003

CHAPTER 146

WHOLE-GRADE SHARING AGREEMENTS BETWEEN PUBLIC SCHOOL DISTRICTS — DEADLINES — EXCEPTION

H.F. 577

AN ACT providing for a waiver of deadline requirements relating to whole-grade sharing agreements in specified school districts, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. WHOLE-GRADE SHARING AGREEMENT DEADLINE WAIVER. Notwithstanding sections 282.10 and 282.11, the department of education may, prior to July 1, 2003, and at the department's discretion, waive any of the deadline requirements of sections 282.10 and 282.11, relating to the signing of a whole-grade sharing agreement by the boards of two

⁵ Chapter 35 herein

or more school districts involved in the agreement and the public notice and hearing requirements, if one of the districts involved in the agreement has an enrollment of less than three hundred pupils and has formed a dissolution commission pursuant to section 275.51.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003

CHAPTER 147

REGULATION OF ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES

H.F. 594

AN ACT relating to the registration of electrical and mechanical amusement devices and the registration of manufacturers and distributors thereof, establishing fees, making an appropriation, making penalties applicable, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 99B.10, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Each electrical and mechanical amusement device in operation or distributed in this state that awards a prize, as provided in this section, where the outcome is not primarily determined by the skill or knowledge of the operator, is registered by the department as provided by this subsection. For an organization that meets the requirements of section 99B.7, subsection 1, paragraph "m", no more than four, and for all other persons, no more than two electrical and mechanical amusement devices registered as provided by this subsection shall be permitted or offered for use in any single location or premises. Each person owning an electrical and mechanical amusement device in this state shall obtain a registration tag for each electrical and mechanical amusement device owned that is required to be registered as provided in this subsection. Upon receipt of an application and a fee of twenty-five dollars for each device required to be registered, the department shall issue an annual registration tag which tag shall be displayed as required by rules adopted by the department. The application shall be submitted on forms designated by the department and contain the information required by rule of the department. A registration may be renewed annually upon submission of a registration application and payment of the annual registration fee and compliance with this chapter and the rules adopted pursuant to this chapter. A person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection shall only own or lease an electrical and mechanical amusement device that is required to be registered that has been purchased from a manufacturer, manufacturer's representative, or distributor registered with the department under section 99B.10A.

NEW SUBSECTION. 5. Any awards given for use of an amusement device shall only be redeemed on the premises where the device is located and only for merchandise sold in the normal course of business for the premises.

NEW SUBSECTION. 6. Any other requirements as determined by the department by rule. Rules adopted pursuant to this subsection shall be formulated in consultation with affected state agencies and industry and consumer groups.

Sec. 2. NEW SECTION. 99B.10A MANUFACTURERS AND DISTRIBUTORS OF ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES — REGISTRATION.

A person engaged in business in this state as a manufacturer, manufacturer's representative, or distributor of electrical and mechanical amusement devices required to be registered as provided in section 99B.10, subsection 4, shall register with the department. Each person who registers with the department under this section shall pay an annual registration fee of two thousand five hundred dollars. Registration shall be submitted on forms designated by the department that shall contain the information required by the department by rule. The department shall adopt rules providing for the submission of information to the department by a person registered pursuant to this section if information in the initial registration is changed, including discontinuing the business in this state.

Sec. 3. NEW SECTION. 99B.10B REVOCATION OF REGISTRATION — ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES.

The department may revoke a registration issued pursuant to section 99B.10 or 99B.10A, for a period not to exceed two years, for cause, following at least ten days written notice and opportunity for an evidentiary hearing, pursuant to rules adopted by the department. The rules shall provide that a registration may be revoked if the registrant or agent of the registrant violates, or permits a violation, of section 99B.10 or 99B.10A, violates any rule adopted by the department under this chapter that the department determines should warrant revocation of the registration, or engages in any act or omission that would have permitted the department to refuse to issue a registration under section 99B.10 or 99B.10A.

Sec. 4. Section 725.16, Code 2003, is amended to read as follows:
725.16 GAMBLING PENALTY.

A person who commits an offense declared in chapter 99B to be a misdemeanor shall be guilty of a serious misdemeanor ~~except if an owner of an electrical or mechanical amusement device commits an offense in violation of section 99B.10, the owner is guilty of a class "D" felony.~~

Sec. 5. ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES — SPECIAL FUND. Fees collected by the department of inspections and appeals pursuant to section 99B.10 for the fiscal years beginning July 1, 2003, and July 1, 2004, shall be deposited in a special fund created in the state treasury. Moneys in the fund are appropriated to the department of inspections and appeals and the department of public safety for administration and enforcement of sections 99B.10 and 99B.10A, including employment of necessary personnel. The distribution of moneys in the fund to the department of inspections and appeals and the department of public safety shall be pursuant to a written policy agreed upon by the departments. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 6. DEPARTMENTAL REPORT. The department of inspections and appeals, in consultation with the department of public safety, shall submit a written report to the general assembly by December 31, 2004, with copies to the committees on government oversight and state government of the senate and house of representatives, that provides details on the implementation of this Act, including fees collected annually, and expenses by all state government agencies for administration, registration issuance, inspection, and other costs related to this Act. The department shall also include information in the report as to its projections as to whether the fees collected under this Act are properly set to cover future expenses of applicable state agencies under this Act.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003

CHAPTER 148

VOLUNTARY AND INVOLUNTARY ANNEXATIONS BY CITIES

H.F. 595

AN ACT relating to certain voluntary annexations and to involuntary annexations and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 368.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 10A. "Public land" means land owned by the federal government, the state, or a political subdivision of the state.

Sec. 2. Section 368.4, Code 2003, is amended to read as follows:
368.4 ANNEXING MORATORIUM.

A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. Notice of a hearing shall be served by regular mail at least thirty days before the hearing on the city development board, and on the board of supervisors of the county in which the territory is located, and on all persons owning land within the area subject to the agreement and shall be published in an official county newspaper in each county containing a city conducting a hearing regarding the agreement, in any county within two miles of any such city, and in an official newspaper of each city conducting a hearing regarding the agreement. The notice shall include the time and place of the hearing, describe the territory subject to the proposed agreement, and the general terms of the agreement. After passage of a resolution by the cities approving the agreements, a copy of the agreement and a copy of any resolution extending an agreement shall be filed with the city development board within ten days of enactment. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

Sec. 3. Section 368.7, subsection 1, Code 2003, is amended to read as follows:

1. a. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right-of-way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries if a copy of the application is mailed by certified mail to the owner and each affected public utility, at least fourteen business days prior to any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the board after a hearing for all affected property owners and the county. Public land may be included in the territory to be annexed. However, the area of the territory that is public land included without the written consent of the agency with jurisdiction over the public land may not be used to determine the percentage of territory that is included with the consent of the owner and without the consent of the owner.

b. Prior to notification in paragraph "c", the annexing city shall provide written notice to the board of supervisors and township trustees of each county and township that contains all or a portion of the territory to be annexed. The written notice shall include the same information required in paragraph "c" and shall set a time for a consultation on the proposed annexation between the annexing city and each county and township that contains all or a portion of the

territory to be annexed. The consultation shall be held at least fourteen business days before the applications in paragraph "c" are mailed. The governing body of each such county and township may designate one of its members to attend the consultation. Each such county and township may make written recommendations for modification to the proposed annexation no later than seven business days following the date of the consultation.

Not later than thirty days after the consultation, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the application or whether it takes no position in support of or against the application. If there is a comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and shall be considered by the city council when taking action on the application. The city council shall forward a copy of the resolution to the city development board as part of the city proceedings on the annexation. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the application nor shall such failure be considered a deficiency either in the application or in the annexing city's proceedings.

c. A copy of the application shall be mailed by certified mail to the nonconsenting owner and each affected public utility, at least fourteen business days prior to any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city.

d. The city shall provide for a public hearing on the application before approving or denying it. The city shall provide written notice at least fourteen business days prior to any action by the city council regarding the application, including a public hearing, by regular mail to the chairperson of the board of supervisors of each county which contains a portion of the territory proposed to be annexed, each public utility which serves the territory proposed to be annexed, each owner of property located within the territory to be annexed who is not a party to the application, and each owner of property which that adjoins the territory to be annexed unless the adjoining property is in a city. The city shall publish notice of the application and public hearing on the application in an official county newspaper in each county which contains a portion of the territory proposed to be annexed. Both the written and published notice shall include the time and place of the public hearing and a legal description of the territory to be annexed. The city may not assess the costs of providing notice as required in this section to the applicants.

e. An application for annexation under this subsection may be withdrawn by an applicant at any time within three business days after the public hearing unless the application was made pursuant to a written agreement for the extension of city services or unless the right to withdraw the application was specifically identified and waived by the applicant in the application. A landowner who has consented to the annexation may, within three business days after the public hearing, withdraw the landowner's consent to the annexation unless the landowner has entered into a written agreement for extension of city services or unless the right to withdraw consent was specifically identified and waived by the landowner.

f. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the city development board after a hearing for all affected property owners and the county. When considering such an annexation application, the board may request that the annexing city provide information on the amount of land located in the annexing city that is currently vacant or undeveloped and whether municipal services are being provided to current residents of the annexing city.

Sec. 4. Section 368.11, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 14. In the case of an annexation, a plan for extending municipal services to be provided by the annexing city to the annexed territory within three years of July 1 of the fiscal year in which city taxes are collected against property in the annexed territory.

Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003, is amended to read as follows:

Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each county which contains a part of the territory at least five days before the date of the public meeting. The mayor of the city proposing to annex the territory, or that person's designee, shall serve as chairperson of the public meeting. The city clerk of the same city or the city clerk's designee shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the county board of supervisors of each county where the territory is located and to the board by the chairperson of the meeting.

Sec. 6. Section 368.11, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Within thirty days after receiving notice that a petition for involuntary annexation has been filed with the board, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the petition or whether it takes no position in support of or against the petition. If there is a comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and with the city development board. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the petition nor shall such failure be considered a deficiency either in the petition or in the annexing city's proceedings.

Sec. 7. Section 368.25, Code 2003, is amended to read as follows:

368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

Prior to expiration of the three-year period established in section 368.11, subsection 14, the annexing city shall submit a report to the board describing the status of the provision of municipal services identified in the plan required in section 368.11, subsection 14. If a city fails to provide municipal services, or fails to show substantial and continuing progress in the provision of municipal services, to territory involuntarily annexed, according to the plan for extending municipal services filed pursuant to section 368.11, subsection 14, within three years after city taxes are imposed in the annexed territory the time period specified in that subsection, the city development board shall may initiate proceedings to sever the annexed territory from the city. The board shall notify the city of the severance proceedings and shall hold a public hearing on the proposed severance. The board shall give notice of the hearing in the same manner as notice of a public meeting in section 368.11. The board may order severance of all or a portion of the territory and the order to sever is not subject to approval at an election. However, a city may appeal to request that the board for allow up to an additional three years to provide municipal services if good cause is shown. A petition for severance filed pursuant to this section shall be filed and acted upon in the same manner as a petition under section 368.11. As an alternative to severance of the territory, the board may impose a moratorium on additional annexation by the city until the city complies with its plan for extending municipal services. For purposes of this section, "municipal services" means services selected by a landowner to be provided by the city, including, but not limited to, water supply, sewage disposal, street and road maintenance, and police and fire protection, if the provision of such services is within the legal authority of the annexing city included in the plan required by section 368.11, subsection 14, for extending municipal services.

Sec. 8. NEW SECTION. 368.26 ANNEXATION OF CERTAIN PROPERTY — COMPLIANCE WITH LESS STRINGENT REGULATIONS.

A city ordinance or regulation that regulates a condition or activity occurring on protected

farmland or regulates a person who owns and operates protected farmland is unenforceable against the owner of the protected farmland for a period of ten years from the effective date of the annexation, to the extent the city ordinance or regulation is more stringent than county legislation. Section 335.2 shall apply to the protected farmland until the owner of the protected farmland determines that the land will no longer be operated as an agricultural operation. Any enforcement activity conducted in violation of this section is void.

A "condition or activity occurring on protected farmland" includes but is not limited to the raising, harvesting, drying, or storage of crops; the marketing of products at roadside stands or farm markets; the creation of noise, odor, dust, or fumes; the production, care, feeding, or housing of animals including but not limited to the construction, operation, or management of an animal feeding operation, an animal feeding operation structure, or aerobic structure, and to the storage, handling, or application of manure or egg washwater; the operation of machinery including but not limited to planting and harvesting equipment, grain dryers, grain handling equipment, and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

For the purposes of this section, "protected farmland" means land that is part of a century farm as that term is defined in section 403.17, subsection 10. "County legislation" means any ordinance, motion, resolution, or amendment adopted by a county pursuant to section 331.302.

Sec. 9. IMMEDIATE EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003

CHAPTER 149

REGULATION OF FARM DEER

H.F. 624

AN ACT regulating farm deer, providing for penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 10.1, subsection 14, Code 2003, is amended to read as follows:

14. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, farm deer as defined in section ~~481A.1~~ 170.1, or poultry.

Sec. 2. Section 169A.1, subsection 1, Code 2003, is amended to read as follows:

1. "Animal" means a creature belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section ~~481A.1~~ 170.1; or poultry.

Sec. 3. Section 169C.1, subsection 3, Code 2003, is amended to read as follows:

3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section ~~481A.1~~ 170.1; or poultry.

Sec. 4. NEW SECTION. 170.1 DEFINITIONS.

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

1. "Chronic wasting disease" means the animal disease afflicting deer and elk that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain and that belongs to the group of diseases that is known as transmissible spongiform encephalopathies (TSE).
2. "Council" means the farm deer council established pursuant to section 170.2.
3. "Department" means the department of agriculture and land stewardship.
4. "Farm deer" means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; part of the virginianus species of the odocoileus genus, commonly referred to as whitetail; part of the hemionus species of the odocoileus genus, commonly referred to as mule deer; or part of the nippon species of the cervus genus, commonly referred to as sika. However, a farm deer does not include any unmarked free-ranging elk, whitetail, or mule deer.
5. "Fence" means a boundary fence which encloses farm deer within a landowner's property as required to be constructed and maintained pursuant to section 170.4.
6. "Landowner" means a person who holds an interest in land, including a titleholder or tenant.

Sec. 5. NEW SECTION. 170.2 FARM DEER COUNCIL.

1. A farm deer council is established within the department.
 - a. The council shall consist of not more than seven members who shall be appointed by the secretary of agriculture. All members must be actively engaged in the production of farm deer and at least four members must be actively engaged in the production of whitetail as farm deer.
 - b. The members of the council shall serve staggered terms of two years, except that the initial council members shall serve terms of unequal length. A person appointed to fill a vacancy for a member shall serve only for the unexpired portion of the term. A member is eligible for reappointment for three successive terms.
 - c. The council shall elect a chairperson and meet according to rules adopted by the council. A majority of the council constitutes a quorum and an affirmative vote of a majority of members is necessary for substantive action taken by the council. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the council.
 - d. A member of the council is not entitled to receive expenses incurred in the discharge of the member's duties on the council. A member is also not entitled to receive compensation as otherwise provided in section 7E.6.
2. The council shall do all of the following:
 - a. Monitor conditions relating to the production of farm deer, the processing of farm deer products, and the marketing of such products. The council shall advise the department about health issues affecting farm deer, including but not limited to chronic wasting disease, and related regulations or practices.
 - b. Advise the department about the administration and enforcement of this chapter, including but not limited to consulting with the department regarding the rules adopted under this chapter, the certification of fences, and disciplinary actions. However, the council shall not control policy decisions or direct the administration or enforcement of this chapter.

Sec. 6. NEW SECTION. 170.3 JURISDICTION OF THE DEPARTMENT OF NATURAL RESOURCES — COOPERATION WITH THE DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP.

1. Farm deer are livestock as provided in this title and are principally subject to regulation by the department of agriculture and land stewardship, and also the department of natural resources as specifically provided in this chapter. The regulations adopted by the department of agriculture and land stewardship may include but are not limited to providing for the importation, transportation, and disease control of farm deer. The department of natural

resources shall not require that the landowner be issued a license or permit for keeping farm deer or for the construction of a fence for keeping farm deer.

2. The department of agriculture and land stewardship and the department of natural resources shall cooperate in administering and enforcing this chapter.

Sec. 7. NEW SECTION. 170.4 REQUIREMENTS FOR KEEPING WHITETAIL — CERTIFICATION.

A landowner shall not keep whitetail as farm deer, unless the whitetail is kept on land which is enclosed by a fence. The fence must be constructed and maintained as prescribed by rules adopted by the department. A landowner shall not keep the whitetail unless the fence is certified in a manner and according to procedures required by the department. The fence shall be constructed and maintained to ensure that whitetail are kept in the enclosure and that other deer are excluded from the enclosure. A fence that is constructed on or after the effective date of this Act shall be at least eight feet in height above ground level. The department of agriculture and land stewardship may require that the fence is inspected and approved prior to certification. The department of natural resources may periodically inspect the fence according to appointment with the enclosure's landowner.

Sec. 8. NEW SECTION. 170.5 REQUIREMENTS FOR RELEASING WHITETAIL — PROPERTY INTERESTS.

A person shall not release whitetail kept as farm deer onto land unless the landowner complies with all of the following:

1. The landowner must notify the department of natural resources and the department of agriculture and land stewardship at least thirty days prior to first releasing the whitetail on the land. The notice shall be provided in a manner required by the departments. The notice must at least provide all of the following:

- a. A statement verifying that the fence which encloses the land is certified by the department of agriculture and land stewardship pursuant to section 170.4.
- b. The landowner's name.
- c. The location of the land enclosed by the fence.

2. The landowner shall cooperate with the department of natural resources and the department of agriculture and land stewardship to remove any whitetail from the enclosed land. However, after the thirtieth day following receipt of the notice, the state shall relinquish its property interest in any remaining whitetail that the landowner and the cooperating departments were unable to remove from the enclosed land. Any remaining whitetail existing at that time on the enclosed land, and any progeny of the whitetail, shall become property of the landowner.

Sec. 9. NEW SECTION. 170.6 DISCIPLINARY PROCEEDINGS.

1. The department of agriculture and land stewardship may suspend or revoke a certification issued pursuant to section 170.4 if the department determines that a landowner has done any of the following:

- a. Provided false information to the department in an application for certification pursuant to section 170.4.
- b. Failed to provide notice or access to the department of natural resources¹ as required by section 170.5.
- c. Failed to maintain a fence enclosing the land where a whitetail is kept as required in section 170.4.
- d. Forces or lures a whitetail that is property of the state onto the enclosed land.
- e. Restrains or inhibits a whitetail that is property of the state from leaving the enclosed land.
- f. Takes a whitetail that is property of the state which is enclosed on the property in violation of a chapter in Title XI, subtitle 6.

2. If the department suspends a landowner's certification, the landowner shall not release

¹ See chapter 179, §66 herein

additional whitetail onto the enclosed land, unless otherwise provided in the department's order for suspension. If the department revokes a landowner's certification under this section, the landowner shall provide for the disposition of the enclosed whitetail by any lawful means.

Sec. 10. NEW SECTION. 170.7 DEPARTMENT OF NATURAL RESOURCES — INVESTIGATIONS.

This chapter does not prevent the department of natural resources from conducting an investigation of a violation of fish and game laws, including but not limited to a provision of Title XI, subtitle 6. The department of natural resources may obtain a warrant to search the enclosed land pursuant to chapter 808. This chapter does not prevent the department of natural resources from examining the landowner's business records according to appointment with the enclosure's landowner. The records include but are not limited to those relating to whitetail inventories, health, inspections, or shipments; and the enclosure's fencing.

Sec. 11. NEW SECTION. 170.8 PENALTIES.

A person is guilty of taking a whitetail in violation of section 481A.48 if the whitetail is on the land enclosed by a fence required to be certified as provided in section 170.4 and the person does any of the following:

1. Forces or lures a whitetail that is property of the state onto the enclosed land.
2. Restrains or inhibits a whitetail that is property of the state from leaving the enclosed land.
3. Takes a whitetail that is property of the state that is within the enclosure in violation of a chapter in Title XI, subtitle 6.

Sec. 12. Section 189A.2, subsection 6A, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

6A. "Farm deer" means the same as defined in section 170.1.

Sec. 13. Section 190C.1, subsection 12, Code 2003, is amended to read as follows:

12. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section ~~481A.1~~ 170.1; or poultry.

Sec. 14. Section 481A.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 16A. "Farm deer" means the same as defined in section 170.1.

Sec. 15. Section 481A.1, subsection 20, paragraph h, Code 2003, is amended to read as follows:

~~h. The Cervidae: such as elk or deer, other than farm deer. As used in this paragraph, "farm deer" means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; or part of the nippon species of the cervus genus, commonly referred to as sika. However, a farm deer does not include any unmarked free-ranging elk.~~

Sec. 16. Section 481A.1, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 33A. "Whitetail" means an animal belonging to the cervidae family and classified as part of the virginianus species of the odocoileus genus, commonly referred to as whitetail.

Sec. 17. Section 481A.124, subsection 2, Code 2003, is amended to read as follows:

2. This section only applies to ~~deer of the species whitetail only, other than farm deer that is kept as provided in chapter 170.~~

Sec. 18. Section 481A.130, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 3. This section does not apply to a landowner who cooperates with

the department of natural resources and the department of agriculture and land stewardship to remove all whitetail from enclosed land as provided in section 170.5, even if all whitetail are not removed.

Sec. 19. Section 484B.3, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The chapter does not apply to keeping farm deer as defined in section 170.1.

Sec. 20. Section 484B.12, Code 2003, is amended to read as follows:
484B.12 HEALTH REQUIREMENTS — UNGULATES.

All ungulates which are purchased, propagated, confined, released, or sold by a licensed hunting preserve shall be free of diseases considered significant for wildlife, poultry, or livestock. The department of agriculture and land stewardship shall provide for the regulation of farm deer as provided in chapter 170.

Sec. 21. Section 717.1, subsection 2, Code 2003, is amended to read as follows:

2. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer, as defined in section ~~481A.1~~ 170.1; or poultry.

Sec. 22. HUNTING PRESERVES AND GAME BREEDERS — AUTOMATIC CERTIFICATION. Any farm deer kept on land which is owned by a person licensed pursuant to section 484B.5 or 481A.61 and which is enclosed with a fence on the effective date of this Act shall be deemed to comply with construction requirements of section 170.4 and shall be automatically certified by the department of agriculture and land stewardship without submitting an application. The landowner is not required to notify the department of natural resources concerning removal of whitetail as otherwise required pursuant to section 170.5.²

Sec. 23. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003

CHAPTER 150

COOPERATIVES — TAX CREDITS AND CREDIT REFUNDS

H.F. 681

AN ACT relating to tax credits and associated refunds for cooperatives engaged in the production of value-added agricultural products, and providing for its applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.333, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year

² See chapter 179, §82 herein

may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. Subject to prior approval by the department of economic development in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, ~~and whose project primarily involves the production of ethanol.~~ The refund may be used against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

Sec. 2. Section 15.333, subsection 2, Code 2003, is amended to read as follows:

2. An eligible business whose project primarily involves the production of value-added agricultural products, that elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. An eligible business whose project primarily involves the production of value-added agricultural products shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, ~~and whose project primarily involves the production of ethanol.~~ For purposes of this section, an eligible business also includes a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return ~~and whose project primarily involves the production of ethanol.~~ Such cooperative may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings of the cooperative.

A tax credit certificate shall not be valid until the tax year following the date of the project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, and other information required by the department of revenue and finance. The department of economic development shall not issue tax credit certificates which total more than four million dollars during a fiscal year. If the department receives applications for tax credit certificates in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred except as provided in this subsection for a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return ~~and whose project primarily involves the production of ethanol.~~ For a cooperative described in section 521 of the Internal Revenue Code, the department of economic development shall require that the cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

Sec. 3. **APPLICABILITY DATE.** This Act applies to tax years beginning on or after July 1, 2003.

Approved May 23, 2003

CHAPTER 151

JUDICIAL ADMINISTRATION AND PROCEDURES

H.F. 694

AN ACT relating to the judicial branch including by establishing a judicial district and judicial election district redistricting process, making changes to the nomination, appointment, and retention of judges, expanding magistrate courts, eliminating the position of alternate district associate judge, permitting district judgeships to be apportioned or transferred to another judicial district, requiring the county sheriff to serve a summons in certain delinquency proceedings, eliminating the participation of the foster care review board in voluntary foster care placements, waiving the filing fee and court costs in certain contempt actions, changing the duties of and the procedures related to the clerk of the district court, providing that interest on a judgment be calculated upon the one year treasury constant maturity plus two percent, expanding the access of the deferred judgment docket, prohibiting regional litigation centers, modifying the schedule of the probate court, providing for a fee, and providing for a study.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 46.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

When a vacancy occurs or will occur within one hundred twenty days in the supreme court, the court of appeals, or district court, the state commissioner of elections shall forthwith so notify the chairperson of the proper judicial nominating commission, unless the chief justice has ordered the state commissioner of elections to delay sending the notification. The chief justice may order the delay for up to one hundred eighty days for budgetary reasons. The chairperson shall call a meeting of the commission within ten days after such notice; if the chairperson fails to do so, the chief justice shall call such meeting.

Sec. 2. Section 46.14, Code 2003, is amended to read as follows:
46.14 NOMINATION.

1. Each judicial nominating commission shall carefully consider the individuals available for judge, and within sixty days after receiving notice of a vacancy shall certify to the governor and the chief justice the proper number of nominees, in alphabetical order. Such nominees shall be chosen by the affirmative vote of a majority of the full statutory number of commissioners upon the basis of their qualifications and without regard to political affiliation. Nominees shall be members of the bar of Iowa, shall be residents of the state or district of the court to which they are nominated, and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years. Nominees for district judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the district judicial nominating commission. ~~No person shall be eligible for nomination by a commission as judge during the term for which the person was elected or appointed to that commission.~~ Absence of a commissioner or vacancy upon the commission shall not invalidate a nomination. The chairperson of the commission shall promptly certify the names of the nominees, in alphabetical order, to the governor and the chief justice.

2. ~~A commissioner shall not be eligible for nomination by the commission during the term for which the commissioner was elected or appointed to that commission. A commissioner shall not be eligible to vote for the nomination of a family member, current law partner, or current business partner. For purposes of this subsection, "family member" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.~~

Sec. 3. Section 46.16, subsections 2 and 3, Code 2003, are amended to read as follows:

2. Subject to removal for cause, the initial term of office of a district associate judge shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year, and the regular term of office of a district associate judge retained at a judicial election shall be ~~four~~ six years from the expiration of the initial or previous regular term, as the case may be.

3. Subject to removal for cause, the initial term of office of a full-time associate juvenile judge or a full-time associate probate judge shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year, and the regular term of office of a full-time associate juvenile judge or a full-time associate probate judge retained at a judicial election shall be ~~four~~ six years from the expiration of the initial or previous regular term, as the case may be.

Sec. 4. Section 232.35, subsection 1, Code 2003, is amended to read as follows:

1. A formal judicial proceeding to determine whether a child has committed a delinquent act shall be initiated by the filing by the county attorney of a petition alleging that a child has committed a delinquent act. After a petition has been filed, service of a summons requiring the child to appear before the court or service of a notice shall be made as provided in section 232.37.

Sec. 5. Section 232.37, subsection 4, Code 2003, is amended to read as follows:

4. Service of summons or notice shall be made personally by the sheriff ~~by the delivery of delivering~~ a copy of the summons or notice to the person being served. If the court determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

Sec. 6. Section 232.183, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 7. Section 236.3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The filing fee and court costs for an order for protection and in a contempt action under this chapter shall be waived for the plaintiff. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the plaintiff. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the fees for the filing of the petition and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff's fees and costs.

Sec. 8. Section 237.20, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A local board shall, except in delinquency cases, do the following:

Sec. 9. Section 255.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any adult resident of the state may file a complaint in the office of the ~~clerk of any juvenile court, county general assistance director~~ charging that any legal resident of Iowa residing in the county where the complaint is filed is pregnant or is suffering from some malady or deformity that can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither such person nor persons legally chargeable with the person's support are able to pay therefor.

Sec. 10. Section 255.4, Code 2003, is amended to read as follows:

255.4 EXAMINATION BY PHYSICIAN.

Upon the filing of such complaint, the ~~clerk shall number and index the same and county~~

general assistance director shall appoint a competent physician and surgeon, living in the vicinity of the patient, who shall personally examine the patient with respect to ~~said the~~ pregnancy, malady, or deformity. The ~~clerk~~ director may, after the expiration of five years from the filing of a complaint, destroy ~~it the~~ complaint and all papers or records in connection ~~therewith with the~~ complaint.

Sec. 11. Section 255.5, Code 2003, is amended to read as follows:
255.5 REPORT BY PHYSICIAN.

Such physician shall make a report in duplicate on blanks furnished as hereinafter provided ~~in this chapter, answering the questions contained therein in the blanks and setting forth the~~ information required ~~thereby, giving such history of the case as will be likely to aid the medical or surgical treatment or hospital care of such patient, describing the pregnancy, deformity, or malady in detail, and stating whether or not in the physician's opinion the same pregnancy, deformity, or malady can probably be improved or cured or advantageously treated, which report shall be filed in the office of the clerk within such time as the clerk may fix~~ county general assistance director.

Sec. 12. Section 255.6, Code 2003, is amended to read as follows:
255.6 INVESTIGATION AND REPORT.

When a complaint is filed, ~~the clerk of juvenile court in the office of the county general assistance director, the director~~ shall furnish the county attorney and board of supervisors with a copy and the board shall, by the general assistance director or other agent it selects, make a thorough investigation of facts as to the legal residence of the patient, and the ability of the patient or others chargeable with the patient's support to pay the expense of treatment and care; and shall file a report of the investigation ~~in the office of the clerk, with the board~~ at or before the time of hearing.

Sec. 13. Section 255.7, Code 2003, is amended to read as follows:
255.7 NOTICE OF HEARING — DUTY OF COUNTY ATTORNEY.

When the physician's report has been filed, the ~~clerk~~ county general assistance director shall, ~~with the consent of the court or judge, fix set~~ a time and place for hearing of ~~on~~ the matter ~~by the court, and the county attorney shall cause such patient and the parent or parents, guardian, or person having the legal custody of said patient, if under legal disability, to be served with such notice of the time and place of the hearing as the judge or clerk~~ director may prescribe.

Sec. 14. Section 255.8, Code 2003, is amended to read as follows:

255.8 ~~HEARING — ORDER — EMERGENCY CASES — CANCELLATION OF COMMITMENTS DETERMINATION BY BOARD OF SUPERVISORS.~~

~~The county attorney and the general assistance director, or other agent of the board of supervisors of the county, shall appear at the hearing. The complainant, the county attorney, the general assistance director or other agent of the board of supervisors, and the patient, or any person representing the patient, may introduce evidence and be heard. If the court board of supervisors finds that the patient is a legal resident of Iowa and is pregnant or is suffering from a malady or deformity which can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither the patient nor any person legally chargeable with the patient's support is able to pay the expenses, then the clerk of court~~ county general assistance director, except in obstetrical cases and orthopedic cases, shall immediately ascertain from the admitting physician at the university hospital whether the person can be received as a patient within a period of thirty days, and if the patient can be received, ~~the court, or in the event of no actual contest, the clerk of the court, board~~ shall enter an order ~~directing direct~~ that the patient be sent to the university hospital for proper medical and surgical treatment and hospital care. ~~If the court ascertain~~ board ascertains, except in obstetrical cases and orthopedic cases, that a person of the age or sex of the patient, or afflicted by the

complaint, disease, or deformity with which the person is afflicted, cannot be received as a patient at the university hospital within the period of thirty days, ~~then the court or the clerk shall enter an order directing~~ the board of supervisors of ~~shall direct~~ the county to provide adequate treatment at county expense for the patient at home or in a hospital. Obstetrical cases and orthopedic cases may be committed to the university hospital without regard to the limiting period of thirty days.

In any case of emergency the ~~court or the clerk~~ board of supervisors without previous inquiry may at its discretion order the patient to be immediately taken to and accepted by the university hospital for the necessary care as provided in section 255.11, but if such a patient cannot be immediately accepted at the university hospital as ascertained by telephone if necessary, ~~the court or the clerk may enter an order as in certain cases above set forth directing~~ the board of supervisors shall direct the county to provide adequate treatment at county expense for the ~~said~~ patient at home or in a hospital.

Sec. 15. Section 255.10, Code 2003, is amended to read as follows:

255.10 RELIGIOUS BELIEF — DENIAL OF ORDER.

The ~~court~~ board of supervisors in its discretion may refuse to make such order in any case where the ~~court~~ board finds the patient or the patient's parent, parents, or guardian are members of a religious denomination whose tenets preclude dependence on the practice of medicine or surgery and desire in good faith to rely upon the practice of their religion for relief from disease or disorder.

Sec. 16. Section 255.11, Code 2003, is amended to read as follows:

255.11 ORDER IN CASE OF EMERGENCY.

In cases of great emergency, when the ~~court or judge~~ board of supervisors is satisfied that delay would be seriously injurious to the patient, the ~~court or judge~~ board of supervisors may make such order with the consent of the patient, if an adult, or of the parent or parents, guardian, or person having the legal custody of ~~said the~~ patient, if a minor or incompetent, without examination, report, notice, or hearing.

Sec. 17. Section 255.12, Code 2003, is amended to read as follows:

255.12 CERTIFIED COPY OF ORDER.

The ~~clerk~~ county general assistance director shall prepare a certified copy of ~~said such~~ order, which, together with a copy of the physician's report, shall be delivered to the admitting physician of ~~said such~~ hospital at or before the time of the reception of the patient into the hospital.

Sec. 18. Section 255.13, Code 2003, is amended to read as follows:

255.13 ATTENDANT — PHYSICIAN — COMPENSATION.

If the physician appointed to examine the patient ~~shall certify~~ certifies that an attendant to accompany the patient to the ~~said~~ hospital is necessary, and the university hospital attendant and ambulance service is not available, ~~then the court or judge or clerk of the court~~ the county general assistance director may appoint an attendant who shall receive not exceeding two dollars per day for the time thus necessarily employed and actual necessary traveling expenses by the most feasible route to ~~said the~~ hospital whether by ambulance, train, or automobile; but if such appointee is a relative of the patient or a member of the patient's immediate family, or receives a salary or other compensation from the public for the appointee's services, no such per diem compensation shall be paid. The physician appointed ~~by the court or clerk~~ to make the examination and report shall receive ~~therefor~~ three dollars for each examination and report so made and the physician's actual necessary expenses incurred in making such examination, but if ~~said the~~ physician receives a salary or other compensation from the public for the physician's full-time services, ~~then~~ no such examination fee shall be paid. The actual, necessary expenses of transporting and caring for the patient shall be paid as ~~hereinafter~~ provided in this chapter.

Sec. 19. Section 255.14, Code 2003, is amended to read as follows:

255.14 PAYMENT OF EXPENSES — HOW PAID.

An itemized, verified statement of all charges provided for in sections 255.8 and 255.13, in cases where the patient is admitted or accepted for treatment at the university hospital shall be filed with the superintendent of the university hospital, and upon the superintendent's recommendation when approved by the ~~judge or clerk of the court under whose order the same were incurred~~ board of supervisors, they ~~the charges~~ shall be charged included on the regular bill for the maintenance, transportation and treatment of the patient, and be audited and paid in the manner as ~~hereinafter~~ provided in this chapter.

Sec. 20. Section 255.21, Code 2003, is amended to read as follows:

255.21 TREATMENT OUTSIDE HOSPITAL — ATTENDANT.

If, in the judgment of the physician or surgeon to whom the patient has been assigned for treatment, continuous residence of the patient in the hospital is unnecessary, such patient may, by the hospital authorities, be sent to the patient's home or other appropriate place, and be required to return to the hospital when and for such length of time as may be for the patient's benefit. The hospital authorities may, if necessary, appoint an attendant to accompany such patient and discharged patients, and the compensation of such attendant shall be fixed by the state board of regents and charged by the hospital as part of the costs of transporting patients. The compensation paid to and the expenses of the attendant shall be audited and paid in the same manner as is provided by law for the compensation of an attendant appointed by the court board of supervisors.

Sec. 21. Section 255.22, Code 2003, is amended to read as follows:

255.22 TREATMENT AUTHORIZED.

~~No~~ A minor or incompetent person shall not be treated for any malady or deformity except such as is reasonably well described in the order ~~of court~~ or the report of the examining physician, unless permission for such treatment is provided for in the order ~~of court~~, or is granted by the person's parents or guardian; but the physician in charge may administer such treatment or perform such surgical operations as are usually required in cases of emergency.

Sec. 22. Section 255.27, Code 2003, is amended to read as follows:

255.27 FACULTY TO PREPARE BLANKS — PRINTING.

The medical faculty of the state university hospital shall from time to time prepare blanks containing questions and requiring information that it finds necessary and proper to be obtained by the physician who examines a patient under order of ~~court~~ the board of supervisors. The blanks shall be printed by the state, and a sufficient supply shall be furnished by the state printing administrator to the ~~clerk of each juvenile court in the state~~ county general assistance director. The cost of printing the blanks shall be audited, allowed, and paid in the same manner as other bills for public printing.

Sec. 23. Section 321.20B, subsection 4, paragraph b, subparagraph (1), unnumbered paragraph 1, Code 2003, is amended to read as follows:

An owner or driver who produces to the clerk of court, ~~within thirty days of the issuance of the citation under paragraph "a", or prior to the date of the individual's court appearance as indicated on the citation, whichever is earlier,~~ proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or, if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited, in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that such proof was provided and be subject to one of the following:

Sec. 24. Section 321.20B, subsection 4, paragraph c, Code 2003, is amended to read as follows:

c. An owner or driver cited for a violation of subsection 1, who produces to the clerk of court

~~within thirty days of the issuance of the citation prior to the date of the individual's court appearance as indicated on the citation~~ proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, shall not be convicted of such violation and the citation issued shall be dismissed.

Sec. 25. Section 321.20B, subsection 5, paragraph b, Code 2003, is amended to read as follows:

b. Issue a citation. An owner or driver who produces to the clerk of court ~~within thirty days of the issuance of the citation,~~ or prior to the date of the individual's court appearance as indicated on the citation, ~~whichever is earlier,~~ proof that the financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that proof was provided, and the citation issued shall be dismissed.

Sec. 26. Section 321.484, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The owner of a vehicle shall not be held responsible for a violation of a provision regulating the stopping, standing, or parking of a vehicle, whether the provision is contained in this chapter, or chapter 321L, or an ordinance or other regulation or rule, if the owner establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in chapter 321F or pursuant to a rental agreement as defined in section 516D.3. The furnishing to the ~~clerk of the district court~~ county attorney where the charge is pending of a copy of the lease prescribed by section 321F.6 or rental agreement that was in effect for the vehicle at the time of the alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this paragraph, ~~and the charge against the owner shall be dismissed. The clerk of the district court then shall cause a uniform citation and complaint to be issued against the lessee or renter of the vehicle, and the citation shall be served upon the defendant by ordinary mail directed to the defendant at the address shown in the lease or rental agreement.~~

Sec. 27. Section 331.653, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 23A. Carry out duties related to service of a summons, notice, or subpoena pursuant to sections 232.35, 232.37, and 232.88.

Sec. 28. Section 598.21, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 10A. If the court modifies an order, and the original decree was entered in another county in Iowa, the clerk of court shall send a copy of the modification by regular mail, electronic transmission, or facsimile to the clerk of court for the county where the original decree was entered.

Sec. 29. Section 602.1215, subsection 1, Code 2003, is amended to read as follows:

1. ~~The Subject to the provisions of section 602.1209, subsection 3, the~~ district judges of each judicial election district shall by majority vote appoint persons to serve as clerks of the district court, ~~one for each county~~ within the judicial election district. The district judges of a judicial election district may appoint a person to serve as clerk of the district court for more than one but not more than four contiguous counties in the same judicial district. A person does not qualify for appointment to the office of clerk of the district court unless the person is at the time of application a resident of the state. ~~Within three months of appointment the clerk of the district court must establish residence and physically reside in the county.~~ A clerk of the district court may be removed from office for cause by a majority vote of the district judges of the judicial election district. Before removal, the clerk of the district court shall be notified of the cause for removal.

Sec. 30. Section 602.1501, subsection 4, Code 2003, is amended to read as follows:

4. District associate judges shall receive the salary set by the general assembly. ~~However, an alternate district associate judge whose appointment is authorized under section 602.6303 shall receive a salary for each day of actual duty equal to a district associate judge's daily salary.~~

Sec. 31. Section 602.1604, Code 2003, is amended to read as follows:
602.1604 JUDGES SHALL NOT PRACTICE LAW.

While holding office, a supreme court justice, court of appeals judge, district judge, or district associate judge shall not practice as an attorney or counselor or give advice in relation to any action pending or about to be brought in any of the courts of the state. ~~A person whose appointment as an alternate district associate judge is authorized under section 602.6303 may practice law except when actually serving as a district associate judge.~~

Sec. 32. Section 602.1611, subsection 2, Code 2003, is amended by striking the subsection.

Sec. 33. Section 602.6105, subsection 3, Code 2003, is amended to read as follows:

3. a. The chief judge of a judicial district shall designate times and places for magistrates to hold court to ensure accessibility of magistrates at all times throughout the district. The schedule of times and places of availability of magistrates and any schedule changes shall be disseminated by the chief judge to the peace officers within the district.

b. The chief judge of a judicial district shall schedule a magistrate to hold court in a city other than the county seat if all of the following apply:

(1) Magistrate court was regularly scheduled in the city on or after July 1, 2001.

(2) The population of the city is at least two times greater than the population of the county seat or the population of the city is at least thirty thousand.

(3) The city requests the chief judge to schedule magistrate court.

In addition to paying the costs in section 602.1303, subsection 1, the city requesting the magistrate court shall pay any other costs for holding magistrate court in the city which would not otherwise have been incurred by the judicial branch.

Sec. 34. Section 602.6107, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

602.6107 REORGANIZATION OF JUDICIAL DISTRICTS AND JUDICIAL ELECTION DISTRICTS.

1. The supreme court shall, beginning January 1, 2012, and at least every ten years thereafter, review the division of the state into judicial districts and judicial election districts in order to determine whether the composition or the total number of the judicial districts and judicial election districts is the most efficient and effective administration of the district court and the judicial branch.

2. If the supreme court determines that the administration of the district court and the judicial branch would be made more efficient and effective by reorganizing the judicial districts and judicial election districts, which may include expanding or contracting the total number of judicial districts and judicial election districts, the supreme court shall develop and submit to the general assembly by November 15 a plan that reorganizes the judicial districts and judicial election districts. The legislative service bureau shall draft a bill embodying the plan for submission by the supreme court to the general assembly. The general assembly shall bring the bill to a vote in either the senate or the house of representatives within thirty days of the bill's submission by the supreme court to the general assembly, under a procedure or rule permitting no amendments by either house except those of a purely corrective nature. If both houses pass the bill, the bill shall be presented as any other bill to the governor for approval. The bill shall take effect upon the general assembly passing legislation, which is approved by the governor including an effective date for the reorganization of the judicial districts and judicial election districts.

3. The composition of the judicial districts in section 602.6107, Code 2003, and judicial elec-

tion districts in section 602.6109, Code 2003, shall remain in effect until a new division of the state into judicial districts and judicial election districts is enacted.

4. It is the intent of the general assembly that the supreme court prior to developing a plan pursuant to this section consult with and receive input from members of the general public, court employees, judges, members of the general assembly, the judicial departments of correctional services, county officers, officials from other interested political subdivisions, and attorneys. In submitting a plan pursuant to this section, the supreme court shall also submit to the general assembly a report stating the reasons for developing the plan and describing in detail the process used in developing the plan.

5. Nothing in this section or other provision of the Code shall be construed to preclude the general assembly or the judicial branch from proposing or considering a plan reorganizing the judicial districts and judicial election districts at any time.

Sec. 35. Section 602.6109, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

602.6109 JUDICIAL ELECTION DISTRICTS AND JUDGESHIPS.

1. The reorganized judicial election districts established pursuant to section 602.6107 shall be used solely for purposes of nomination, appointment, and retention of judges of the district court.

2. If the judicial election districts are reorganized under section 602.6107, the state court administrator shall reapportion the number of judgeships to which each judicial election district is entitled. The reapportionment shall be determined according to section 602.6201, subsection 3.

Sec. 36. Section 602.6111, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

602.6111 IDENTIFICATION ON DOCUMENTS FILED WITH THE CLERK.

1. Any party, other than the state or a political subdivision of the state, filing a petition or complaint, answer, appearance, first motion, or any document filed with the clerk of the district court which brings a new party into a proceeding shall provide the clerk of the district court with the following information when applicable:

- a. An employer identification number if a number has been assigned.
- b. The birth date of the party.
- c. The social security number of the party.

2. Any party, except the child support recovery unit, filing a petition, complaint, answer, appearance, first motion, or any document with the clerk of the district court to establish or modify an order for child support under chapter 236, 252A, 252K, 598, or 600B shall provide the clerk of the district court with the date of birth and social security number of the child.

3. A party shall provide the information pursuant to this section in the manner required by rules or directives prescribed by the supreme court. The clerk of the district court shall keep a social security number provided pursuant to this section confidential in accordance with the rules and directives prescribed by the supreme court.

Sec. 37. NEW SECTION. 602.6112 REGIONAL LITIGATION CENTERS — PROHIBITION.

The judicial branch shall not establish regional litigation centers.

Sec. 38. Section 602.6201, subsection 8, Code 2003, is amended to read as follows:

8. ~~Vacancies shall not be filled in a judicial election district which becomes entitled to fewer judgeships under subsection 3, but an~~ An incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships.

Sec. 39. Section 602.6201, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 11. Notwithstanding any other provision of the Code to the contrary,

if a vacancy in a judgeship occurs, and the chief justice of the supreme court makes a finding that a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts, the chief justice may apportion the judgeship from the judicial election district where the vacancy occurs to another judicial election district based upon the substantial disparity finding. However, a judgeship shall not be apportioned pursuant to this section unless a majority of the judicial council approves the apportionment.

NEW SUBSECTION. 12. Notwithstanding any other provision of the Code to the contrary, if the chief justice of the supreme court determines a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts, the chief justice may authorize a voluntary permanent transfer of a district judge from one judicial election district to another upon approval by a majority of the judicial council. After approval by the judicial council, the chief justice shall notify all eligible district judges of the intent to seek applicants for a voluntary permanent transfer and the terms of such a transfer. A district judge is not eligible for a voluntary transfer unless the judge has served a regular term of office as specified in section 46.16. Upon approval of the judge's application, the chief justice may transfer a district judge who consents to the transfer within six months of the notification. The transfer of a district judge shall take effect within sixty days of the official announcement of the transfer by the chief justice. A district judge transferred pursuant to this subsection shall have six months from the date of the announcement of the transfer to establish residency in the judicial election district where the district judge is transferred. A district judge who has been transferred shall stand for retention in the judicial election district to which the district judge has been transferred as provided in chapter 46. For purposes of subsection 3, the judgeship shall be apportioned to the judicial election district where the judge is transferred. A voluntary transfer pursuant to this subsection shall not cause a vacancy of a judgeship in the judicial election district from which the district judge was transferred.

Sec. 40. Section 602.6301, Code 2003, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than two hundred thousand; four in counties having a population of two hundred thousand or more and less than two hundred thirty-five thousand; five in counties having a population of two hundred thirty-five thousand or more and less than two hundred seventy thousand; six in counties having a population of two hundred seventy thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial branch. A district associate judge appointed pursuant to section 602.6302 or ~~602.6303~~ shall not be counted for purposes of this section.

Sec. 41. Section 602.6304, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. The district associate judges authorized by sections 602.6301, and 602.6302, ~~and 602.6303~~ shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a district associate judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a district associate judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a district associate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of district associate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a district associate judge, or by an increase in the number of positions authorized.

Sec. 42. Section 602.6305, subsection 1, Code 2003, is amended to read as follows:

1. District associate judges shall serve initial terms and shall stand for retention in office within the judicial election districts of their residences at the judicial election in 1982 and every ~~four~~ six years thereafter, under sections 46.17 to 46.24.

Sec. 43. Section 602.6403, subsection 3, Code 2003, is amended to read as follows:

3. Within thirty days following receipt of notification of a vacancy in the office of magistrate, the commission shall appoint a person to the office to serve the remainder of the unexpired term, unless the chief justice has ordered the commission to delay the appointment for up to one hundred eighty days for budgetary reasons. For purposes of this section, vacancy means a death, resignation, retirement, or removal of a magistrate, or an increase in the number of positions authorized.

Sec. 44. Section 602.7103B, subsections 2 and 3, Code 2003, are amended to read as follows:

2. In November of any year in which an impending vacancy is created because a full-time associate juvenile judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy, unless

the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate juvenile judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate juvenile judge, or by an increase in the number of positions authorized.

Sec. 45. Section 602.8102, subsection 9, Code 2003, is amended to read as follows:

9. Enter in the appearance docket a memorandum of the date of filing of all petitions, demurrers, answers, motions, or papers of any other description in the cause. A pleading of any description is considered filed when the clerk entered the date the pleading was received on the pleading and the pleading shall not be taken from the clerk's office until the memorandum is made. The memorandum shall be made before the end of the next working day within two business days of a new petition or order being filed, and as soon as practicable for all other pleadings. Thereafter, when a demurrer or motion is sustained or overruled, a pleading is made or amended, or the trial of the cause, rendition of the verdict, entry of judgment, issuance of execution, or any other act is done in the progress of the cause, a similar memorandum shall be made of the action, including the date of action and the number of the book and page of the record where the entry is made. The appearance docket is an index of each suit from its commencement to its conclusion.

Sec. 46. Section 602.8102, subsection 11, Code 2003, is amended to read as follows:

11. Refund amounts less than ~~one dollar~~ three dollars only upon written application.

Sec. 47. Section 602.8106, subsection 1, paragraphs b, c, d, and e, Code 2003, are amended to read as follows:

b. For filing and docketing of a complaint or information for a simple misdemeanor and a complaint or information for a nonscheduled simple misdemeanor under chapter 321, ~~twenty-five~~ seventeen dollars.

c. For filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, ~~one dollar~~ eight dollars, effective January 1, 1991 ~~2004~~. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint, are eight dollars per information or complaint or per uniform citation and complaint effective January 1, 1991.

d. The court costs in scheduled violation cases where a court appearance is required are ~~twenty-five~~ seventeen dollars.

e. For court costs in scheduled violation cases where a court appearance is not required, ~~five~~ seventeen dollars.

Sec. 48. Section 624.20, Code 2003, is amended to read as follows:

624.20 SATISFACTION OF JUDGMENT.

Where a judgment is set aside or satisfied by execution or otherwise, the clerk shall at once enter a memorandum thereof on the column left for that purpose in the judgment docket. However, the clerk may enter satisfaction of judgment if the amount of the judgment that is unsatisfied is ~~one dollar~~ three dollars or less.

Sec. 49. Section 631.5, subsection 6, Code 2003, is amended to read as follows:

6. DEFAULT. If a defendant fails to appear and the clerk in accordance with subsection 4 determines that proper notice has been given, judgment shall be rendered against the defendant by the clerk if the relief is readily ascertainable. If the relief is not readily ascertainable the claim shall be assigned to a judicial magistrate for determination ~~and the clerk shall immediately notify the plaintiff or the plaintiff's attorney and the judicial magistrate of such assignment by ordinary mail.~~

Sec. 50. Section 631.6, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. Postage charged for the mailing of original notice shall be ~~the actual costs of the postage~~ eight dollars.

Sec. 51. Section 633.20B, subsections 2 and 3, Code 2003, are amended to read as follows:

2. In November of any year in which an impending vacancy is created because a full-time associate probate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate probate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate probate judge, or by an increase in the number of positions authorized.

Sec. 52. Section 633.47, Code 2003, is amended to read as follows:

633.47 PROOF OF SERVICE AND ~~TAXATION~~ PAYMENT OF COSTS.

Proof of service of any notice, required by this Code or by order of court, including those by publication, shall be filed with the clerk. The costs of serving any notice given by the fiduciary shall be ~~taxed by the clerk as part of the costs of administration in said~~ be paid directly by the estate.

Sec. 53. Section 633.301, Code 2003, is amended to read as follows:

633.301 COPY OF WILL FOR EXECUTOR.

When a will has been admitted to probate and certified pursuant to section 633.300, the clerk shall cause ~~an authenticated~~ a certified copy thereof to be placed in the hands of the executor to whom letters are issued. The clerk shall retain the will in a separate file provided for that purpose until the time for contest has expired, and promptly thereafter shall place it with the files of the estate.

Sec. 54. Section 633.479, unnumbered paragraph 2, Code 2003, is amended to read as follows:

An order approving the final report and discharging the personal representative shall not be required if all distributees otherwise entitled to notice are adults, under no legal disability, have signed waivers of notice as provided in section 633.478, have signed statements of consent agreeing that the prayer of the final report shall constitute an order approving the final report and discharging the personal representative, and if the statements of consent are dated not more than thirty days prior to the date of the final report, and if compliance with sections 422.27 and 450.58 have been fulfilled and receipts and certificates are on file. In those instances final order shall not be required and the prayer of the final report shall be considered as granted and shall have the same force and effect as an order of discharge of the personal representative and an order approving the final report. ~~The clerk shall comply with section 633.480 with respect to issuing a change of title.~~

Sec. 55. Section 633.480, Code 2003, is amended to read as follows:

633.480 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITH ADMINISTRATION.

After discharge as provided in section 633.479, ~~the clerk shall certify under chapter 558 relative to each parcel of real estate~~ the personal representative shall deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative, ~~and deliver the certificate to the county recorder of the county in which the real estate is situated.~~ The certificate shall include the name and complete mailing address, as shown on the final report, of the individual or entity in whose name each parcel of real estate is to be taxed. The county recorder shall deliver the certificate to the county auditor as provided in section 558.58.

Sec. 56. Section 633.481, Code 2003, is amended to read as follows:

633.481 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITHOUT ADMINISTRATION.

When an inventory or report is filed under section 450.22, without administration of the estate of the decedent, ~~the clerk~~ heir or heir's attorney shall ~~issue~~ prepare and deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the inventory or report. Any fees for certificates or recording fees required by this section or section 633.480 shall be assessed as costs of administration. The fee for recording and indexing the instrument shall be as provided in section 331.604. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58.

Sec. 57. Section 635.7, Code 2003, is amended to read as follows:

635.7 REPORT AND INVENTORY — EXCESS VALUE AND TERMINATION.

The executor or administrator is required to file the report and inventory for which provision is made in section 633.361. Nothing in sections 635.1 to 635.3 shall exempt the executor or administrator from complying with the requirements of section 422.27, 450.22, or 450.58, or ~~the clerk from complying with the requirements of section 633.481.~~ If the inventory and report shows assets subject to the jurisdiction of this state which exceed the total gross value of the amount permitted the small estate under the applicable provision of section 635.1, the clerk shall terminate the letters issued under section 635.1 without prejudice to the rights of persons who delivered property as permitted under section 635.3. The executor or administrator shall then be required to petition for administration of the estate as provided in chapter 633.

Sec. 58. Section 668.13, subsection 3, Code 2003, is amended to read as follows:

3. Interest shall be calculated as of the date of judgment at a rate equal to the ~~one-year~~ treasury constant maturity ~~index~~ published by the federal reserve in the H15 report settled immediately prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

Sec. 59. Section 902.4, Code 2003, is amended to read as follows:

902.4 RECONSIDERATION OF FELON'S SENTENCE.

For a period of one year from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant's attorney, and the defendant. Upon a request of the attorney for the state, the defendant's attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the one-year period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant personally or by ~~certified~~ regular mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 60. Section 903.2, Code 2003, is amended to read as follows:

903.2 RECONSIDERATION OF MISDEMEANANT'S SENTENCE.

For a period of thirty days from the date when a person convicted of a misdemeanor begins to serve a sentence of confinement, the court may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The sentencing court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal or an application for discretionary review. The court's final order in the proceeding shall be delivered to the defendant personally or by ~~certified~~ regular mail. Such action is discretionary with the court and its decision to take the action or not to take the action is not subject to appeal. The other provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

Sec. 61. Section 907.4, Code 2003, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET.

A deferment of judgment under section 907.3 shall be ~~reported~~ entered promptly by the clerk

of the district court, or the clerk's designee, to ~~the state court administrator for entry in into the deferred judgment docket database of the state, which shall serve as the deferred judgment docket.~~ The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall ~~request of the state court administrator~~ a search of the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, and county attorneys, and the department of corrections requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, or county attorney, or department.

Sec. 62. Sections 602.6303 and 633.15, Code 2003, are repealed.

Sec. 63. Section 602.6201, subsection 12, as enacted by this Act, is amended by striking the subsection effective July 1, 2008.

Sec. 64. The sections of this Act amending section 46.12; section 602.6304, subsections 2 and 3; and sections 602.6403, 602.7103B, and 633.20B are repealed on July 1, 2006.

Sec. 65. RETENTION OF JUDGES. The amendments in this Act to section 46.16, subsections 2 and 3, apply to elections for retaining a judge occurring after the effective date of this Act.

Sec. 66. JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY COMMITTEE. The legislative council is requested to establish an interim study committee to study the judicial district and judicial election district redistricting and the allocation of judicial branch resources. The committee shall review all relevant matters regarding judicial district and judicial election district redistricting, and the allocation of judicial branch resources deemed relevant by the majority of the committee including but not limited to determining whether a misallocation of judicial officers exists between judicial districts, the nature and history of judicial branch resources and a cost analysis of current judicial branch resources, the optimum allocation of resources regardless of judicial district boundaries, the effect of redistricting on the delivery of court services and employee morale, a cost benefits analysis of implementing a redistricting plan, and the recommendations of the Iowa supreme court committee on redistricting. If after reviewing all relevant matters the committee determines that redistricting should occur, the committee shall adopt a redistricting plan and submit the plan for consideration by the general assembly by December 15, 2003. If the committee determines redistricting should not occur, the committee shall submit to the general assembly other recommendations for achieving an optimum allocation of judicial branch resources by December 15, 2003. The committee shall consist of thirty-one members with each organization selecting their member or representative as follows:

1. Three members to be selected by the supreme court.
2. One member to be selected by the majority leader of the senate.
3. One member to be selected by the minority leader of the senate.
4. One member to be selected by the majority leader of the house of representatives.
5. One member to be selected by the minority leader of the house of representatives.
6. Three members of the Iowa state bar association.
7. Three members of the Iowa judges association.
8. Three members of the Iowa trial lawyers association.
9. Two members of the Iowa clerks of court association.
10. One member of the Iowa association of magistrate judges.

11. One member of the Iowa defense counsel association.
12. One member of the Iowa academy of trial lawyers.
13. One member of the Iowa county attorneys association.
14. A representative of the judicial district department of correctional services to be selected by the eight directors of the judicial district department of correctional services.
15. One member of the Iowa sheriffs' and deputies' association.
16. One member of the recorders affiliate of the Iowa state association of counties.
17. One member of the Iowa court reporters association.
18. One member to be selected by the Iowa civil liberties union.
19. One member of the supervisors affiliate of the Iowa state association of counties.
20. One member of the juvenile court officers' association.
21. One member to be selected by the American federation of state, county, and municipal employees.
22. One district court administrator to be selected by the district court administrators of the state.

Approved May 23, 2003

CHAPTER 152

FISHING LICENSES AND FEES — HABITAT DEVELOPMENT AND TROUT PROGRAM FUNDING

S.F. 348

AN ACT relating to fishing by establishing fees, allocating fishing license revenue to fish habitat development, modifying trout fishing fee requirements, and providing effective and applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 483A.1, subsection 1, paragraphs a, l, and s, Code 2003, are amended to read as follows:

a. Fishing license	\$ 10.50
	<u>17.00</u>
l. Fishing license, seven-day	\$ 8.50
	<u>11.50</u>
s. Fish habitat fee <u>Fishing license, one-day</u>	\$ 3.00
	<u>7.50</u>

Sec. 2. Section 483A.1, subsection 2, paragraphs a, b, and s, Code 2003, are amended to read as follows:

a. Fishing license, annual	\$ 36.00
	<u>39.00</u>
b. Fishing license, seven-day	\$ 27.00
	<u>30.00</u>
s. Fish habitat fee <u>Fishing license, three-day</u>	\$ 3.00
	<u>15.50</u>

Sec. 3. Section 483A.1, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. t. Fishing license, one-day \$ 8.50

Sec. 4. Section 483A.3A, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

483A.3A FISH HABITAT DEVELOPMENT FUNDING.

Three dollars from each resident and nonresident annual and seven-day fishing license sold shall be deposited in the state fish and game protection fund and shall be used within this state for fish habitat development. Not less than fifty percent of this amount shall be used by the commission to enter into agreements with county conservation boards to carry out the purposes of this section.

Sec. 5. Section 483A.6, Code 2003, is amended to read as follows:

483A.6 TROUT FISHING FEE.

Any person required to have a fishing license shall not ~~fish for or~~ possess trout unless that person has paid the trout fishing fee. The proceeds from the fee shall be used exclusively for the trout program designated by the commission. The commission may grant a permit to a community event in which trout will be stocked in water which is not designated trout water and a person may catch and possess trout during the period and from the water covered by the permit without having paid the trout fishing fee.

Sec. 6. EFFECTIVE DATE AND APPLICABILITY DATES. This Act takes effect December 15, 2003, and applies to licenses and fees for fishing and fish habitat activities for the years beginning on or after January 1, 2004.

Approved May 30, 2003

CHAPTER 153

IOWA INDIAN CHILD WELFARE ACT

S.F. 354

AN ACT implementing the federal Indian Child Welfare Act.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 232.7 IOWA INDIAN CHILD WELFARE ACT.

1. If a proceeding held under this chapter involves an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B.

2. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1999, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

Sec. 2. NEW SECTION. 232B.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Indian Child Welfare Act".

Sec. 3. NEW SECTION. 232B.2 PURPOSE — POLICY OF STATE.

The purpose of the Iowa Indian child welfare Act is to clarify state policies and procedures regarding implementation of the federal Indian Child Welfare Act, Pub. L. No. 95-608, as codified in 25 U.S.C. chapter 21. It is the policy of the state to cooperate fully with Indian tribes and tribal citizens in Iowa in order to ensure that the intent and provisions of the federal Indian Child Welfare Act are enforced. This cooperation includes recognition by the state that Indian tribes have a continuing and compelling governmental interest in an Indian child whether or not the child is in the physical or legal custody of an Indian parent, Indian custodian, or an Indian extended family member at the commencement of a child custody proceeding or the child has resided or domiciled on an Indian reservation. The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the federal Indian Child Welfare Act and other applicable law, designed to prevent the child's voluntary or involuntary out-of-home placement and, whenever such placement is necessary or ordered, by placing the child, whenever possible, in a foster home, adoptive home, or other type of custodial placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

Sec. 4. NEW SECTION. 232B.3 DEFINITIONS.

For the purposes of this chapter unless the context otherwise requires:

1. "Adoptive placement" means the permanent placement of an Indian child for adoption including, but not limited to, any action under chapter 232, 600, or 600A resulting in a final decree of adoption. "Adoptive placement" does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child's parents.

2. "Best interest of the child" means the use of practices in accordance with the federal Indian Child Welfare Act, this chapter, and other applicable law, that are designed to prevent the Indian child's voluntary or involuntary out-of-home placement, and whenever such placement is necessary or ordered, placing the child, to the greatest extent possible, in a foster home, adoptive placement, or other type of custodial placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe and tribal community.

3. "Child custody proceeding" means a voluntary or involuntary proceeding that may result in an Indian child's adoptive placement, foster care placement, preadoptive placement, or termination of parental rights.

4. "Foster care placement" means the temporary placement of an Indian child in an individual or agency foster care placement or in the personal custody of a guardian or conservator prior to the termination of parental rights, from which the child cannot be returned upon demand to the custody of the parent or Indian custodian but there has not been a termination of parental rights. "Foster care placement" does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child's parents.

5. "Indian" means a person who is a member of an Indian tribe, or is eligible for membership in an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. § 1606.

6. "Indian child" or "child" means an unmarried Indian person who is under eighteen years of age or a child who is under eighteen years of age that an Indian tribe identifies as a child of the tribe's community.

7. "Indian child's family" or "extended family member" means an adult person who is an Indian child's family member or extended family member under the law or custom of the Indian child's tribe or, in absence of such law or custom, an adult person who has any of the following relationships with the Indian child:

- a. Parent.

- b. Sibling.
 - c. Grandparent.
 - d. Aunt or uncle.
 - e. Cousin.
 - f. Clan member.
 - g. Band member.
 - h. Brother-in-law.
 - i. Sister-in-law.
 - j. Niece.
 - k. Nephew.
 - l. Stepparent.
8. "Indian child's tribe" means a tribe in which an Indian child is a member or eligible for membership.
9. "Indian custodian" means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child.
10. "Indian organization" means any of the following entities that is owned or controlled by Indians, or a majority of the members are Indians:
- a. A group.
 - b. An association.
 - c. A partnership.
 - d. A corporation.
 - e. Other legal entity.
11. "Indian tribe" or "tribe" means an Indian tribe, band, nation, or other organized Indian group, or a community of Indians, including any Alaska native village as defined in 43 U.S.C. § 1602(c) recognized as eligible for services provided to Indians by the United States secretary of the interior because of the community members' status as Indians.
12. "Parent" means a biological parent of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "Parent" does not include an unwed father whose paternity has not been acknowledged or established. Except for purposes of the federal Indian Child Welfare Act as codified in 25 U.S.C. § 1913(b), (c), and (d), 1916, 1917, and 1951, "parent" does not include a person whose parental rights to that child have been terminated.
13. "Preadoptive placement" means the temporary placement of an Indian child in an individual or agency foster care placement after the termination of parental rights, but prior to or in lieu of an adoptive placement. "Preadoptive placement" does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child's parents.
14. "Reservation" means Indian country as defined in 18 U.S.C. § 1151 or land that is not covered under that definition but the title to which is either held by the United States in trust for the benefit of an Indian tribe or Indian person or held by an Indian tribe or Indian person subject to a restriction by the United States against alienation.
15. "Secretary of the interior" means the secretary of the United States department of the interior.
16. "Termination of parental rights" means any action resulting in the termination of the parent-child relationship. "Termination of parental rights" does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime, or upon an award, in a divorce proceeding, of custody to one of the child's parents.
17. "Tribal court" means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

Sec. 5. NEW SECTION. 232B.4 APPLICATION OF CHAPTER — EXEMPTIONS — DETERMINATION OF INDIAN STATUS.

1. This chapter applies to child custody proceedings involving an Indian child whether the

child is in the physical or legal custody of an Indian parent, Indian custodian, or an Indian extended family member or another person at the commencement of the proceedings or whether the child has resided or domiciled on or off an Indian reservation.

2. The court shall require a party seeking the foster care placement of, termination of parental rights over, or the adoption of, an Indian child to seek to determine whether the child is an Indian child through contact with any Indian tribe in which the child may be a member or eligible for membership, the child's parent, any person who has custody of the child or with whom the child resides, and any other person that reasonably can be expected to have information regarding the child's possible membership or eligibility for membership in an Indian tribe, including but not limited to the United States department of the interior.

3. A written determination by an Indian tribe that a child is a member of or eligible for membership in that tribe, or testimony attesting to such status by a person authorized by the tribe to provide that determination, shall be conclusive. A written determination by an Indian tribe, or testimony by a person authorized by the tribe to provide that determination or testimony, that a child is not a member of or eligible for membership in that tribe shall be conclusive as to that tribe. If an Indian tribe does not provide evidence of the child's status as an Indian child, the court shall determine the child's status.

4. The determination of the Indian status of a child shall be made as soon as practicable in order to serve the best interest of the child and to ensure compliance with the notice requirements of this chapter.

Sec. 6. NEW SECTION. 232B.5 INDIAN CHILD CUSTODY PROCEEDINGS — JURISDICTION — NOTICE — TRANSFER OF PROCEEDINGS.

1. An Indian tribe has jurisdiction exclusive as to this state over any child custody proceeding held in this state involving an Indian child who resides or is domiciled within the reservation of that tribe, except when the jurisdiction is otherwise vested in this state by existing federal law. If an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

2. The federal Indian Child Welfare Act and this chapter are applicable without exception in any child custody proceeding involving an Indian child. A state court does not have discretion to determine the applicability of the federal Indian Child Welfare Act or this chapter to a child custody proceeding based upon whether an Indian child is part of an existing Indian family.

3. In a child custody proceeding, the court or any party to the proceeding shall be deemed to know or have reason to know that an Indian child is involved whenever any of the following circumstances exist:

a. A party to the proceeding or the court has been informed by any interested person, an officer of the court, a tribe, an Indian organization, a public or private agency, or a member of the child's extended family that the child is or may be an Indian child.

b. The child who is the subject of the proceeding gives the court reason to believe the child is an Indian child.

c. The court or a party to the proceeding has reason to believe the residence or domicile of the child is in a predominantly Indian community.

4. In any involuntary child custody proceeding, including review hearings following an adjudication, the court shall establish in the record that the party seeking the foster care placement of, or termination of parental rights over, or the adoption of an Indian child has sent notice by registered mail, return receipt requested, to all of the following:

a. The child's parents.

b. The child's Indian custodians.

c. Any tribe in which the child may be a member or eligible for membership.

5. If the identity or location of the child's parent, Indian custodian, or tribe cannot be determined, the notice under subsection 4 shall be provided to the secretary of the interior, who shall have fifteen days after receipt of the notice to provide the notice to the child's parent, Indian custodian, and tribe. A foster care placement or termination of parental rights proceeding involving the child shall not be held until at least ten days after receipt of notice by the child's

parent, Indian custodian, and tribe, or the secretary of the interior. Upon request, the child's parent or Indian custodian or tribe shall be granted up to twenty additional days after receipt of the notice to prepare for the proceeding.

6. The court shall also establish in the record that a notice of any involuntary custody proceeding has been sent to the Indian child's tribe. The tribe may provide notice of the proceeding to any of the child's extended family members.

7. The notice in any involuntary child custody proceeding involving an Indian child shall be written in clear and understandable language and shall include all of the following information:

- a. The name and tribal affiliation of the Indian child.
- b. A copy of the petition by which the proceeding was initiated.
- c. A statement listing the rights of the child's parents, Indian custodians, and tribes and, if applicable, the rights of the Indian child's family. The rights shall include all of the following:
 - (1) The right to intervene in the proceeding.
 - (2) The right to petition the court to transfer the proceeding to the tribal court of the Indian child's tribe.
 - (3) The right to be granted up to an additional twenty days from the receipt of the notice to prepare for the proceeding.
 - (4) The right to request that the court grant further extensions of time.
 - (5) In the case of an extended family member, the right to intervene and be considered as a preferred placement for the child.
- d. A statement of the potential legal consequences of an adjudication on the future custodial rights of the child's parents or Indian custodians.
- e. A statement that if the parents or Indian custodians are unable to afford counsel in an involuntary proceeding, counsel will be appointed to represent the parents or custodians.
- f. A statement that the court may appoint counsel for the child upon a finding that the appointment is in the best interest of the child.
- g. A statement that the information contained in the notice, petition, pleading, and other court documents is confidential.
- h. A statement that the child's tribe may provide notice of the proceeding to any of the child's extended family members along with copies of other related documents.

8. In a voluntary child custody proceeding involving an Indian child, including but not limited to a review hearing, the court shall establish in the record that the party seeking the foster care placement of, termination of parental rights to, or the permanent placement of, an Indian child has sent notice at least ten days prior to the hearing by registered mail, return receipt requested, to all of the following:

- a. The child's parents, except for a parent whose parental rights have been terminated.
- b. The child's Indian custodians, except for a custodian whose parental or Indian custodian rights have been terminated.
- c. Any tribe in which the child may be a member or eligible for membership.

9. The notice in a voluntary child custody proceeding involving an Indian child shall be written in clear and understandable language and shall include all of the following information:

- a. The name and tribal affiliation of the child.
- b. A copy of the petition by which the proceeding was initiated.
- c. A statement listing the rights of the child's parents, Indian custodians, Indian tribe or tribes, and, if applicable, extended family members. The rights shall include all of the following:
 - (1) The right to intervene in the proceeding.
 - (2) The right to petition the court to transfer a foster care placement or termination of parental rights proceeding to the tribal court of the Indian child's tribe.
 - (3) In the case of extended family members, the right to intervene and be considered as a preferred placement for the child.
- d. A statement that the information contained in the notice, petition, pleading, and any other court document shall be kept confidential.

e. A statement that the child's tribe may provide notice of the proceeding to any of the child's extended family members along with copies of other related documents.

10. Unless either of an Indian child's parents objects, in any child custody proceeding involving an Indian child who is not domiciled or residing within the jurisdiction of the Indian child's tribe, the court shall transfer the proceeding to the jurisdiction of the Indian child's tribe, upon the petition of any of the following persons:

- a. Either of the child's parents.
- b. The child's Indian custodian.
- c. The child's tribe.

11. Notwithstanding entry of an objection to a transfer of proceedings as described in subsection 10, the court shall reject any objection that is inconsistent with the purposes of this chapter, including but not limited to any objection that would prevent maintaining the vital relationship between Indian tribes and the tribes' children and would interfere with the policy that the best interest of an Indian child require that the child be placed in a foster or adoptive home that reflects the unique values of Indian culture.

12. A transfer of proceedings under subsection 10 may be declined by the tribal court of the Indian child's tribe. If the tribal court declines to assume jurisdiction, the state court shall reassume jurisdiction and shall apply all of the following in any proceeding:

- a. The requirements of the federal Indian Child Welfare Act.
- b. This chapter.
- c. The applicable provisions of any agreement between the Indian child's tribe and the state concerning the welfare, care, and custody of Indian children.

13. If a petition to transfer proceedings as described in subsection 10 is filed, the court shall find good cause to deny the petition only if one or more of the following circumstances are shown to exist:

- a. The tribal court of the child's tribe declines the transfer of jurisdiction.
- b. The tribal court does not have subject matter jurisdiction under the laws of the tribe or federal law.
- c. Circumstances exist in which the evidence necessary to decide the case cannot be presented in the tribal court without undue hardship to the parties or the witnesses, and the tribal court is unable to mitigate the hardship by making arrangements to receive and consider the evidence or testimony by use of remote communication, by hearing the evidence or testimony at a location convenient to the parties or witnesses, or by use of other means permitted in the tribal court's rules of evidence or discovery.
- d. An objection to the transfer is entered in accordance with subsection 10.

14. The Indian child's tribe or tribes and Indian custodian have the right to intervene at any point in any foster care placement or termination of parental rights proceeding involving the child. The Indian child's tribe shall also have the right to intervene at any point in any adoption proceeding involving the child. Any member of the Indian child's family may intervene in an adoption proceeding involving the child for the purpose of petitioning the court for the adoptive placement of the child in accordance with the order of preference provided for in this chapter.

15. The state shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to the Indian child custody proceedings.

16. In any proceeding in which the court determines indigency of the Indian child's parent or Indian custodian, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination of parental rights. The child shall also have the right to court-appointed counsel in any removal, placement, termination of parental rights, or other permanency proceedings.

17. Each party to a foster care placement or termination of parental rights proceeding involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the proceeding may be based.

18. Any person or court involved in the foster care, preadoptive placement, or adoptive placement of an Indian child shall use the services of the Indian child's tribe or tribes, when-

ever available through the tribe or tribes, in seeking to secure placement within the order of placement preference established in section 232B.9 and in the supervision of the placement.

19. A party seeking an involuntary foster care placement of or termination of parental rights over an Indian child shall provide evidence to the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. The court shall not order the placement or termination, unless the evidence of active efforts shows there has been a vigorous and concerted level of case work beyond the level that typically constitutes reasonable efforts as defined in sections 232.57 and 232.102. Reasonable efforts shall not be construed to be active efforts. The active efforts must be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts shall utilize the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregivers. Active efforts shall include but are not limited to all of the following:

- a. A request to the Indian child's tribe to convene traditional and customary support and resolution actions or services.
- b. Identification and participation of tribally designated representatives at the earliest point.
- c. Consultation with extended family members to identify family structure and family support services that may be provided by extended family members.
- d. Frequent visitation in the Indian child's home and the homes of the child's extended family members.
- e. Exhaustion of all tribally appropriate family preservation alternatives.
- f. Identification and provision of information to the child's family concerning community resources that may be able to offer housing, financial, and transportation assistance and actively assisting the family in accessing the community resources.

20. The state of Iowa recognizes that an Indian tribe may contract with another Indian tribe for supervision regarding placement, case management, and the provision of services to an Indian child.

Sec. 7. NEW SECTION. 232B.6 EMERGENCY REMOVAL OF INDIAN CHILD — FOSTER CARE PLACEMENT — TERMINATION OF PARENTAL RIGHTS.

1. This chapter shall not be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on an Indian reservation, but is temporarily located off the reservation, or is away from the child's parent or Indian custodian, or the emergency placement of such child in a foster home or institution, under applicable state law, in order to prevent imminent physical damage or harm to the child. In a case of emergency removal of an Indian child, regardless of residence or domicile of the child, the state shall ensure that the emergency removal or placement terminates immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this chapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the child's parent or Indian custodian, as may be appropriate.

2. Within three business days following the issuance of an order of emergency removal or placement of an Indian child, the court issuing the order shall notify the Indian child's tribe of the emergency removal or placement by registered mail, return receipt requested. The notice shall include the court order, the petition, if applicable, any information required by this chapter, and a statement informing the child's tribe of the tribe's right to intervene in the proceeding.

3. A motion, application, or petition commencing an emergency or temporary removal under section 232.79 or 232.95 or foster care placement proceeding under chapter 232 involving an Indian child shall be accompanied by all of the following:

- a. An affidavit containing the names, tribal affiliations, and addresses of the Indian child, and of the child's parents and Indian custodians.

b. A specific and detailed account of the circumstances supporting the removal of the child.

c. All reports or other documents from each public or private agency involved with the emergency or temporary removal that are filed with the court and upon which any decision may be based. The reports shall include all of the following information, when available:

- (1) The name of each agency.
- (2) The names of agency administrators and professionals involved in the removal.
- (3) A description of the emergency justifying the removal of the child.
- (4) All observations made and actions taken by the agency.
- (5) The date, time, and place of each such action.
- (6) The signatures of all agency personnel involved.
- (7) A statement of the specific actions taken and to be taken by each involved agency to effectuate the safe return of the child to the custody of the child's parent or Indian custodian.

4. An emergency removal or placement of an Indian child shall immediately terminate, and any court order approving the removal or placement shall be vacated, when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child. In no case shall an emergency removal or placement order remain in effect for more than fifteen days unless, upon a showing that continuation of the order is necessary to prevent imminent physical damage or harm to the child, the court extends the order for a period not to exceed an additional thirty days. If the Indian child's tribe has been identified, the court shall notify the tribe of the date and time of any hearing scheduled to determine whether to extend an emergency removal or placement order.

5. Upon termination of the emergency removal or placement order, the child shall immediately be returned to the custody of the child's parent or Indian custodian unless any of the following circumstances exist:

- a. The child is transferred to the jurisdiction of the child's tribe.
- b. In an involuntary foster care placement proceeding pursuant to the federal Indian Child Welfare Act, the court orders that the child shall be placed in foster care upon a determination, supported by clear and convincing evidence, including testimony by qualified expert witnesses, that custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

c. The child's parent or Indian custodian voluntarily consents to the foster care placement of the child pursuant to the provisions of the federal Indian Child Welfare Act.

6. a. Termination of parental rights over an Indian child shall not be ordered in the absence of a determination, supported by evidence beyond a reasonable doubt, including the testimony of qualified expert witnesses, that the continued custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

b. Foster care placement of an Indian child shall not be ordered in the absence of a determination, supported by clear and convincing evidence, including the testimony of qualified expert witnesses, that the continued custody of the child by the child's parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Sec. 8. NEW SECTION. 232B.7 PARENTAL RIGHTS — VOLUNTARY TERMINATION OR FOSTER CARE PLACEMENT.

1. If an Indian child's parent or Indian custodian voluntarily consents to a foster care placement of the child or to termination of parental rights, the consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Notwithstanding section 600A.4 or any other provision of law, any consent for release of custody given prior to, or within ten days after, the birth of the Indian child shall not be valid.

2. An Indian child's parent or Indian custodian may withdraw consent to a foster care placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or Indian custodian.

3. In a voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

4. After the entry of a final decree of adoption of an Indian child, the parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate the decree and return the child to the parent. However, an adoption which has been effective for at least two years shall not be invalidated under the provisions of this subsection unless otherwise permitted under state law.

Sec. 9. NEW SECTION. 232B.8 RETURN OF CUSTODY — IMPROPER REMOVAL OF CHILD FROM CUSTODY — PROTECTION OF RIGHTS OF PARENT OR INDIAN CUSTODIAN.

1. If a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant the petition unless there is a showing, in a proceeding subject to the provisions of this chapter, that the return of custody is not in the best interest of the child.

2. If an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with the provisions of this chapter, except when an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

3. If a petitioner in an Indian child custody proceeding before a state court has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's parent or Indian custodian unless returning the child to the parent or Indian custodian would subject the child to a substantial and immediate danger or threat of such danger.

4. If another state or federal law applicable to a child custody proceeding held under state or federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this chapter, the court shall apply the higher standard.

Sec. 10. NEW SECTION. 232B.9 PLACEMENT PREFERENCES.

1. In any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

- a. A member of the Indian child's family.
- b. Other members of the Indian child's tribe.
- c. Another Indian family.
- d. A non-Indian family approved by the Indian child's tribe.
- e. A non-Indian family that is committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.

2. An emergency removal, foster care, or preadoptive placement of an Indian child shall be in the least restrictive setting which most approximates a family situation and in which the child's special needs, if any, may be met. The child shall also be placed within reasonable proximity to the child's home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given to the child's placement with one of the following in descending priority order:

- a. A member of the child's extended family.
- b. A foster home licensed, approved, or specified by the child's tribe.
- c. An Indian foster home licensed or approved by an authorized non-Indian licensing authority.
- d. A child foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

- e. A non-Indian child foster care agency approved by the child's tribe.
- f. A non-Indian family committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.
- 3. To the greatest possible extent, a placement made in accordance with subsection 1 or 2 shall be made in the best interest of the child.
- 4. An adoptive placement of an Indian child shall not be ordered in the absence of a determination, supported by clear and convincing evidence including the testimony of qualified expert witnesses, that the placement of the child is in the best interest of the child.
- 5. Notwithstanding the placement preferences listed in subsections 1 and 2, if a different order of placement preference is established by the child's tribe or in a binding agreement between the child's tribe and the state entered into pursuant to section 232B.11, the court or agency effecting the placement shall follow the order of preference established by the tribe or in the agreement.
- 6. As appropriate, the placement preference of the Indian child or parent shall be considered. In applying the preferences, a consenting parent's request for anonymity shall also be given weight by the court or agency effecting the placement. Unless there is clear and convincing evidence that placement within the order of preference applicable under subsection 1, 2, or 5 would be harmful to the Indian child, consideration of the preference of the Indian child or parent or a parent's request for anonymity shall not be a basis for placing an Indian child outside of the applicable order of preference.
- 7. The prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which such parent or extended family members maintain social and cultural ties, or the prevailing social and cultural standards of the Indian child's tribe shall be applied in qualifying any placement having a preference under this section. A determination of the applicable prevailing social and cultural standards shall be confirmed by the testimony or other documented support of qualified expert witnesses.
- 8. A record of each foster care placement, emergency removal, preadoptive placement, or adoptive placement of an Indian child, under the laws of this state, shall be maintained in perpetuity by the department of human services in accordance with section 232B.13. The record shall document the active efforts to comply with the applicable order of preference specified in this section.
- 9. The state of Iowa recognizes the authority of Indian tribes to license foster homes and to license agencies to receive children for control, care, and maintenance outside of the children's own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care or adoption. The department of human services and child-placing agencies licensed under chapter 238 may place children in foster homes and facilities licensed by an Indian tribe.

Sec. 11. NEW SECTION. 232B.10 TRIBALLY RECOGNIZED EXPERT WITNESSES — STANDARD OF PROOF — CHANGE OF PLACEMENT.

- 1. For the purposes of this section, unless the context otherwise requires, a "qualified expert witness" may include, but is not limited to, a social worker, sociologist, physician, psychologist, traditional tribal therapist and healer, spiritual leader, historian, or elder.
- 2. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that qualified expert witnesses with specific knowledge of the child's Indian tribe testify regarding that tribe's family organization and child-rearing practices, and regarding whether the tribe's culture, customs, and laws would support the placement of the child in foster care or the termination of parental rights on the grounds that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- 3. In the following descending order of preference, a qualified expert witness is a person who is one of the following:
 - a. A member of the child's Indian tribe who is recognized by the child's tribal community

as knowledgeable regarding tribal customs as the customs pertain to family organization or child-rearing practices.

b. A member of another tribe who is formally recognized by the Indian child's tribe as having the knowledge to be a qualified expert witness.

c. A layperson having substantial experience in the delivery of child and family services to Indians, and substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child's tribe.

d. A professional person having substantial education and experience in the person's professional specialty and having substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child's tribe.

e. A professional person having substantial education and experience in the person's professional specialty and having extensive knowledge of the customs, traditions, and values of the Indian child's tribe as the customs, traditions, and values pertain to family organization and child-rearing practices. Prior to accepting the testimony of a qualified expert witness described in this lettered paragraph, the court shall document the efforts made to secure a qualified expert witness described in paragraphs "a", "b", "c", and "d". The efforts shall include but are not limited to contacting the Indian child's tribe's governing body, that tribe's Indian Child Welfare Act office, and the tribe's social service office.

Sec. 12. NEW SECTION. 232B.11 AGREEMENTS WITH TRIBES FOR CARE AND CUSTODY OF INDIAN CHILDREN.

1. The director of human services or the director's designee shall make a good faith effort to enter into agreements with Indian tribes regarding jurisdiction over child custody proceedings and the care and custody of Indian children whose tribes have land within Iowa, including but not limited to the Sac and Fox tribe, the Omaha tribe, the Ponca tribe, and the Winnebago tribe, and whose tribes have an Indian child who resides in the state of Iowa. An agreement shall seek to promote the continued existence and integrity of the Indian tribe as a political entity and the vital interest of Indian children in securing and maintaining a political, cultural, and social relationship with their tribes. An agreement shall assure that tribal services and Indian organizations or agencies are used to the greatest extent practicable in planning and implementing any action pursuant to the agreement concerning the care and custody of Indian children. If tribal services are not available, an agreement shall assure that community services and resources developed specifically for Indian families will be used.

2. If an agreement entered into between the tribe and the department of human services pertaining to the funding of foster care placements for Indian children conflicts with any federal or state law, the state in a timely, good faith manner shall agree to amend the agreement in a way that prevents any interruption of services to eligible Indian children.

3. An agreement entered into under this section may be revoked by either party by giving one hundred eighty days' advance written notice to the other party. The revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

Sec. 13. NEW SECTION. 232B.12 PAYMENT OF FOSTER CARE EXPENSES.

1. If the department of human services has legal custody of an Indian child and that child is placed in foster care according to the placement preferences under section 232B.9 the state shall pay, subject to any applicable federal funding limitations and requirements, the cost of the foster care in the manner and to the same extent the state pays for foster care of non-Indian children, including the administrative and training costs associated with the placement. In addition, the state shall pay the other costs related to the foster care placement of an Indian child as may be provided for in an agreement entered into between a tribe and the state.

2. The department of human services may, subject to any applicable federal funding limitations and requirements and within funds appropriated for foster care services, purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state court

order; and the purchase of the care is subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Sec. 14. NEW SECTION. 232B.13 RECORDS.

1. The department of human services shall establish an automated database where a permanent record shall be maintained of every involuntary or voluntary foster care, preadoptive placement, or adoptive placement of an Indian child that is ordered by a court of this state and in which the department was involved. The automated record shall document the active efforts made to comply with the order of placement preference specified in section 232B.9. An Indian child's placement record shall be maintained in perpetuity by the department of human services and shall include but is not limited to the name, birthdate, and gender of the Indian child, and the location of the local department office that maintains the original file and documents containing the information listed in subsection 2.

2. Each county department of human services, state-licensed child-placing agency, private attorney, and medical facility involved in the involuntary or voluntary foster care placement, preadoptive placement, or adoptive placement of an Indian child shall maintain in perpetuity a record of the placement. The record shall include, but is not limited to, all of the following information:

- a. The name and tribal affiliation of the child.
- b. The location of the child's Indian tribe or tribes.
- c. The names and addresses of the child's biological parents.
- d. The child's certificate of degree of Indian blood.
- e. The child's tribal enrollment or other membership documentation, if any.
- f. The child's medical records.
- g. The social and medical history of the child's biological family.
- h. The names, ages, and gender of the child's siblings.
- i. The names, ages, and gender of the child's kinship or extended family members.
- j. The names and addresses of the child's adoptive parents.
- k. The identity of any agency having files or information relating to the placement.
- l. All reports concerning the child or the child's family, including detailed information regarding case plans and other efforts to rehabilitate the parents of the child.
- m. A record of efforts made to place the child within and outside of the placement preferences under section 232B.9.
- n. A statement of the reason for the final placement decision.

3. If a court orders the foster care, preadoptive placement, or adoptive placement of an Indian child, the court and any state-licensed child-placing agency involved in the placement shall provide the department of human services with the records described in subsections 1 and 2.

4. A record maintained pursuant to this section by the department of human services, a county department of human services, state-licensed child-placing agency, private attorney, or medical facility shall be made available within seven days of a request for the record by the Indian child's tribe or the secretary of the interior.

5. Upon the request of an Indian individual who is eighteen years of age or older, or upon the request of an Indian child's parent, Indian custodian, attorney, guardian ad litem, guardian, legal custodian, or caseworker of the Indian child, the department of human services, a county department of human services, state-licensed child-placing agency, private attorney, or medical facility shall provide access to the records pertaining to the Indian individual or child maintained pursuant to this section. The records shall also be made available upon the request of the descendants of the Indian individual or child. A record shall be made available within seven days of a request for the record by any person authorized by this subsection to make the request.

6. Upon application of an Indian individual who is eighteen years of age or older and was the subject of an adoptive placement, the court that entered the final decree shall inform the individual regarding the individual's tribal affiliation and any of the individual's biological

parents, and shall provide such other information as may be necessary to protect any rights arising from the individual's tribal affiliation. In addition, the court shall provide the individual, through an appropriate order, if necessary, with information described in subsection 2 as may be secured from the records maintained pursuant to subsection 2.

7. If a parent of an Indian child wishes to remain anonymous, identifying records concerning any such parent shall not be released unless necessary to secure, maintain, or enforce the Indian child's right to enrollment or membership in the child's Indian tribe, for determining a right or benefit associated with the enrollment or membership, or for determining a right to an inheritance.

Sec. 15. NEW SECTION. 232B.14 COMPLIANCE.

1. The department of human services, in consultation with Indian tribes, shall establish standards and procedures for the department's review of cases subject to this chapter and methods for monitoring the department's compliance with provisions of the federal Indian Child Welfare Act and this chapter. These standards and procedures and the monitoring methods shall be integrated into the department's structure and plan for the federal government's child and family service review process and any program improvement plan resulting from that process.

2. A court of competent jurisdiction shall vacate a court order and remand the case for appropriate disposition for any of the following violations of this chapter:

- a. Failure to notify an Indian parent, Indian custodian, or tribe.
- b. Failure to recognize the jurisdiction of an Indian tribe.
- c. Failure, without cause as specified under this chapter, to transfer jurisdiction to an Indian tribe appropriately seeking transfer.
- d. Failure to give full faith and credit to the public acts, records, or judicial proceedings of an Indian tribe.
- e. Failure to allow intervention by an Indian custodian or Indian tribe, or if applicable, an extended family member.
- f. Failure to return the child to the child's parent or Indian custodian when removal or placement is no longer necessary to prevent imminent physical damage or harm.
- g. Failure to provide the testimony of qualified expert witnesses as required by this chapter.
- h. Any other violation that is not harmless error, including but not limited to a failure to comply with 25 U.S.C. § 1911, 1912, 1913, 1915, 1916, or 1917.

3. If a petitioner in an Indian child custody proceeding before a state court has improperly removed the child from the custody of the child's parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's parent or Indian custodian unless returning the child to the parent or Indian custodian would subject the child to a substantial and immediate danger or threat of such danger.

Sec. 16. Section 600.1, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a proceeding held under this chapter involves an Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1999, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

Sec. 17. Section 600A.3, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a proceeding held under this chapter involves an

Indian child as defined in section 232B.3 and the proceeding is subject to the Iowa Indian child welfare Act under chapter 232B, the proceeding and other actions taken in connection with the proceeding or this chapter shall comply with chapter 232B. In any proceeding held or action taken under this chapter involving an Indian child, the applicable requirements of the federal Adoption and Safe Families Act of 1999, Pub. L. No. 105-89, shall be applied to the proceeding or action in a manner that complies with chapter 232B and the federal Indian Child Welfare Act, Pub. L. No. 95-608.

Sec. 18. COMPLIANCE ACTIVITIES. The initial review of compliance with the requirements of chapter 232B made pursuant to section 232B.14, as enacted by this Act, shall be completed by June 30, 2004.

Approved May 30, 2003

CHAPTER 154

LANDLORDS AND TENANTS — LEASE OR RENTAL AGREEMENT TERMINATIONS — FORCIBLE ENTRY OR DETENTION ACTIONS

S.F. 359

AN ACT relating to landlords, tenants, and actions for forcible entry or detention and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 29A.101A TERMINATION OF LEASE OR RENTAL AGREEMENT BY SERVICE MEMBER.**

1. As used in this section, “lease” or “rental agreement” means any lease or rental agreement covering premises occupied for dwelling, professional, business, agricultural, or similar purposes if both of the following conditions are met:

a. The lease or rental agreement was executed by or on behalf of a service member who, after the execution of the lease or rental agreement, entered military service.

b. The service member or the service member’s dependents occupy the premises for the purposes set forth in this subsection.

2. a. A service member may terminate a lease or rental agreement by providing written notice to the lessor or the lessor’s agent at any time following the date of the beginning of the service member’s period of military service. The notice may be delivered by placing it in an envelope properly stamped and addressed to the lessor or the lessor’s agent and depositing the notice in the United States mail.

b. Termination of a month-to-month lease or rental agreement shall not be effective until thirty days after the first day on which the next rental payment is due and payable after the date when notice is delivered or mailed. As to all other leases or rental agreements, termination shall be effective on the last day of the month following the month in which notice is delivered or mailed. Any unpaid rent for the period preceding the termination in such cases shall be computed on a pro rata basis and any rent paid in advance after termination shall be refunded by the lessor or the lessor’s agent.

c. Upon application by the lessor and prior to the termination period provided in the notice,

a court may modify or restrict any relief granted in this subsection as the interests of justice and equity require.

3. A person who knowingly seizes, holds, or detains the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease or rental agreement covered under this section or who interferes in any manner with the removal of property from the premises for the purposes of subjecting the property to a claim for rent accruing subsequent to the date of termination of the lease or rental agreement commits a simple misdemeanor.

Sec. 2. Section 562A.27, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 5. Notwithstanding any other provisions of this chapter, a municipal housing agency established pursuant to chapter 403A may issue a thirty-day notice of lease termination for a violation of a rental agreement by the tenant when the violation is a violation of a federal regulation governing the tenant's eligibility for or continued participation in a public housing program. The municipal housing agency shall not be required to provide the tenant with a right or opportunity to remedy the violation or to give any notice that the tenant has such a right or opportunity when the notice cites the federal regulation as authority.

Sec. 3. NEW SECTION. 648.1A NONPROFIT TRANSITIONAL HOUSING EXEMPTED. This chapter shall not apply to occupancy in housing owned by a nonprofit organization whose purpose is to provide transitional housing for persons released from drug or alcohol treatment facilities or to provide housing for homeless persons. Absent an applicable provision in a lease, contract, or other agreement, a person who unlawfully remains on the premises of such housing may be subject to criminal trespass penalties pursuant to section 716.8.

Sec. 4. Section 648.6, Code 2003, is amended to read as follows:
648.6 ~~DELAYED VACATION—~~ NOTICE TO LIENHOLDERS.
In cases covered by chapter 562B, a plaintiff ~~may preserve the option of consenting to delayed vacation of a premises as provided in section 648.22A, by sending~~ shall send a copy of the petition, prior to the date set for hearing, by regular, certified, or restricted certified mail to the county treasurer and to each lienholder whose name and address are of record in the office of the county treasurer of the county where the mobile home or manufactured home is located.

Sec. 5. Section 648.22A, Code 2003, is amended to read as follows:
648.22A EXECUTIONS INVOLVING MOBILE HOMES AND MANUFACTURED HOMES.
1. In cases covered by chapter 562B, ~~upon prior to the~~ expiration of three days from the date the judgment is entered pursuant to section 648.22, the plaintiff or defendant may elect to leave a mobile home or manufactured home and its contents in the manufactured home community or mobile home park for up to ~~thirty~~ sixty days ~~after the date of the judgment~~ provided all of the following occur:
a. The plaintiff consents and the plaintiff has complied with the provisions of section 648.6.
b. The party making the election files a written notice of such election with the court and sends a copy of the notice of election with a copy of the judgment to the sheriff, the other party at the other party's last known address, each record lienholder, and the county treasurer in the same manner as in section 648.6.
~~b.~~ c. All utilities to the mobile home or manufactured home are disconnected prior to expiration of three days from the ~~entry of judgment~~ filing of the election. Payment of any reasonable costs incurred in disconnecting utilities and protecting the home from damage is the responsibility of the defendant.
2. During the ~~thirty-day~~ sixty-day period the defendant may have reasonable access to the home site to show the home to prospective purchasers, prepare the home for removal, remove any personal property, or remove the home, provided that the defendant gives the plaintiff and sheriff at least twenty-four hours' notice prior to each exercise of the defendant's right of

access. The plaintiff may also have reasonable access to the home site to disconnect utilities and to show the home to prospective purchasers sent by the defendant. The plaintiff shall not have the right to sell the home during the sixty-day period unless the defendant enters into a written agreement for the plaintiff to sell the home.

3. During the ~~thirty-day~~ sixty-day period the defendant shall not occupy the home or be present on the premises between the hours of seven p.m. and seven a.m. A violation of this subsection shall be punishable as contempt.

4. If the plaintiff or defendant finds a purchaser of the home, who is a prospective tenant of the manufactured home community or mobile home park, the provisions of section 562B.19, subsection 3, paragraph "c", shall apply.

5. If, within the ~~thirty-day~~ sixty-day period, the home is not sold to an approved purchaser or removed from the manufactured home community or mobile home park, the plaintiff may sell or dispose of the home in accordance with the provisions of section 555B.9 without an order for disposal, or chapter 555C, and may do so free and clear of all liens, claims, or encumbrances of third parties except any tax lien, at which time all of the following shall occur:

a. The home, its contents, and any other property of the defendant remaining on the premises shall become the property of the plaintiff free and clear of all rights of the defendant to the property and of all liens, claims, or encumbrances of third parties, and any tax levied pursuant to chapter 435 may be abated by the board of supervisors. The proceeds from the sale shall first be applied to any judgments against the defendant obtained by the plaintiff, any unpaid rent or additional costs incurred by plaintiff, and reasonable attorney fees. Any remaining proceeds shall next be applied to any tax lien with the remainder to be held in accordance with section 555B.9, subsection 3, paragraph "c".

b. Any money judgment against the defendant and in favor of the plaintiff relating to the previous tenancy shall be deemed satisfied, except those arising from independent torts.

c. The If plaintiff elects to retain the home pursuant to section 555B.9, the county treasurer, upon receipt of a fee equal to the fee specified in section 321.42 for replacement of certificates of title for motor vehicles, and upon receipt of an affidavit submitted by the plaintiff verifying that the home was not sold to an approved purchaser or removed within the time specified in this subsection, shall issue to the plaintiff a new title for the home.

6. A purchaser of the home shall be liable for any unpaid sums due the plaintiff, sheriff, or county treasurer. For the purposes of this section, "purchaser" includes a lienholder or other claimant acquiring title to the home in whole or in part by reason of a lien or other claim.

7. A Nothing in this section shall prevent the defendant from removing the mobile home or manufactured home prior to the expiration of three days after entry of judgment, after which time a mobile home or manufactured home shall not be removed without the prior payment to the plaintiff of all sums owing at the time of entry of judgment, interest accrued on such sums as provided by law, and per diem rent for that portion of the ~~thirty-day~~ sixty-day period which has expired prior to removal, and payment of any taxes due on the home which are not abated pursuant to subsection 5.

8. In any case where this section has become operative, section 648.18 does not apply.

9. This section does not preclude the exercise of a lienholder's rights under 648.22B.

Approved May 30, 2003

CHAPTER 155**POLICE SERVICE DOG PURCHASES BY
DEPARTMENT OF CORRECTIONS — FUNDING***S.F. 417*

AN ACT relating to the purchase of a police service dog by the department of corrections.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 29C.20, subsection 1, Code 2003, is amended to read as follows:

1. A contingent fund is created in the state treasury for the use of the executive council which may be expended for the purpose of paying the expenses of suppressing an insurrection or riot, actual or threatened, when state aid has been rendered by order of the governor, and for repairing, rebuilding, or restoring state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, and for repairing, rebuilding, or restoring state property which is fiberoptic cable and which is injured or destroyed by a wild animal, and for purchasing a police service dog for the department of corrections when such a dog is injured or destroyed, and for aid to any governmental subdivision in an area declared by the governor to be a disaster area due to natural disasters or to expenditures necessitated by the governmental subdivision toward averting or lessening the impact of the potential disaster, where the effect of the disaster or action on the governmental subdivision is the immediate financial inability to meet the continuing requirements of local government. Upon application by a governmental subdivision in such an area, accompanied by a showing of obligations and expenditures necessitated by an actual or potential disaster in a form and with further information the executive council requires, the aid may be made in the discretion of the executive council and, if made, shall be in the nature of a loan up to a limit of seventy-five percent of the showing of obligations and expenditures. The loan, without interest, shall be repaid by the maximum annual emergency levy authorized by section 24.6, or by the appropriate levy authorized for a governmental subdivision not covered by section 24.6. The aggregate total of loans shall not exceed one million dollars during a fiscal year. A loan shall not be for an obligation or expenditure occurring more than two years previous to the application.

When a state department or agency requests that moneys from the contingent fund be expended to repair, rebuild, or restore state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, or to repair, rebuild, or restore state property which is fiberoptic cable and which is injured or destroyed by a wild animal, or to purchase a police service dog for the department of corrections when such a dog is injured or destroyed, the executive council shall consider the original source of the funds for acquisition of the property before authorizing the expenditure. If the original source was other than the general fund of the state, the department or agency shall be directed to utilize moneys from the original source if possible. The executive council shall not authorize the repairing, rebuilding, or restoring of the property from the disaster aid contingent fund if it determines that moneys from the original source are available to finance the project.

Approved May 30, 2003

CHAPTER 156**CRIMES, SENTENCING, AND PROCEDURE
— MISCELLANEOUS REVISIONS***S.F. 422*

AN ACT relating to criminal sentencing and procedure by modifying the penalties for certain offenses related to controlled substances by permitting the reopening of a sentence that requires a maximum accumulation of earned time credits of fifteen percent of the total term of confinement and by changing the parole and work release eligibility of a person serving such a sentence, repealing certain determinate sentences, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (2), unnumbered paragraph 1, Code 2003, is amended to read as follows:

More than five ~~kilograms~~ hundred grams of a mixture or substance containing a detectable amount of any of the following:

Sec. 2. Section 124.401, subsection 1, paragraph a, subparagraph (2), subparagraph subdivisions (d) and (e), Code 2003, are amended by striking the subparagraph subdivisions.

Sec. 3. Section 124.401, subsection 1, paragraph a, Code 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) More than five kilograms of a mixture or substance containing a detectable amount of any of the following:

(a) Methamphetamine, its salts, isomers, or salts of isomers.

(b) Amphetamine, its salts, isomers, and salts of isomers.

(c) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) and (b).

Sec. 4. Section 124.401, subsection 1, paragraph b, subparagraph (2), unnumbered paragraph 1, Code 2003, is amended to read as follows:

More than five ~~one~~ hundred grams but not more than five ~~kilograms~~ hundred grams of any of the following:

Sec. 5. Section 124.401, subsection 1, paragraph b, subparagraph (3), Code 2003, is amended to read as follows:

(3) More than five ~~ten~~ grams but not more than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

Sec. 6. Section 124.401, subsection 1, paragraph c, subparagraph (2), unnumbered paragraph 1, Code 2003, is amended to read as follows:

Five One hundred grams or less of any of the following:

Sec. 7. Section 124.401, subsection 1, paragraph c, subparagraph (3), Code 2003, is amended to read as follows:

(3) Five Ten grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

Sec. 8. Section 901.5, subsection 13, Code 2003, is amended by striking the subsection.

Sec. 9. NEW SECTION. 901.5B REOPENING OF SENTENCE FOR PERSONS SERVING SENTENCE SUBJECT TO MAXIMUM ACCUMULATION OF EARNED TIME OF FIFTEEN PERCENT.

1. A defendant serving a sentence under section 902.12 prior to the effective date of this Act, who is sentenced by the court to the custody of the director of the department of corrections, may have the judgment and sentence reopened for resentencing if all of the following apply:

a. The county attorney from the county which prosecuted the defendant files a motion in the sentencing court to reopen the sentence of the defendant. The county attorney shall notify the victim pursuant to section 915.13 of the filing of the motion. The motion shall specify that the county attorney has informed the victim about the filing of the motion, and that the victim has thirty days from the date of the filing of the motion to file a written objection with the court.

b. No written objection is filed or if a written objection is filed, and upon hearing the court grants the motion.

2. Upon the court granting the motion to reopen the sentence, the court shall order that the defendant be eligible for consideration of parole or work release in the same manner as a defendant serving a sentence under section 902.12.

3. For purposes of calculating earned time under section 903A.2, the sentencing date for a defendant whose sentence has been reopened under this section shall be the date of the original sentencing order.

4. The filing of a motion or reopening of a sentence under this section shall not constitute grounds to stay any other court proceedings, or to toll or restart the time for filing of any post-trial motion or any appeal.

Sec. 10. Section 902.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person serving a sentence for conviction of a felony, ~~other than a forcible felony under section 902.12,~~ who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

Sec. 11. Section 902.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

~~Except as otherwise provided in section 903A.2, a~~ person serving a sentence for conviction of the following forcible felonies shall ~~serve one hundred percent of the maximum term of the person's sentence and shall not be released on~~ be denied parole or work release unless the person has served at least seven-tenths of the maximum term of the person's sentence:

Sec. 12. Section 902.12, subsection 5, unnumbered paragraph 2, Code 2003, is amended to read as follows:

~~Except as otherwise provided in section 903A.2, a person serving a sentence for conviction under~~

6. Vehicular homicide in violation of section 707.6A, subsection 1 or 2, shall serve one hundred percent of the maximum term of the person's sentence and shall not be released on parole or work release if the person was also convicted under section 321.261, subsection 3, based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

Sec. 13. Section 903.4, Code 2003, is amended to read as follows:

903.4 PROVIDING PLACE OF CONFINEMENT.

All persons sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the Iowa department of corrections, in which

case the provisions of section 901.8 apply, ~~or unless the person is serving a determinate term of confinement of one year pursuant to section 902.3A.~~ All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the Iowa department of corrections to be confined in a place to be designated by the director and the cost of the confinement shall be borne by the state. The director may contract with local governmental units for the use of detention or correctional facilities maintained by the units for the confinement of such persons.

Sec. 14. Section 905.6, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notify the board of parole, thirty days prior to release, of the release from a residential facility operated by the district department of a person serving a sentence under section 902.12.

Sec. 15. NEW SECTION. 905.11 RESIDENTIAL FACILITY RESIDENCY — MINIMUM.

A person who is serving a sentence under section 902.12, the maximum term of which exceeds ten years, and who is released on parole or work release shall reside in a residential facility operated by the district department for a period of not less than one year.

Sec. 16. Section 906.4, Code 2003, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. A person on parole or work release who is serving a sentence under section 902.12 shall begin parole or work release in a residential facility operated by a judicial district department of correctional services.

Sec. 17. Section 907.3, subsection 1, paragraph m, Code 2003, is amended by striking the paragraph.

Sec. 18. Section 907.3, subsection 2, paragraph g, Code 2003, is amended by striking the paragraph.

Sec. 19. Section 907.3, subsection 3, paragraph g, Code 2003, is amended by striking the paragraph.

Sec. 20. Section 915.13, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The filing of a motion to reopen a sentence of a defendant pursuant to section 901.5B. Notwithstanding section 915.10, the notice shall be served by certified mail. Notice shall include the scheduled date, time, and place of any hearing to reopen a sentence and that the victim has thirty days from the date of the service of the motion to file a written objection with the court.

Sec. 21. Section 915.14, Code 2003, is amended to read as follows:

915.14 NOTIFICATION BY CLERK OF THE DISTRICT COURT.

The clerk of the district court shall notify a registered victim of all dispositional orders of the case in which the victim was involved and may advise the victim of any other orders regarding custody or confinement. If a motion to reopen the sentence has been filed pursuant to section 901.5B, the clerk of the district court shall notify a registered victim of the case in which the victim was involved. The notice shall include the scheduled date, time, and place of the hearing, and the clerk shall notify the victim of a cancellation or postponement of any hearing regarding the motion to reopen.

Sec. 22. Section 902.3A, Code 2003, is repealed.

CHAPTER 157**LOCAL SALES AND SERVICES TAXES —
SCHOOL INFRASTRUCTURE FUNDING OR PROPERTY TAX RELIEF**

S.F. 445

AN ACT relating to the establishment of a school infrastructure financing program by providing for the sharing of revenues from local option sales and services taxes for school infrastructure purposes and providing for the use of the revenues from the local option tax for school infrastructure or property tax relief purposes and including an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422E.1, subsections 2 and 3, Code 2003, are amended to read as follows:

2. The maximum rate of tax shall be one percent. The tax shall be imposed without regard to any other local sales and services tax authorized in chapter 422B, and is repealed at the expiration of a period of ten years of imposition or a shorter period as provided in the ballot proposition. However, all local option sales and services taxes for school infrastructure purposes are repealed December 31, 2022.

3. Local sales and services tax moneys received by a county for school infrastructure purposes pursuant to this chapter shall be utilized solely for school infrastructure needs or property tax relief. For purposes of this chapter, "school infrastructure" means those activities for which a school district is authorized to contract indebtedness and issue general obligation bonds under section 296.1, except those activities related to a teacher's or superintendent's home or homes. These activities include the construction, reconstruction, repair, demolition work, purchasing, or remodeling of schoolhouses, stadiums, gyms, fieldhouses, and bus garages and the procurement of schoolhouse construction sites and the making of site improvements and those activities for which revenues under section 298.3 or 300.2 may be spent. Additionally, "school infrastructure" includes the payment or retirement of outstanding bonds previously issued for school infrastructure purposes as defined in this subsection, and the payment or retirement of bonds issued under section 422E.4.

Sec. 2. Section 422E.2, subsection 3, Code 2003, is amended to read as follows:

3. The county commissioner of elections shall submit the question of imposition of a local sales and services tax for school infrastructure purposes at a state general election or at a special election held at any time other than the time of a city regular election. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the rate of tax, the date the tax will be imposed and repealed, and shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended. The content of the ballot proposition shall be substantially similar to the petition of the board of supervisors or motions of a school district or school districts requesting the election as provided in subsection 2, as applicable, including the rate of tax, imposition and repeal date, and the specific purpose or purposes for which the revenues will be expended. The dates for the imposition and repeal of the tax shall be as provided in subsection 1. The rate of tax shall not be more than one percent ~~as set by the county board of supervisors~~. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

Sec. 3. Section 422E.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. Each school district located within the county may submit a revenue purpose statement to the county commissioner of elections no later than sixty days prior to the election indicating the specific purpose or purposes for which the local sales and services tax for school infrastructure revenue and supplemental school infrastructure amount revenue will be expended. The revenues received pursuant to this chapter shall be expended for the purposes indicated in the revenue purpose statement. The revenue purpose

statement may include information regarding the school district's use of the revenues to provide for property tax relief or debt reduction. A copy of the revenue purpose statement shall be made available for public inspection in accordance with chapter 22, shall be posted at the appropriate polling places of each school district during the hours that the polls are open, and be published in a newspaper of general circulation in the school district no sooner than twenty days and no later than ten days prior to the election.

b. If a revenue purpose statement is not submitted sixty days prior to the election or revenues remain after fulfilling the purpose specified in the revenue purpose statement, the revenues shall be used to reduce the following levies in the following order:

(1) Bond levies under sections 298.18 and 298.18A and all other debt levies, until the moneys received or the levies are reduced to zero.

(2) The regular physical plant and equipment levy under section 298.2, until the moneys received or the levy is reduced to zero.

(3) The voter-approved physical plant and equipment levy and income surtax, if any, under section 298.2, until the moneys received or the levy and income surtax, if any, is reduced to zero.

(4) The public educational and recreational levy under section 300.2, until the moneys received or the levy is reduced to zero.

(5) The schoolhouse tax levy under section 278.1, subsection 7, Code 1989, until the moneys received or the levy is reduced to zero.

Any money remaining after the reduction of the levies specified in this paragraph "b" may be used for any authorized infrastructure purpose of the school district.

c. Counties holding an election on the local sales and services tax for school infrastructure purposes on or after April 1, 2003, but before July 1, 2003, which approve the imposition of the tax at the election shall expend the revenues for any authorized infrastructure purpose of the school district.

Sec. 4. Section 422E.2, subsection 4, Code 2003, is amended to read as follows:

4. a. ~~The tax may be repealed or the rate increased, but not above one percent, or decreased, or the use of the revenues changed after an election at which a majority of those voting on the question of repeal, or rate change, or change in use favored the repeal, or rate change, or change in use. The election at which the question of repeal, or rate change, or change in use is offered shall be called and held in the same manner and under the same conditions as provided in this section for the election on the imposition of the tax. However, an election on the change in use shall only be held in the school district where the change in use is proposed to occur.~~ The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. However, the tax shall not be repealed before it has been in effect for one year.

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, the county auditor shall give written notice of the result of the election by sending a copy of the abstract of the votes from the favorable election to the director of revenue and finance. Election costs shall be apportioned among school districts within the county on a pro rata basis in proportion to the number of registered voters in each school district who reside within the county and the total number of registered voters within the county.

c. A local option sales and services tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 422E.4, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose. ~~However, this paragraph does not apply to the repeal of the tax on December 31, 2022, as specified in section 422E.1, subsection 2.~~

Sec. 5. Section 422E.3, subsection 4, Code 2003, is amended to read as follows:

4. The director of revenue and finance shall credit tax receipts and interest and penalties

from the local sales and services tax for school infrastructure purposes to an account within the ~~county's local sales and services tax fund, as created in section 422B.10, subsection 1~~ secure an advanced vision for education fund, as provided in section 422E.3A, maintained in the name of the school district or school districts located within the county. If the director is unable to determine from which county any of the receipts were collected, those receipts shall be allocated among the possible counties based on allocation rules adopted by the director.

Sec. 6. Section 422E.3, subsection 5, unnumbered paragraph 1, Code 2003, is amended to read as follows:

d. (1) If more than one school district, or a portion of a school district, is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro rata share based upon the ratio which the ~~percentage~~ percentage of actual enrollment for the school district that attends school in the county bears to ~~the percentage~~ the percentage of the total combined actual enrollments for all school districts that attend school in the county.

(2) The combined actual enrollment for a county, for purposes of this section, shall be determined for each county ~~imposing a sales and services tax for school infrastructure purposes~~ by the department of management based on the actual enrollment figures reported by October 1 to the department of management by the department of education pursuant to section 257.6, subsection 1. The combined actual enrollment count shall be forwarded to the director of the ~~department of management revenue and finance~~ by March 1, annually, for purposes of supplying estimated tax payment figures and making estimated tax payments pursuant to this section for the following fiscal year.

e. Notwithstanding the amount of tax receipts credited to the account within the secure an advanced vision for education fund maintained in the name of a school district, the amount of tax receipts the school district shall receive from the tax imposed in the county shall be determined as provided in section 422E.3A, subsection 2.

Sec. 7. Section 422E.3, subsection 7, Code 2003, is amended to read as follows:

7. Construction contractors may make application to the department for a refund of the additional local sales and services tax paid under this chapter by reason of taxes paid on goods, wares, or merchandise under the conditions specified in section 422B.11. The refund shall be paid by the department from the appropriate school district's account in the ~~local sales and services tax~~ secure an advanced vision for education fund. The penalty provisions contained in section 422B.11, subsection 3, shall apply regarding an erroneous application for refund of local sales and services tax paid under this chapter.

Sec. 8. NEW SECTION. 422E.3A SECURE AN ADVANCED VISION FOR EDUCATION FUND.

1. A secure an advanced vision for education fund is created as a separate and distinct fund in the state treasury under the control of the department of revenue and finance. Moneys in the fund include revenues credited to the fund pursuant to this chapter, appropriations made to the fund, and other moneys deposited into the fund. Any amounts disbursed from the fund shall be utilized for school infrastructure purposes or property tax relief.

2. The moneys credited in a fiscal year to the secure an advanced vision for education fund shall be distributed as follows:

a. A school district that is located in whole or in part in a county that voted on and approved prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student above the guaranteed school infrastructure amount shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph "d".¹

b. (1) A school district that is located in whole or in part in a county that voted on and approved prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student below its guaranteed school infrastructure

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §20 herein

amount shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, plus an amount equal to its supplemental school infrastructure amount.²

(2) A school district that is located in whole or in part in a county that voted on and approved on or after April 1, 2003, the local sales and services tax for school infrastructure purposes shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, not to exceed its guaranteed school infrastructure amount. However, if the school district’s pro rata share is less than its guaranteed school infrastructure amount, the district shall receive an additional amount equal to its supplemental school infrastructure amount.

(3) A school district that is located in whole or in part in a county that voted on and approved the continuation of the tax on or after April 1, 2003, the local sales and services tax for school infrastructure purposes shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, not to exceed its guaranteed school infrastructure amount. However, if the school district’s pro rata share is less than its guaranteed school infrastructure amount, the district shall receive an additional amount equal to its supplemental school infrastructure amount.

(4) The amount distributed under this paragraph “b” which a school district receives shall not exceed the guaranteed school infrastructure amount. A school district qualifying for a supplemental school infrastructure amount pursuant to this paragraph “b” shall not receive more than the guaranteed school infrastructure amount in any subsequent year.

c. In the case of a school district located in more than one county, the amount to be distributed to the school district shall be separately computed for each county based upon the school district’s actual enrollment that attends school in the county.

3. a. The director of revenue and finance by June 1 preceding each fiscal year shall compute the guaranteed school infrastructure amount for each school district, each school district’s sales tax capacity per student for each county, the statewide tax revenues per student,³ and the supplemental school infrastructure amount for the coming fiscal year.

b. For purposes of distributions under subsection 2:

(1) “Guaranteed school infrastructure amount” means for a school district the statewide tax revenues per student, multiplied by the quotient of the tax rate percent imposed in the county, divided by one percent and multiplied by the quotient of the number of quarters the tax is imposed during the fiscal year divided by four quarters.

(2) “Sales tax capacity per student” means for a school district the estimated amount of revenues that a school district receives or would receive if a local sales and services tax for school infrastructure purposes is imposed at one percent in the county pursuant to section 422E.2, divided by the school district’s actual enrollment as determined in section 422E.3, subsection 5, paragraph “d”.

(3) “Statewide tax revenues per student” means the amount determined by estimating the total revenues that would be generated by a one percent local option sales and services tax for school infrastructure purposes if imposed by all the counties during the entire fiscal year and dividing this estimated revenue amount by the sum of the combined actual enrollment for all counties as determined in section 422E.3, subsection 5, paragraph “d”, subparagraph (2).⁴

(4) “Supplemental school infrastructure amount” means the guaranteed school infrastructure amount for the school district less its pro rata share of local sales and services tax for school infrastructure purposes as provided in section 422E.3, subsection 5, paragraph “d”.

4. a. For the purposes of distribution under subsection 2, paragraph “b”, subparagraph (1), a school district with a sales tax capacity per student below its guaranteed school infrastructure amount shall use the amount equal to the guaranteed school infrastructure amount less the pro rata share amount in accordance with section 422E.3, subsection 5, paragraph “d”, for the purpose of paying principal and interest on outstanding bonds previously issued for school infrastructure purposes as defined in section 422E.1, subsection 3. Any money remaining after the payment of all principal and interest on outstanding bonds previously issued for infrastruc-

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §21 herein

³ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §22 herein

⁴ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §23 herein

ture purposes may be used for any authorized infrastructure purpose of the school district. If a majority of the voters in the school district approves the use of revenue pursuant to a revenue purpose statement in an election held after July 1, 2003, in the school district pursuant to section 422E.2, the school district may use the amount for the purposes specified in its revenue purpose statement.

b. Nothing in this section shall prevent a school district from using its sales tax capacity per student or guaranteed school infrastructure amount to pay principal and interest on obligations issued pursuant to section 422E.4.

5. In the case of a deficiency in the fund to pay the supplemental school infrastructure amounts in full, the amount available in the fund less the sales and services tax revenues for school infrastructure purposes attributed to each school district should be allocated based on the proportion of actual enrollment in the district to the combined actual enrollment in the counties where the sales and services tax for school infrastructure purposes has been imposed and the school districts in the counties qualify for the supplemental school infrastructure amount.⁵

6. A school district with less than two hundred fifty actual enrollment or less than one hundred actual enrollment in the high school⁶ shall not expend the supplemental school infrastructure amount received for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount without prior application to the department of education and receipt of a certificate of need pursuant to this subsection. However, a certificate of need is not required for the payment of outstanding bonds issued for new construction pursuant to section 296.1, before April 1, 2003. A certificate of need is also not required for repairing schoolhouses or buildings, equipment, technology, or transportation equipment for transporting students as provided in section 298.3, or for construction necessary for compliance with the federal Americans With Disabilities Act pursuant to 42 U.S.C. § 12101-12117. In determining whether a certificate of need shall be issued or denied, the department shall consider all of the following:

- a. Enrollment trends in the grades that will be served at the new construction site.
- b. The infeasibility of remodeling, reconstructing, or repairing existing buildings.
- c. The fire and health safety needs of the school district.
- d. The distance, convenience, cost of transportation, and accessibility of the new construction site to the students to be served at the new construction site.
- e. Availability of alternative, less costly, or more effective means of serving the needs of the students.
- f. The financial condition of the district, including the effect of the decline of the budget guarantee and unspent balance.
- g. Broad and long-term ability of the district to support the facility and the quality of the academic program.
- h. Cooperation with other educational entities including other school districts, area education agencies, postsecondary institutions, and local communities.

Sec. 9. Section 422E.4, unnumbered paragraphs 1 and 2, Code 2003, are amended to read as follows:

The board of directors of a school district shall be authorized to issue negotiable, interest-bearing school bonds, without election, and utilize tax receipts derived from the sales and services tax for school infrastructure purposes and the supplemental school infrastructure amount distributed pursuant to section 422E.3A, subsection 2, paragraph "b", for principal and interest repayment. Proceeds of the bonds issued pursuant to this section shall be utilized solely for school infrastructure needs as school infrastructure is defined in section 422E.1, subsection 3. Issuance of bonds pursuant to this section shall be permitted only in a district which has imposed a local sales and services tax for school infrastructure purposes pursuant to section 422E.2. The provisions of sections 298.22 through 298.24 shall apply regarding the form, rate of interest, registration, redemption, and recording of bond issues pursuant to this section, with the exception that the maximum period during which principal on the bonds is payable

⁵ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §24 herein

⁶ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §25 herein

shall not exceed a ~~ten-year period~~, or the date of repeal stated on the ballot proposition.

A school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to enter into a chapter 28E agreement with one or more cities or a county whose boundaries encompass all or a part of the area of the school district. A city or cities entering into a chapter 28E agreement shall be authorized to expend its designated portion of the local option sales and services tax revenues for any valid purpose permitted in this chapter or authorized by the governing body of the city. A county entering into a chapter 28E agreement with a school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to expend its designated portion of the local option sales and services tax revenues to provide property tax relief within the boundaries of the school district located in the county. A school district where a local option sales and services tax is imposed is also authorized to enter into a chapter 28E agreement with another school district, a community college, or an area education agency which is located partially or entirely in or is contiguous to the county where the tax is imposed. The school district or community college shall only expend its designated portion of the local option sales and services tax for infrastructure purposes. The area education agency shall only expend its designated portion of the local option school infrastructure sales tax for infrastructure and maintenance purposes.

Sec. 10. NEW SECTION. 422E.6 REPEAL.

This chapter is repealed June 30, 2023, for fiscal years beginning after that date.

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 2003

CHAPTER 158

TARGETED ECONOMIC DEVELOPMENT PROJECTS

H.F. 329

AN ACT relating to site preparation for targeted economic development.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 15E.18 CITIES, COUNTIES, AND REGIONS — SITE PREPARATION FOR TARGETED ECONOMIC DEVELOPMENT.

1. For purposes of this section, “region” means a group of two or more contiguous counties that establishes a single, focused economic development effort.

2. A city, county, or region, subject to the approval of the property owner, may designate an area within the boundaries of the city, county, or region for a specific type of targeted economic development. The specific type of targeted economic development shall be one of the following:

- a. Manufacturing.
- b. Light industrial.
- c. Warehouse and distribution.
- d. Office parks.
- e. Business and commerce parks.
- f. Research and development.

3. A city, county, or region that designates an area for a specific type of targeted economic development may apply to the department for purposes of certifying the area as a preapproved development site. The department shall develop criteria for the certification process.

4. Prior to a specific project being developed, a city, county, or region designating the area for targeted economic development pursuant to this section may apply for and obtain appropriate licenses, permits, and approvals for the type of targeted economic development project desired for the area.

Approved May 30, 2003

CHAPTER 159

ELECTRIC POWER GENERATION FACILITIES — COGENERATION PILOT PROGRAM

H.F. 391

AN ACT establishing a pilot program for the development of cogeneration facilities, providing for the development of ratemaking principles and rates for pilot program facilities, and providing for a future repeal.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 15.269 COGENERATION PILOT PROGRAM.

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

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

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

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

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

2. PILOT PROGRAM ESTABLISHED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved May 30, 2003

CHAPTER 160

COMMUNITY ATTRACTION AND TOURISM PROGRAM — REGIONAL MARKETING

H.F. 394

AN ACT relating to the purposes of the community attraction and tourism program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15F.202, subsection 1, Code 2003, is amended to read as follows:

1. The board shall establish and the department, subject to direction and approval by the board, shall administer a community attraction and tourism program to assist communities in the development, ~~and creation, and regional marketing~~ of multiple-purpose attraction or tourism facilities.

Approved May 30, 2003

CHAPTER 161

GOVERNMENT ETHICS DISCLOSURE REPORTS — EXPENDITURES ON GIFTS AND BY LOBBYISTS' CLIENTS

H.F. 583

AN ACT relating to governmental ethics disclosure reports, including reports related to receptions for members of the general assembly during session detailing food, beverage, and entertainment received by public officials and public employees, and reports filed by clients of lobbyists before the general assembly and the executive branch pertaining to moneys paid for lobbying purposes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 68B.22, subsection 4, paragraph e, Code 2003, is amended to read as follows:

e. Anything available or distributed free of charge to members of the general public without regard to the official status of the recipient. This paragraph shall not apply to receptions described under paragraph "r".

Sec. 2. Section 68B.22, subsection 4, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. r. Gifts of food, beverage, and entertainment received by public officials or public employees at a reception where every member of the general assembly has been invited to attend, when the reception takes place during a regular session of the general assembly. A sponsor of a reception under this paragraph shall file a report disclosing the total amount expended, including in-kind expenditures, on food, beverage, and entertainment for the reception. The report shall be filed with the secretary of the senate, the chief clerk of the house, and the board within five business days following the date of the reception.

Sec. 3. Section 68B.38, Code 2003, is amended to read as follows:
68B.38 LOBBYIST'S CLIENT REPORTING.

1. a. On or before ~~January 31 and July 31~~ 1 of each year, a lobbyist's client shall file with the general assembly or board a report that contains information on all salaries, fees, and retainers paid by the lobbyist's client to the lobbyist for lobbying purposes during the preceding ~~six~~ twelve calendar months.

b. Reports by a lobbyist's clients shall be filed with the same entity with which the lobbyist filed the lobbyist's registration.

2. a. The report ~~due January 31~~ shall include a cumulative total of all salaries, fees, retainers, and reimbursements of expenses paid to the lobbyist for lobbying activities during the preceding calendar year.

b. The secretary of the senate, chief clerk of the house, and the board shall develop forms to implement this section.

Approved May 30, 2003

CHAPTER 162

RECREATIONAL ACTIVITIES IN DESIGNATED AREAS OR ON PUBLIC PROPERTY — LIABILITY LIMITED

H.F. 584

AN ACT providing for exceptions to liability for certain activities.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 321G.23A RECREATIONAL RIDING AREA — LIMITATION OF LIABILITY OF PRIOR LANDOWNERS.

Prior owners of land on which an all-terrain vehicle recreational riding area is established, maintained, or operated owe no duty of care to keep the land safe for entry or use by persons operating an all-terrain vehicle or to give any warning of a dangerous condition, use, structure, or activity on such premises that would make the land unsafe for all-terrain vehicle usage.

Sec. 2. Section 670.4, subsections 14 and 15, Code 2003, are amended to read as follows:

14. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public facility designed for purposes of skateboarding, ~~or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~ that was constructed or reconstructed, reasonably

~~and in good faith~~, in accordance with a generally recognized engineering or safety ~~standard, criteria, standards~~ or design ~~theory theories~~ in existence at the time of the construction or reconstruction.

15. Any claim based upon or arising out of an act or omission of an officer or employee of the municipality or the municipality's governing body by a person ~~skateboarding, or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~ on public property when the person knew or reasonably should have known that the ~~skateboarding, or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~ created a substantial risk of injury to the person and was voluntarily in the place of risk. The exemption from liability contained in this subsection shall only apply to claims for injuries or damage resulting from the risks inherent in the activities of ~~skateboarding, or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~.

Approved May 30, 2003

CHAPTER 163

MANURE APPLICATION REQUIREMENTS

H.F. 644

AN ACT providing for manure application requirements, providing for fees, making penalties applicable, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 459.102, subsection 11, Code 2003, is amended by striking the subsection, and inserting in lieu thereof the following:

11. "Commercial manure service" means a sole proprietor or business association as defined in section 9H.1, engaged in the business of transporting, handling, storing, or applying manure for a fee.

Sec. 2. Section 459.102, Code 2003, is amended by adding the following new subsections:
NEW SUBSECTION. 11A. "Commercial manure service representative" means a natural person who is any of the following:

a. A manager of a commercial manure service. As used in this paragraph a "manager" is a person who is actively involved in the operation of a commercial manure service and takes an important part in making management decisions substantially contributing to affecting the success of the commercial manure service.

b. An employee, agent, or contractor of a commercial manure service, if the person is engaged in transporting, handling, storing, or applying manure on behalf of the commercial manure service.

NEW SUBSECTION. 15A. "Confinement site manure applicator" means a person, other than a commercial manure service or a commercial manure service representative, who applies manure on land if the manure originates from a manure storage structure.

NEW SUBSECTION. 19A. "Director" means the director of the department of natural resources.

NEW SUBSECTION. 23A. "Family member" means a person related to another person as parent, grandparent, child, grandchild, sibling, or a spouse of such a related person.

Sec. 3. Section 459.103, subsection 2, Code 2003, is amended to read as follows:

2. Any provision referring generally to compliance with the requirements of this chapter as applied to animal feeding operations also includes compliance with requirements in rules adopted by the commission pursuant to this section, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to licenses, certifications, permits, or manure management plans required under subchapter III. However, for purposes of approving or disapproving an application for a construction permit as provided in section 459.304, conditions for the approval of an application based on results produced by a master matrix are not requirements of this chapter until the department approves or disapproves an application based on those results.

Sec. 4. NEW SECTION. 459.314A LICENSURE — COMMERCIAL MANURE SERVICE.

A person shall not engage in the business of a commercial manure service, unless the department issues the person a commercial manure service license under this section.

1. The department shall not issue a license to a commercial manure service unless each manager of the commercial manure service is certified as a commercial manure service representative pursuant to section 459.315.

2. The department shall not issue a license to a commercial manure service, if the license for the commercial manure service has been revoked within the previous three years or a person who holds a controlling interest in the commercial manure service held a controlling interest in another commercial service which has been revoked within the previous three years.

3. The department may impose conditions or limitations upon the license. However, the issuance of a license shall not be conditioned upon providing a bond or maintaining a certain financial condition. A commercial manure service shall be issued a single license regardless of the number of sites where the commercial manure service operates offices.

4. A license application must be submitted to the department on a form furnished by the department according to procedures required by the department. The license shall expire on March 1 of each year.

5. A commercial manure service shall be charged a license fee as provided in section 459.316.

Sec. 5. NEW SECTION. 459.314B DISCIPLINARY ACTION — COMMERCIAL MANURE SERVICE.

The department may issue an order to suspend or revoke the license of a commercial manure service as provided in chapter 17A, including an order to immediately suspend or revoke the license pursuant to section 17A.18A. The department may suspend or revoke the license of a commercial manure service for an applicable violation of this chapter. In addition, the department may suspend or revoke a commercial manure service's license for any of the following:

1. Committing a fraudulent act, including but not limited to engaging in a deceptive act or practice, deliberately misrepresenting or omitting a material fact in the license application or submitting a statement verifying that an employee may be substituted for certification without paying a fee as provided in section 459.316.

2. Knowingly assisting a person in evading the provisions of this chapter.

3. Knowingly employing or executing a contract with a person who acts as a commercial manure service representative who is not certified pursuant to section 459.315.

Sec. 6. Section 459.315, subsections 1 and 2, Code 2003, are amended by striking the subsections and inserting in lieu thereof the following:

1. a. A person shall not act as a commercial manure service representative, unless the person is certified pursuant to an educational program as provided in this section.

b. A person shall not act as a confinement site manure applicator, unless the person is certified pursuant to an educational program as provided in this section.

Sec. 7. Section 459.315, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. A person required to be certified as a commercial manure ~~applicator~~ service representative must be certified by the department each year. The person shall be certified after completing an educational program which shall consist of an examination required to be passed by the person or three hours of continuing instructional courses which the person must attend each year in lieu of passing the examination.

Sec. 8. Section 459.315, subsection 4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The department shall adopt, by rule, requirements for the certification, including educational program requirements. The department may establish different educational programs designed for commercial manure ~~applicators~~ service representatives and confinement site manure applicators. The department shall adopt rules necessary to administer this section, including establishing certification standards, which shall at least include standards for the transporting, handling, application, and storage of storing, and applying manure, the potential effects of manure upon surface water and groundwater, and procedures to remediate the potential effects on surface water or groundwater.

Sec. 9. Section 459.315, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. The department shall administer the continuing instructional courses, by either teaching the courses or selecting persons to teach the courses, according to criteria as provided by rules adopted by the department. The department shall, to the extent possible, select persons to teach the continuing instructional courses. The department is not required to compensate persons to teach the continuing instructional courses. In selecting persons, the department shall consult with organizations interested in ~~the application of~~ transporting, handling, storing, or applying manure, including associations representing manure applicators ~~the Iowa commercial nutrient applicators association~~ and associations representing agricultural producers. The Iowa cooperative extension service in agriculture and home economics of Iowa state university of science and technology shall cooperate with the department in administering the continuing instructional courses. The Iowa cooperative extension service may teach continuing instructional courses, train persons selected to teach courses, or distribute informational materials to persons teaching the courses.

Sec. 10. Section 459.315, subsection 5, paragraph a, Code 2003, is amended to read as follows:

a. This section shall not require a person to be certified as a commercial manure ~~applicator~~ service representative if any of the following applies:

- (1) The person is any of the following:
 - (a) Actively engaged in farming who trades work with another such person.
 - (b) Employed by a person actively engaged in farming not solely as a manure applicator who applies manure as an incidental part of the person's general duties.
 - (c) Engaged in applying manure as an incidental part of a custom farming operation.
 - (d) Engaged in applying manure as an incidental part of a person's duties as provided by rules adopted by the department providing for an exemption.
- (2) The person transports, handles, stores, or applies manure for a period of thirty days from the date of initial employment as a commercial manure ~~applicator~~ if service representative and all of the following apply:
 - (a) The person is actively seeking certification under this section.
 - (b) The person applying the manure is acting transporting, handling, storing, or applying manure under the instructions and control of a certified commercial manure applicator who is both of the following: service representative. The commercial manure service representative must be physically
 - (a) Physically present at the site where the manure is located.

~~(b) In The commercial manure service representative must also be in sight or hearing immediate communication distance of the supervised person.~~

Sec. 11. Section 459.315, subsection 6, Code 2003, is amended to read as follows:

6. The department may charge a fee for certifying a person under this section as provided in section 459.316. The fee for certification shall be based on the costs of administering and enforcing this section and paying the expenses of the department relating to certification. A person who is certified as a confinement site manure applicator as provided in this section is exempt from paying the certification fee, if all of the following apply:

- a. ~~The person is certified within one year from the date that a family member has been certified as a confinement site manure applicator.~~
- b. ~~The family member has paid the fee for that family member's own certification.~~

Sec. 12. NEW SECTION. 459.315A DISCIPLINARY ACTION — COMMERCIAL MANURE SERVICE REPRESENTATIVES.

The department may issue an order to suspend or revoke the certification of a commercial manure service representative for a violation of this chapter. The department shall issue an order for the suspension or revocation of a certificate as provided in chapter 17A. The department may issue an order to immediately suspend or revoke the certification notwithstanding section 17A.18.

Sec. 13. Section 459.316, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. ~~Fees Educational program fees paid by persons required by the department to be certified as commercial manure applicators service representatives or confinement site manure applicators pursuant to section 459.315. The amount of the educational program fees together with commercial manure service licensing fees shall be adjusted annually by the department based on the costs of administering section 459.315 and paying the expenses of the department relating to certification.~~

~~(1) The fee for certification of a commercial manure service representative shall not be more than seventy-five dollars. A commercial manure service licensed pursuant to section 459.314A may pay for the annual certification of its employees. If a commercial manure service makes payment for an employee to be certified as a commercial manure service representative, and that employee leaves employment, the commercial manure service may substitute a new employee to be certified for the former employee. The department shall not charge for the certification of the substituted employee. The department may require that the commercial manure service provide the department with documentation that the substitution is valid. The department shall not charge the fee to a person who is a manager of a commercial manure service licensed pursuant to section 459.314A. The department may require that the commercial manure service provide documentation that a person is a manager.~~

~~(2) A person who is certified as a confinement site manure applicator as provided in section 459.315 is exempt from paying the certification fee if all of the following apply:~~

- a. ~~The person is certified within one year from the date that a family member has been certified as a confinement site manure applicator.~~
- b. ~~The family member has paid the fee for that family member's own certification.~~

Sec. 14. Section 459.316, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Fees paid by persons required by the department to be licensed as a commercial manure service as provided in section 459.314A. The fee for a commercial manure service license shall not be more than two hundred dollars. The amount of the licensing fees together with educational program fees shall be adjusted annually by the department

based on the costs of administering section 459.315 and paying the expenses of the department relating to certification.

Sec. 15. Section 459.316, subsection 2, Code 2003, is amended to read as follows:

2. a. ~~Except as provided in paragraph "b", Compliance~~ fees collected by the department shall be deposited into the animal agriculture compliance fund created in section 459.401.

~~a. Moneys Except as provided in paragraph "b", moneys~~ collected from all fees ~~other than the annual compliance fee~~ shall be deposited into the compliance fund's general account.

~~b. Moneys collected from the annual compliance fee shall be deposited into the compliance fund's assessment account. Moneys collected from commercial manure service license fees and educational program fees shall be deposited into the compliance fund's educational program account.~~

~~b. Receipts that are required to be received by the department from persons required to be certified pursuant to section 459.315 may be used to compensate a person who teaches continuing instructional courses in lieu of deposit into the compliance fund.~~

Sec. 16. Section 459.316, subsection 3, Code 2003, is amended to read as follows:

3. At the end of each fiscal year the department shall determine the balance of unencumbered and unobligated moneys in the assessment account and the educational program account of the animal agriculture compliance fund created pursuant to section 459.401.

~~a. If on that date June 30,~~ the balance of unencumbered and unobligated moneys in the ~~assessment~~ account is one million dollars or more, the department shall adjust the rate of the annual compliance fee for the following fiscal year. The adjusted rate for the annual compliance fee shall be based on the department's estimate of the amount required to ensure that at the end of the following fiscal year the balance of unencumbered and unobligated moneys in the assessment account is not one million dollars or more.

~~b. If on June 30, the balance of unencumbered and unobligated moneys in the educational program account is twenty-five thousand dollars or more, the department shall adjust the rate of the commercial manure service license fee and the educational program fee for the following fiscal year. The adjusted rate for the fees shall be based on the department's estimate of the amount required to ensure that at the end of the following fiscal year the balance of unencumbered and unobligated moneys in the assessment account is not twenty-five thousand dollars or more.~~

Sec. 17. Section 459.401, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The compliance fund is composed of ~~two~~ three accounts, the general account, ~~and the assessment account,~~ and the educational program account.

Sec. 18. Section 459.401, subsection 2, paragraph a, subparagraph (3), Code 2003, is amended by striking the subparagraph and inserting in lieu thereof the following:

(3) Educational program fees required to be paid by commercial service representatives or confinement site manure applicators pursuant to section 459.316.

(3A) A commercial manure service license fee as provided in section 359.316.¹

Sec. 19. Section 459.401, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The educational program account is composed of moneys collected from the commercial manure service license fee and the educational program fee required pursuant to section 459.316.

Sec. 20. Section 459.401, subsection 5, Code 2003, is amended to read as follows:

5. Notwithstanding section 8.33, any unexpended balance in an account of the compliance

¹ See chapter 179, §73 herein

fund at the end of the fiscal year shall be retained in ~~the fund that account~~. Notwithstanding section 12C.7, subsection 2, interest, earnings on investments, or time deposits of the moneys in an account of the compliance fund shall be credited to the fund that account.

Sec. 21. PRIOR PAYMENT OF FEES.

1. a. A manager of a commercial manure service that has paid a certification fee as provided in section 459.315, Code 2003, on or after January 1, 2003, but before the effective date of this Act, shall not be required to pay a fee for a commercial manure service license pursuant to section 459.316 until March 1, 2004.

b. A commercial manure service representative who has paid a certification fee as provided in section 459.315, Code 2003, on or after January 1, 2003, but before the effective date of this Act, shall not be required to pay an educational program fee required pursuant to section 459.316 until March 1, 2005.

2. The department may require that a person who is excused from paying a commercial manure service license fee or an educational program fee as provided in this section provide documentation that the person is excused from paying the fee when being issued a license or becoming certified.

Sec. 22. DIRECTIVE TO CODE EDITOR. The Code editor shall transfer section 459.316, as amended by this Act, to a new section 459.400.

Sec. 23. EFFECTIVE DATES.

1. Except as provided in subsection 2, this Act, being deemed of immediate importance, takes effect upon enactment.

2. Section 459.314A, as enacted in this Act, takes effect January 1, 2004.

Approved May 30, 2003

CHAPTER 164

SALES AND USE TAXES — SAND HANDLING AND CORE AND MOLD MAKING EQUIPMENT

H.F. 654

AN ACT relating to the exemption of sand handling and core and mold making equipment used in the mold making process from sales and use taxes, providing refunds, and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.45, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 64. The gross receipts from the sale or rental of core and mold making equipment and sand handling equipment directly and primarily used in the mold making process by a foundry.

Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 64, in this Act, for sales or rentals of core and mold making equipment and sand handling equipment occurring between July 1, 1997, and the effective date of this Act, shall be limited to six hundred thousand dollars in the aggre-

gate and shall not be allowed unless refund claims are filed prior to October 1, 2003, notwithstanding any other provision of law. If the amount of claims totals more than six hundred thousand dollars in the aggregate, the department of revenue and finance shall prorate the six hundred thousand dollars among all claimants in relation to the amounts of the claimants' valid claims. However, notwithstanding any other provision of law, each valid refund claim shall be paid by the department of revenue and finance in five equal installments, or as equal as possible, over five fiscal years beginning with the fiscal year beginning July 1, 2003. Claimants shall not be entitled to interest on any installments.

Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1997.

Approved May 30, 2003

CHAPTER 165
ADULT DAY SERVICES
H.F. 672

AN ACT relating to the regulation of adult day services, providing for penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 231D.1 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Adult day services", "adult day services program", or "program" means an organized program providing a variety of health, social, and related support services for sixteen hours or less in a twenty-four-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.
2. "Department" means the department of elder affairs created in chapter 231.
3. "Functional impairment" means a psychological, cognitive, or physical impairment creating the inability to perform personal and instrumental activities of daily living and associated tasks necessitating some form of supervision or assistance or both.
4. "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.
5. "Recognized accrediting entity" means a nationally recognized accrediting entity that the department recognizes as having specific adult day services program standards equivalent to the standards established by the department for adult day services.
6. "Social services" means services relating to the psychological and social needs of the individual in adjusting to participating in an adult day services program, and minimizing the stress arising from that circumstance.
7. "Supervision" means direct oversight and inspection of the act of accomplishing a function or activity.

Sec. 2. NEW SECTION. 231D.2 PURPOSE — INTENT — RULES — SPECIAL CLASSIFICATIONS.

1. The purpose of this chapter is to promote and encourage adequate and safe care for adults with functional impairments.

2. It is the intent of the general assembly that the department of elder affairs establish policy for adult day services programs and that the department of inspections and appeals enforce this chapter.

3. The department shall establish, by rule in accordance with chapter 17A, a program for certification and monitoring of and complaint investigations related to adult day services programs. The department, in establishing standards for adult day services programs, may adopt by rule in accordance with chapter 17A, nationally recognized standards for adult day services programs. The rules shall include specification of recognized accrediting entities. The rules and standards adopted shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups and shall be designed to accomplish the purpose of this chapter.

4. In addition to the adoption of standards and rules for adult day services programs, the department in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, shall issue interpretive guidelines, including the expectations of program certification monitors, to provide direction to adult day services programs in complying with certification requirements.

5. The department may establish by administrative rule special classifications for adult day services providers. The department of inspections and appeals shall issue separate certificates for each special classification for which a provider is certified.

Sec. 3. NEW SECTION. 231D.3 CERTIFICATION REQUIRED.

1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate an adult day services program and shall not represent an adult day services program to the public as certified unless and until the program is certified pursuant to this chapter. If an adult day services program is voluntarily accredited by a recognized accrediting entity with specific adult day services standards, the department of inspections and appeals shall accept voluntary accreditation as the basis for certification by the department. The owner or manager of a certified adult day services program shall comply with the rules adopted by the department for an adult day services program.

2. An adult day services program may provide any type of adult day services for which the program is certified, including any special classification of adult day services. An adult day services program shall provide services and supervision commensurate with the needs of the recipients. An adult day services program shall not provide services to individuals requiring a level or type of services for which the program is not certified and services provided shall not exceed the level or type of services for which the program is certified.

3. An adult day services program that has been certified by the department of inspections and appeals shall not alter the program, operation, or adult day services for which the program is certified in a manner that affects continuing certification without prior approval of the department of inspections and appeals. The department of inspections and appeals shall specify, by rule, alterations that are subject to prior approval.

4. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an adult day services program for an actual or prospective¹ recipient, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification.

5. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the adult day services program is provided, if the business or activity serves nonrecipients of adult day services. The rules shall be developed in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

Sec. 4. NEW SECTION. 231D.4 APPLICATION AND FEES.

1. Certificates for adult day services programs shall be obtained from the department of inspections and appeals. Applications shall be upon such forms and shall include such information as the department of inspections and appeals may reasonably require, which may include

¹ The word "prospective" probably intended

affirmative evidence of compliance with applicable statutes and local ordinances. Each application for certification shall be accompanied by the appropriate fee.

2. a. The department of inspections and appeals shall collect adult day services certification fees. The fees shall be deposited in the general fund of the state.

b. The following certification and related fees shall apply to adult day services programs:

- (1) For a two-year initial certification, seven hundred fifty dollars.
- (2) For a two-year recertification, one thousand dollars.
- (3) For a blueprint review, nine hundred dollars.
- (4) For an optional preliminary plan review, five hundred dollars.

Sec. 5. NEW SECTION. 231D.5 DENIAL, SUSPENSION, OR REVOCATION.

1. The department of inspections and appeals may deny, suspend, or revoke certification if the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the adult day services program to comply with this chapter or the rules or minimum standards adopted pursuant to this chapter, or for any of the following reasons:

- a. Cruelty or indifference to adult day services program service recipients.
 - b. Appropriation or conversion of the property of an adult day services programs service recipient without the recipient's written consent or the written consent of the service recipient's legal guardian.
 - c. Permitting, aiding, or abetting the commission of any illegal act in the adult day services program.
 - d. Obtaining or attempting to obtain or retain certification by fraudulent means, misrepresentation, or by submitting false information.
 - e. Habitual intoxication or addiction to the use of drugs by the applicant, owner, manager, or supervisor of the adult day services program.
 - f. Securing the devise or bequest of the property of a recipient of services of an adult day services program by undue influence.
 - g. Failure or neglect to maintain a continuing education and training program for all personnel employed in the adult day services program.
 - h. Founded dependent adult abuse as defined in section 235B.2.
 - i. For any other reason as provided by law or administrative rule.
2. In the case of an application by an existing certificate holder for a new or newly acquired adult day services program, continuing or repeated failure of the certificate holder to operate any previously certified adult day services program in compliance with this chapter or of the rules adopted pursuant to this chapter.
3. In the case of a certificate applicant or existing certificate holder which is an entity other than an individual, the department of inspections and appeals may deny, suspend, or revoke a certificate if any individual who is in a position of control or is an officer of the entity engages in any act or omission proscribed by this section.

Sec. 6. NEW SECTION. 231D.6 NOTICE — APPEAL — EMERGENCY PROVISIONS.

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for the action. The denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within the thirty-day period, requests a hearing, in writing, of the department of inspections and appeals, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department of inspections and appeals in accordance with chapter 17A.

3. When the department of inspections and appeals finds that an immediate danger to the health or safety of recipients of services from an adult day services program exists which requires action on an emergency basis, the department of inspections and appeals may direct the removal of all recipients of services from an adult day services program and suspend the certificate prior to a hearing.

Sec. 7. NEW SECTION. 231D.7 CONDITIONAL OPERATION.

The department of inspections and appeals may, as an alternative to denial, suspension, or revocation of certification under section 231D.5, conditionally issue or continue certification dependent upon the performance by the adult day services program of reasonable conditions within a reasonable period of time as prescribed by the department of inspections and appeals so as to permit the program to commence or continue the operation of the program pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the adult day services program does not make diligent efforts to comply with the conditions prescribed, the department of inspections and appeals may, under the proceedings prescribed by this chapter, suspend or revoke the certificate. An adult day services program shall not be operated under conditional certification for more than one year.

Sec. 8. NEW SECTION. 231D.8 DEPARTMENT NOTIFIED OF CASUALTIES.

The department of inspections and appeals shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death, and any substantial fire or natural or other disaster occurring at or near an adult day services program.

Sec. 9. NEW SECTION. 231D.9 COMPLAINTS AND CONFIDENTIALITY.

1. A person with concerns regarding the operations or service delivery of an adult day services program may file a complaint with the department of inspections and appeals. The name of the person who files a complaint with the department of inspections and appeals and any personal identifying information of the person or any recipient of program services identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than employees of the department of inspections and appeals involved in the investigation of the complaint.

2. The department, in cooperation with the department of inspections and appeals, shall establish procedures for the disposition of complaints received in accordance with this section.

Sec. 10. NEW SECTION. 231D.10 PUBLIC DISCLOSURE OF FINDINGS.

Following a monitoring evaluation or complaint investigation of an adult day services program by the department of inspections and appeals pursuant to this chapter, the department's final findings with respect to compliance by the adult day services program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an adult day services program that is obtained by the department of inspections and appeals which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the adult day services program shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 11. NEW SECTION. 231D.11 PENALTIES.

1. A person establishing, conducting, managing, or operating an adult day services program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department of inspections and appeals by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an adult day services program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

2. A person who prevents or interferes with or attempts to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter is guilty of a simple misdemeanor. As used in this subsection, lawful enforcement includes but is not limited to:

a. Contacting or interviewing any participant of an adult day services program in private at any reasonable hour and without advance notice.

- b. Examining any relevant records of an adult day services program.
 - c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.
3. A civil penalty, as established by rule, may apply in any of the following situations:
- a. Program noncompliance with one or more regulatory requirements has caused or is likely to cause harm, serious injury, threat, or death to a recipient of program services.
 - b. Program failure or refusal to comply with regulatory requirements within prescribed time frames.

Sec. 12. NEW SECTION. 231D.12 RETALIATION BY AN ADULT DAY SERVICES PROGRAM PROHIBITED.

1. An adult day services program shall not discriminate or retaliate in any way against a recipient, recipient's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An adult day services program that violates this section is subject to a penalty as established by administrative rule, to be assessed and collected by the department of inspections and appeals and paid into the state treasury to be credited to the general fund of the state.

2. Any attempt to discharge a recipient from an adult day services program by whom or upon whose behalf a complaint has been submitted to the department of inspections and appeals under section 231D.9, within ninety days after the filing of the complaint or the conclusion of any proceeding resulting from the complaint, shall raise a rebuttable presumption that the action was taken by the program in retaliation for the filing of the complaint, except in situations in which the recipient is discharged due to changes in health status which exceed the level of care offered by the adult day services program or in other situations as specified by rule.

Sec. 13. NEW SECTION. 231D.13 NURSING ASSISTANT AND MEDICATION AIDE — CERTIFICATION.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within adult day services programs as credit toward sustaining the nursing assistant's or medication aide's certification.

Sec. 14. NEW SECTION. 231D.14 CRIMINAL RECORDS INVESTIGATION CHECK.

An adult day services program shall comply with section 135C.33.

Sec. 15. NEW SECTION. 231D.15 FIRE AND SAFETY STANDARDS.

The state fire marshal shall adopt rules, in coordination with the department of elder affairs and the department of inspections and appeals, relating to the certification and monitoring of the fire and safety standards of adult day services programs.

Sec. 16. NEW SECTION. 231D.16 TRANSITION PROVISIONS.

1. Adult day services programs voluntarily accredited by a recognized accrediting entity prior to July 1, 2003, shall comply with this chapter by June 30, 2004.

2. Adult day services programs that are serving at least two but not more than five persons that are not voluntarily accredited by a recognized accrediting entity prior to July 1, 2003, shall comply with this chapter by June 30, 2005.

Sec. 17. Section 100.1, subsection 6, Code 2003, is amended to read as follows:

6. To adopt rules designating a fee to be assessed to each building, structure, or facility for which a fire safety inspection or plan review by the state fire marshal is required ~~as a condition of licensure by law~~. The fee designated by rule shall be set in an amount that is reasonably related to the costs of conducting the applicable inspection or plan review. The fees collected by the state fire marshal shall be deposited in the general fund of the state.

Sec. 18. Section 135C.1, subsection 1, Code 2003, is amended to read as follows:

1. "Adult day services" means adult day services as defined in section ~~231.61~~ 231D.1 that are provided in a licensed health care facility.

Sec. 19. Section 231C.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Adult day services" means adult day services as defined in section 231D.1.

Sec. 20. Section 231.61, Code 2003, is repealed.

Sec. 21. DEPARTMENTAL REPORT. The department of inspections and appeals, in consultation with the department of elder affairs and the department of public safety, shall submit a written report to the general assembly by December 31, 2004, with copies to the joint appropriations subcommittee on health and human services that provides details regarding the implementation of this Act, including fees collected annually, and expenses incurred by the affected state agencies for administration, certification issuance, inspection, and other costs related to this Act. The department of inspections and appeals shall also include information in the report regarding its projections as to whether the fees imposed under this Act are sufficient to cover future expenses of affected state agencies under this Act.

Sec. 22. ADULT DAY SERVICES — PERSONS WITH MENTAL RETARDATION. For the period beginning July 1, 2003, and ending June 30, 2004, if an adult day services program serving persons with mental retardation is voluntarily accredited by the commission on accreditation of rehabilitation facilities (CARF) for personal and social services or by the council on quality and leadership in supports for persons with disabilities, prior to July 1, 2003, the department of inspections and appeals shall accept voluntary accreditation as the basis for certification as an adult day services program by the department.

Sec. 23. EFFECTIVE DATE. The section of this Act relating to adult day services serving persons with mental retardation, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 2003

CHAPTER 166

REGULATION OF ELDER FAMILY HOMES, ELDER GROUP HOMES, AND ASSISTED LIVING PROGRAMS — FIRE AND SAFETY STANDARDS

H.F. 675

AN ACT relating to the regulation of elder family homes, elder group homes, and assisted living programs, providing for fees, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 100.1, subsection 6, Code 2003, is amended to read as follows:

6. To adopt rules designating a fee to be assessed to each building, structure, or facility for which a fire safety inspection or plan review by the state fire marshal is required ~~as a condition of licensure~~ by law. The fee designated by rule shall be set in an amount that is reasonably

related to the costs of conducting the applicable inspection or plan review. The fees collected by the state fire marshal shall be deposited in the general fund of the state.

Sec. 2. Section 135C.33, subsection 5, paragraph e, Code 2003, is amended to read as follows:

e. An employee of an assisted living facility program certified ~~or voluntarily accredited~~ under chapter 231C, if the employee provides direct services to consumers.

Sec. 3. Section 231B.1, subsection 4, Code 2003, is amended to read as follows:

4. "Elder group home" means a single-family residence that is ~~a residence of~~ operated by a person who is providing room, board, and personal care to three through five elders who are not related to the person providing the service within the third degree of consanguinity or affinity.

Sec. 4. Section 231B.2, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. An elder group home shall be ~~owner-occupied, or owned by a nonprofit corporation and occupied by a resident manager staffed by an on-site manager twenty-four hours per day, seven days per week. A resident manager shall reside in and provide services for no more than one elder group home.~~

Sec. 5. Section 231B.2, subsections 3 and 5, Code 2003, are amended to read as follows:

3. An elder group home established pursuant to this chapter shall be certified by the department of inspections and appeals.

5. Inspections and certification services shall be provided by the department of inspections and appeals. ~~However, beginning July 1, 1994, the department may enter into contracts with the area agencies on aging to provide these services.~~

Sec. 6. Section 231B.3, subsection 2, Code 2003, is amended to read as follows:

2. A person who has knowledge that an elder group home is operating without certification shall report the name and address of the home to the department of inspections and appeals. The department of inspections and appeals shall investigate a report made pursuant to this section.

Sec. 7. Section 231C.1, Code 2003, is amended to read as follows:

231C.1 FINDINGS, AND PURPOSE, AND INTENT.

1. The general assembly finds that assisted living is an important part of the long-term care system in this state. Assisted living emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.

2. The purposes of establishing an assisted living program include all of the following:

a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income levels who require assistance to live independently but who do not require health-related care on a continuous twenty-four hour per day basis.

b. To establish standards for assisted living programs that allow flexibility in design which promotes a social model of service delivery by focusing on individual independence, individual needs and desires, and consumer-driven quality of service.

c. To encourage general public participation in the development of assisted living programs for individuals of all income levels.

3. It is the intent of the general assembly that the department of elder affairs establish policy for assisted living programs and that the department of inspections and appeals enforce this chapter.

Sec. 8. Section 231C.2, subsections 1 and 6, Code 2003, are amended to read as follows:

1. "Assisted living" means provision of housing with services which may include but are not

limited to health-related care, personal care, and assistance with instrumental activities of daily living to ~~six~~ three or more tenants in a physical structure which provides a homelike environment. "Assisted living" also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. "Assisted living" includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included.

6. "Tenant" means an individual who receives assisted living services through a certified ~~or accredited~~ assisted living program.

Sec. 9. Section 231C.2, Code 2003, is amended by adding the following new subsections:
NEW SUBSECTION. 2A. "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

NEW SUBSECTION. 4A. "Legal representative" means a person appointed by the court to act on behalf of the tenant, or a person acting pursuant to a power of attorney.

NEW SUBSECTION. 4B. "Occupancy agreement" means a written agreement entered into between an assisted living program and a tenant that clearly describes the rights and responsibilities of the assisted living program and a tenant, and other information required by rule. "Occupancy agreement" may include a separate signed lease and signed service agreement.

NEW SUBSECTION. 5A. "Recognized accrediting entity" means a nationally recognized accrediting entity that the department recognizes as having specific assisted living program standards equivalent to the standards established by the department for assisted living programs.

NEW SUBSECTION. 6A. "Tenant advocate" means the office of long-term care resident's advocate established in section 231.42.

NEW SUBSECTION. 7. "Tenant's representative" means a tenant's legal representative or any representative authorized by the tenant to act on behalf of the tenant.

Sec. 10. Section 231C.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231C.3 CERTIFICATION OF ASSISTED LIVING PROGRAMS.

1. The department shall establish by rule in accordance with chapter 17A, a program for certification and monitoring of assisted living programs. The department may adopt by reference with or without amendment, nationally recognized standards and rules for assisted living programs. The rules shall include specification of recognized accrediting entities and provisions related to dementia-specific programs. The standards and rules shall be formulated in consultation with the department of inspections and appeals, and affected industry, professional, and consumer groups and shall be designed to accomplish the purposes of this chapter and shall include but are not limited to rules relating to all of the following:

a. Provisions to ensure, to the greatest extent possible, the health, safety, and well-being and appropriate treatment of tenants.

b. Requirements that assisted living programs furnish the department of elder affairs and the department of inspections and appeals with specified information necessary to administer this chapter.

c. Standards for tenant evaluation or assessment, which may vary in accordance with the nature of the services provided or the status of the tenant.

d. Provisions for granting short-term waivers for tenants who exceed occupancy criteria.

2. In addition to the adoption of standards and rules for assisted living programs, the department in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, shall issue interpretive guidelines, including the expectations of program certification monitors, to provide direction to assisted living programs in complying with certification requirements.

3. Each assisted living program operating in this state shall be certified by the department

of inspections and appeals. If an assisted living program is voluntarily accredited by a recognized accrediting entity, the department of inspections and appeals shall certify the assisted living program on the basis of the voluntary accreditation. An assisted living program that is certified by the department of inspections and appeals on the basis of voluntary accreditation shall not be subject to payment of the certification fee prescribed in section 231C.18, but shall be subject to an administrative fee as prescribed by rule. An assisted living program certified under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.

4. The owner or manager of a certified assisted living program shall comply with the rules adopted by the department for an assisted living program. A person including a governmental unit shall not represent an assisted living program to the public as an assisted living program or as a certified assisted living program unless and until the program is certified pursuant to this chapter.

5. a. Services provided by a certified assisted living program may be provided directly by staff of the assisted living program, by individuals contracting with the assisted living program to provide services, or by individuals employed by the tenant or with whom the tenant contracts if the tenant agrees to assume the responsibility and risk of the employment or the contractual relationship.

b. If a tenant is terminally ill and has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, the assisted living program and the Medicare-certified hospice program shall enter into a written agreement under which the hospice program retains professional management responsibility for those services.

6. The department of inspections and appeals may enter into contracts to provide certification and monitoring of assisted living programs. The department of inspections and appeals shall:

a. Have full access at reasonable times to all records, materials, and common areas pertaining to the provision of services and care to the tenants of a program during certification, monitoring, and complaint investigations of programs seeking certification, currently certified, or alleged to be uncertified.

b. With the consent of the tenant, visit the tenant's unit.

c. Require that the recognized accrediting entity providing accreditation for a program provide copies to the department of all materials related to the accreditation, monitoring, and complaint process.

7. The department may also establish by rule in accordance with chapter 17A a special classification for affordable assisted living programs. The rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

8. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an assisted living program for an actual or prospective tenant, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification.

9. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the assisted living program is provided, if the business or activity serves nontenants. The rules shall be developed in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

10. An assisted living program shall comply with section 135C.33.

Sec. 11. Section 231C.4, Code 2003, is amended to read as follows:

231C.4 FIRE AND SAFETY STANDARDS.

The state fire marshal shall adopt rules, in coordination with the department of elder affairs and the department of inspections and appeals, relating to the certification or voluntary accreditation and monitoring of the fire and safety standards of certified or voluntarily accredited assisted living programs.

Sec. 12. Section 231C.5, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231C.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

1. An assisted living program shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the assisted living program and each tenant or tenant's representative, prior to the tenant's occupancy, and unless the assisted living program operates in accordance with the terms of the occupancy agreement. The assisted living program shall deliver to the tenant or tenant's representative a complete copy of the occupancy agreement and all supporting documents and attachments and shall deliver, at least thirty days prior to any changes, a written copy of changes to the occupancy agreement if any changes to the copy originally delivered are subsequently made.

2. An assisted living program occupancy agreement shall clearly describe the rights and responsibilities of the tenant and the program. The occupancy agreement shall also include but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

a. A description of all fees, charges, and rates describing tenancy and basic services covered, and any additional and optional services and their related costs.

b. A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the assisted living program.

c. The procedure followed for nonpayment of fees.

d. Identification of the party responsible for payment of fees and identification of the tenant's representative, if any.

e. The term of the occupancy agreement.

f. A statement that the assisted living program shall notify the tenant or the tenant's representative, as applicable, in writing at least thirty days prior to any change being made in the occupancy agreement with the following exceptions:

(1) When the tenant's health status or behavior constitutes a substantial threat to the health or safety of the tenant, other tenants, or others, including when the tenant refuses to consent to relocation.

(2) When an emergency or a significant change in the tenant's condition results in the need for the provision of services that exceed the type or level of services included in the occupancy agreement and the necessary services cannot be safely provided by the assisted living program.

g. A statement that all tenant information shall be maintained in a confidential manner to the extent required under state and federal law.

h. Occupancy, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer. The internal appeals process provided relative to an involuntary transfer.

i. The program's policies and procedures for addressing grievances between the assisted living program and the tenants, including grievances relating to transfer and occupancy.

j. A statement of the prohibition against retaliation as prescribed in section 231C.13.

k. The emergency response policy.

l. The staffing policy which specifies if the staff is available twenty-four hours per day, if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.

m. In dementia-specific assisted living programs, a description of the services and programming provided to meet the life skills and social activities of tenants.

n. The refund policy.

o. A statement regarding billing and payment procedures.

3. Occupancy agreements and related documents executed by each tenant or tenant's representative shall be maintained by the assisted living program in program files from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the department of inspections and appeals upon request and at reasonable times.

Sec. 13. Section 231C.6, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

231C.6 INVOLUNTARY TRANSFER.

1. If an assisted living program initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the tenant or tenant's representative contests the transfer, the following procedure shall apply:

a. The assisted living program shall notify the tenant or tenant's representative, in accordance with the occupancy agreement, of the need to transfer, the reason for the transfer, and the contact information of the tenant advocate.

b. The assisted living program shall provide the tenant advocate with a copy of the notification to the tenant.

c. The tenant advocate shall offer the notified tenant or tenant's representative assistance with the program's internal appeals process. The tenant is not required to accept the assistance of the tenant advocate.

d. If, following the internal appeals process, the assisted living program upholds the transfer decision, the tenant may utilize other remedies authorized by law to contest the transfer.

2. The department, in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups, shall establish, by rule in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department of inspections and appeals.

Sec. 14. NEW SECTION. 231C.7 COMPLAINTS.

1. Any person with concerns regarding the operations or service delivery of an assisted living program may file a complaint with the department of inspections and appeals. The name of the person who files a complaint with the department of inspections and appeals and any personal identifying information of the person or any tenant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department of inspections and appeals' employees involved with the complaint.

2. The department, in cooperation with the department of inspections and appeals, shall establish procedures for the disposition of complaints received in accordance with this section.

Sec. 15. NEW SECTION. 231C.8 INFORMAL REVIEW.

If an assisted living program contests the regulatory insufficiencies of a monitoring evaluation or complaint investigation, the program shall submit written information, demonstrating that the program was in compliance with the applicable requirement at the time of the monitoring evaluation or complaint investigation, in support of the contesting of the regulatory insufficiencies, to the department of inspections and appeals for review. The department of inspections and appeals shall review the written information submitted within ten working days of the receipt of the information. At the conclusion of the review, the department of inspections and appeals may affirm, modify, or dismiss the regulatory insufficiencies. The department of inspections and appeals shall notify the program in writing of the decision to affirm, modify, or dismiss the regulatory insufficiencies, and the reasons for the decision. In the case of a complaint investigation, the department of inspections and appeals shall also notify the complainant, if known, of the decision and the reasons for the decision.

Sec. 16. NEW SECTION. 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

Following a monitoring evaluation or complaint investigation of an assisted living program by the department of inspections and appeals pursuant to this chapter, the department of inspections and appeals' final findings with respect to compliance by the assisted living program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an assisted living program that is obtained by the department of inspections and appeals which does not constitute the department

of inspections and appeals' final findings from a monitoring evaluation or complaint investigation of the assisted living program shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 17. NEW SECTION. 231C.10 DENIAL, SUSPENSION, OR REVOCATION — CONDITIONAL OPERATION.

1. The department of inspections and appeals may deny, suspend, or revoke a certificate in any case where the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the assisted living program to comply with this chapter or the rules, or minimum standards adopted under this chapter, or for any of the following reasons:

- a. Cruelty or indifference to assisted living program tenants.
- b. Appropriation or conversion of the property of an assisted living program tenant without the tenant's written consent or the written consent of the tenant's legal guardian.
- c. Permitting, aiding, or abetting the commission of any illegal act in the assisted living program.
- d. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.
- e. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the assisted living program.
- f. Securing the devise or bequest of the property of a tenant of an assisted living program by undue influence.
- g. Founded dependent adult abuse as defined in section 235B.2.
- h. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a ten percent equity interest in the program, who has or has had an ownership interest in an assisted living program, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or who has been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.
- i. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.
- j. For any other reason as provided by law or administrative rule.

2. The department of inspections and appeals may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the assisted living program of reasonable conditions within a reasonable period of time as set by the department of inspections and appeals so as to permit the program to commence or continue the operation of the program pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the assisted living program does not make diligent efforts to comply with the conditions prescribed, the department of inspections and appeals may, under the proceedings prescribed by this chapter, suspend, or revoke the certificate. An assisted living program shall not be operated on a conditional certificate for more than one year.

Sec. 18. NEW SECTION. 231C.11 NOTICE — APPEAL — EMERGENCY PROVISIONS.

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such thirty-day period, requests a hearing, in writing, of the department of inspections and appeals, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department of inspections and appeals in accordance with chapter 17A.

3. When the department of inspections and appeals finds that an imminent danger to the health or safety of tenants of an assisted living program exists which requires action on an emergency basis, the department of inspections and appeals may direct removal of all tenants of an assisted living program and suspend the certificate prior to a hearing.

Sec. 19. NEW SECTION. 231C.12 DEPARTMENT NOTIFIED OF CASUALTIES.

The department of inspections and appeals shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death, and any substantial fire or natural or other disaster occurring at or near an assisted living program.

Sec. 20. NEW SECTION. 231C.13 RETALIATION BY ASSISTED LIVING PROGRAM PROHIBITED.

An assisted living program shall not discriminate or retaliate in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An assisted living program that violates this section is subject to a penalty as established by administrative rule in accordance with chapter 17A and to be assessed and collected by the department of inspections and appeals and paid into the state treasury to be credited to the general fund of the state.

Sec. 21. NEW SECTION. 231C.14 CIVIL PENALTIES.

The department may establish by rule, in accordance with chapter 17A, civil penalties for the following violations by an assisted living program:

1. Noncompliance with any regulatory requirements which presents an imminent danger or a substantial probability of resultant death or physical harm to a tenant.
2. Following receipt of notice from the department of inspections and appeals, continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of program tenants.

Sec. 22. NEW SECTION. 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

1. A person establishing, conducting, managing, or operating any assisted living program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department of inspections and appeals by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an assisted living program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

2. A person who prevents or interferes with or attempts to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter is guilty of a simple misdemeanor. As used in this subsection, lawful enforcement includes but is not limited to:

- a. Contacting or interviewing any tenant of an assisted living program in private at any reasonable hour and without advance notice.
- b. Examining any relevant records of an assisted living program.
- c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

Sec. 23. NEW SECTION. 231C.16 NURSING ASSISTANT AND MEDICATION AIDE — CERTIFICATION.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within an assisted living program as credit toward sustaining the nursing assistant's or medication aide's certification.

Sec. 24. NEW SECTION. 231C.17 COORDINATION OF THE LONG-TERM CARE SYSTEM — TRANSITIONAL PROVISIONS.

1. A hospital licensed pursuant to chapter 135B or a health care facility licensed pursuant to chapter 135C may operate an assisted living program, located in a distinct part of or separate structure under the control of the hospital or health care facility, if certified pursuant to this chapter.

2. This chapter shall not be construed to require that a facility licensed as a different type of facility also comply with the requirements of this chapter, unless the facility is represented to the public as a certified assisted living program.

3. A certified assisted living program that complies with the requirements of this chapter shall not be required to be licensed as a health care facility pursuant to chapter 135C, unless the facility is represented to the public as a licensed health care facility.

4. A continuing care retirement community that is in compliance with chapter 523D shall not be held in violation of this chapter if the continuing care retirement community provides services to its independent living residents.¹

Sec. 25. NEW SECTION. 231C.18 IOWA ASSISTED LIVING FEES.

1. The department of inspections and appeals shall collect assisted living program certification and related fees. An assisted living program that is certified by the department of inspections and appeals on the basis of voluntary accreditation by a recognized accrediting entity shall not be subject to payment of the certification fee, but shall be subject to an administrative fee as prescribed by rule. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.

2. The following certification and related fees shall apply to assisted living programs:

- a. For a two-year initial certification, seven hundred fifty dollars.
- b. For a two-year recertification, one thousand dollars.
- c. For a blueprint plan review, nine hundred dollars.
- d. For an optional preliminary plan review, five hundred dollars.

Sec. 26. NEW SECTION. 231C.19 APPLICATION OF LANDLORD AND TENANT ACT. Chapter 562A, the uniform residential landlord and tenant Act, shall apply to assisted living programs under this chapter.

Sec. 27. Section 235B.3, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. A person who performs inspections of elder group homes for the department of ~~elder affairs~~ inspections and appeals and a resident advocate committee member assigned to an elder group home pursuant to chapter 231B.

Sec. 28. Chapter 231A, Code 2003, is repealed.

Sec. 29. TRANSITION OF STAFF. All employees of the department of elder affairs performing functions related to certification and monitoring of or complaint investigations related to assisted living programs as of June 30, 2003, shall become employees of the department of inspections and appeals without loss of classification, pay, or benefits, effective July 1, 2003. All employees of the department of elder affairs performing functions related to affordable assisted living as of June 30, 2003, shall become employees of the Iowa finance authority without loss of classification, pay, or benefits, effective July 1, 2003.

Approved May 30, 2003

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §17 herein

CHAPTER 167

ETHANOL BLENDED GASOLINE TAX CREDITS

H.F. 689

AN ACT relating to ethanol blended gasoline, by providing for tax credits and for their retroactive applicability, providing for refunds, and providing for an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 214A.2, subsection 3, paragraph c, Code 2003, is amended by striking the paragraph.

Sec. 2. 2001 Iowa Acts, chapter 123, section 6, subsection 2, is amended to read as follows:
2. The ethanol blended gasoline tax credits provided in sections 422.11C and 422.33 apply to tax years beginning ~~on or after~~ January 1, 2002. Notwithstanding the provisions in those sections limiting the tax credits to taxpayers' tax years, the amount of the initial tax credit under these sections for each eligible service station shall be based on the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at the taxpayer's service station from January 1, 2002, until the beginning of the taxpayer's next fiscal year. The department of revenue and finance shall perform functions, ~~prior to the beginning of that tax year,~~ necessary in order to implement the tax credits.

Sec. 3. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of 2001 Iowa Acts, chapter 123, section 6, subsection 2, as amended in this Act, for sales of ethanol blended gasoline occurring between January 1, 2002, and the effective date of this Act, shall not be allowed unless refund claims are filed prior to October 1, 2003, notwithstanding any other provision of law.

Sec. 4. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2002.

Approved May 30, 2003

CHAPTER 168

MISCELLANEOUS SUPPLEMENTAL
AND OTHER APPROPRIATIONS

S.F. 36

AN ACT supplementing appropriations made for the fiscal year beginning July 1, 2002, to the departments of human services, corrections, and public safety, and to the state public defender, and providing effective date and applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I — HUMAN SERVICES
GIRLS TREATMENT CENTER

Section 1. 2002 Iowa Acts, chapter 1173, section 1, subsection 5, unnumbered paragraph 1, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

To provide matching funding for not more than 25 percent of the construction costs of an adolescent girls treatment center located in a county with a population between 189,000 and 196,000:

CHILD AND FAMILY SERVICES

Sec. 2. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 121, unnumbered paragraph 2, is amended to read as follows:

For child and family services:

.....	\$	98,144,163
		<u>103,844,163</u>

MT. PLEASANT STATE MENTAL HEALTH INSTITUTE

Sec. 3. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 125, subsection 4, unnumbered paragraph 1, is amended to read as follows:

For the state mental health institute at Mount Pleasant for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	5,343,829
		<u>5,508,829</u>
.....	FTEs	100.07

STATE RESOURCE CENTERS

Sec. 4. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 126, subsections 1 and 2, are amended to read as follows:

1. For the state resource center at Glenwood for salaries, support, maintenance, and miscellaneous purposes:

.....	\$	2,170,150
		<u>4,074,150</u>

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,463,073
		<u>2,557,073</u>

DIVISION II — DEPARTMENT OF CORRECTIONS

Sec. 5. 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, section 39, is amended to read as follows:

SEC. 39. UNITED STATES MARSHAL'S SERVICE AND FEDERAL BUREAU OF PRISONS. For the fiscal year beginning July 1, 2002, of the regular per diem reimbursement costs billed by the department of corrections to the United States marshal's service for holding detainees and to the federal bureau of prisons for inmates, \$3,350,000 shall be deposited entirely into the general fund of the state. Regular per diem reimbursements received in addition to that amount for the fiscal year may be retained by and to the extent retained are appropriated to the department of corrections. Regular per diem reimbursements not retained shall be deposited into the general fund of the state. However, for the fiscal year beginning July 1, 2002, extraordinary costs, including but not limited to medical costs, billed over the regular daily per diem rate are appropriated to and shall be used by the department of corrections to offset the actual costs incurred.

CORRECTIONAL FACILITIES

Sec. 6. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 155, subsection 1, paragraph a, unnumbered paragraph 1, paragraph b, unnumbered paragraph 1, paragraphs c, d, e, and f, paragraph g, unnumbered paragraph 1, and paragraphs h and i, are amended to read as follows:

For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	32,168,605
		<u>33,955,898</u>
.....	FTEs	543.69

For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	23,786,629
		<u>24,968,782</u>
.....	FTEs	379.75

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	21,497,363
		<u>22,023,488</u>
.....	FTEs	328.50

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	22,538,275
		<u>23,053,492</u>
.....	FTEs	371.25

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of correctional officers and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	21,161,133
		<u>21,679,030</u>
.....	FTEs	330.56

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,268,049
		<u>7,445,927</u>
.....	FTEs	110.00

For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	18,326,306
		<u>18,774,823</u>
.....	FTEs	291.76

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	12,024,416
		<u>12,318,701</u>
.....	FTEs	215.50

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	24,379,674
		<u>24,895,874</u>
.....	FTEs	395.00

GENERAL ADMINISTRATION

Sec. 7. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 156, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For general administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,666,224
		<u>2,731,477</u>
.....	FTEs	42.18

COMMUNITY-BASED ADMINISTRATION

Sec. 8. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 157, subsection 1, paragraphs a, b, c, and h, are amended to read as follows:

a. For the first judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

.....	\$	8,953,795
		<u>9,172,930</u>

b. For the second judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

.....	\$	6,992,061
		<u>7,163,184</u>

c. For the third judicial district department of correctional services, including the treatment

and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

.....	\$	4,073,638
		<u>4,173,336</u>

h. For the eighth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

.....	\$	5,097,521
		<u>5,222,277</u>

DIVISION III — STATE PUBLIC DEFENDER

Sec. 9. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 160, is amended to read as follows:

SEC. 160. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the purposes designated:

.....	\$	33,908,325
		<u>36,208,325</u>

The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

1. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	15,770,739
.....	FTEs	202.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

.....	\$	18,137,586
		<u>20,437,586</u>

DIVISION IV — DEPARTMENT OF PUBLIC SAFETY

Sec. 10. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 165, subsection 1, subsection 2, unnumbered paragraph 1, subsection 3, paragraph a, subsection 4, paragraph a, and subsection 5, paragraph a, are amended to read as follows:

1. For the department's administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

.....	\$	2,379,176
		<u>2,456,772</u>
.....	FTEs	38.50

For the division of criminal investigation and bureau of identification including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	12,050,565
		<u>12,794,811</u>
.....	FTEs	231.50

a. For the division of narcotics enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount

of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	3,392,889
		<u>3,593,408</u>
.....	FTEs	58.00

a. For the state fire marshal’s office, including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	1,777,630
		<u>1,932,508</u>
.....	FTEs	38.80

a. For the division of the Iowa state patrol of the department of public safety, for salaries, support, maintenance, workers’ compensation costs, and miscellaneous purposes, including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	37,019,624
		<u>37,542,385</u>
.....	FTEs	545.00

DIVISION V — EFFECTIVE DATE — APPLICABILITY

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 12. APPLICABILITY. The increases in appropriations and appropriation made in this Act apply following the reductions in appropriations made pursuant to 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 220, and the provisions of 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 220, are not applicable to such increases and appropriation.

Approved February 17, 2003

CHAPTER 169

SUPPLEMENTAL APPROPRIATIONS — ENVIRONMENT FIRST FUND

S.F. 436

AN ACT making a supplemental appropriation to the environment first fund from the cash reserve fund and including an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. ENVIRONMENT FIRST FUND. There is appropriated from the cash reserve fund to the environment first fund for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

.....	\$	16,555,000
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Sec. 2. CASH RESERVE FUND.

1. Notwithstanding section 8.33 and the nonreversion provision in 2002 Iowa Acts, chapter 1173, section 22, subsection 1, moneys in the environment first fund remaining unencumbered or unobligated at the end of the fiscal year beginning July 1, 2002, shall be transferred to the cash reserve fund.

2. Notwithstanding subsection 1, the total amount transferred pursuant to subsection 1 shall not exceed \$16,555,000. The transfer to the cash reserve fund specified in subsection 1 shall not apply to any unencumbered or unobligated moneys that are not to revert as provided in 2002 Iowa Acts, chapter 1173, section 22, subsection 2.

Sec. 3. CASH RESERVE FUND. If the United States supreme court ruling is decided on or after July 1, 2003, in favor of the state's taxation of the adjusted gross revenues from gambling games at racetrack enclosures, and results in additional tax revenues being deposited into the rebuild Iowa infrastructure fund, an amount of the additional tax revenues equal to the difference between \$16,555,000 and the amount transferred to the cash reserve fund pursuant to section 2 of this Act shall be transferred to the cash reserve fund.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 11, 2003

CHAPTER 170

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 472

AN ACT appropriating federal funds made available from federal block grants and other federal grants, allocating portions of federal block grants, and providing procedures if federal funds are more or less than anticipated or if federal block grants are more or less than anticipated.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. SUBSTANCE ABUSE APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 12,078,439

a. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the substance abuse prevention and treatment block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. Of the funds appropriated in this subsection, an amount not exceeding 5 percent shall be used by the department for administrative expenses.

c. The department shall expend no less than an amount equal to the amount expended for treatment services in the state fiscal year beginning July 1, 2002, for pregnant women and women with dependent children.

d. Of the funds appropriated in this subsection, an amount not exceeding \$24,585 shall be used for audits.

2. At least 20 percent of the funds remaining from the appropriation made in subsection 1 shall be allocated for prevention programs.

3. In implementing the federal substance abuse prevention and treatment block grant under 42 U.S.C., chapter 6A, subchapter XVII, and any other applicable provisions of the federal Public Health Service Act under 42 U.S.C., chapter 6A, subchapter III-A, the department shall apply the provisions of Pub. L. No. 106-310, § 3305, as codified in 42 U.S.C. § 300x-65, relating to services under such federal law being provided by religious and other nongovernmental organizations.

Sec. 2. COMMUNITY MENTAL HEALTH SERVICES APPROPRIATION.

1. a. There is appropriated from the fund created by section 8.41 to the Iowa department of human services for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 3,612,827

b. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the community mental health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

c. The administrator of the division of mental health and developmental disabilities of the department of human services shall allocate not less than 95 percent of the amount of the block grant to eligible community mental health services providers for carrying out the plan submitted to and approved by the federal substance abuse and mental health services administration for the fiscal year involved.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of human services for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of mental health and developmental disabilities shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of mental health and developmental disabilities for the costs of the audits.

Sec. 3. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 7,131,009

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter V, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$45,700 shall be used for audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. An amount not exceeding \$150,000 of the funds appropriated in subsection 1 to the Iowa department of public health shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

The departments of public health, human services, and education and the university of Iowa's mobile and regional child health specialty clinics shall continue to pursue to the maximum extent feasible the coordination and integration of services to women and children.

3. a. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, \$300,291 shall be set aside for the statewide perinatal care program.

b. Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child health specialty clinics.

4. The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the federal Social Security Act.

Sec. 4. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 1,505,162

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$5,522 shall be used for audits.

2. Of the funds appropriated in subsection 1, the specific amount of funds stipulated by the notice of the block grant award shall be allocated for services to victims of sex offenses and for rape prevention education.

3. After deducting the funds allocated in subsections 1 and 2, an amount not exceeding \$94,670 of the remaining funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

4. After deducting the funds allocated in subsections 1, 2, and 3, the remaining funds appropriated in subsection 1 shall be used by the department for healthy people 2010/healthy Iowans 2010 program objectives, preventive health advisory committee, and risk reduction services, including nutrition programs, health incentive programs, chronic disease services, emergency medical services, monitoring of the fluoridation program and start-up fluoridation grants, and acquired immune deficiency syndrome services. The moneys specified in this subsection shall not be used by the university of Iowa hospitals and clinics or by the state hygienic laboratory for the funding of indirect costs. Of the funds used by the department under this subsection, an amount not exceeding \$90,000 shall be used for the monitoring of the fluoridation program and for start-up fluoridation grants to public water systems, and an amount not exceeding \$50,000 shall be used to provide chlamydia testing.

Sec. 5. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 6,731,524

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter V, which provides for the drug control and system improvement grant program. The drug policy coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 10 percent of the funds appropriated in subsection 1 shall be used by the drug policy coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug policy coordinator shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 6. STOP VIOLENCE AGAINST WOMEN GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the department of justice for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 1,853,100

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter XII-H, which provides for grants to combat violent crimes against women. The department of justice shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of justice for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 7. LOCAL LAW ENFORCEMENT BLOCK GRANT APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 304,748

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under annual federal appropriations which provide for grants to reduce crime and improve public safety. The drug policy coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 3 percent of the funds appropriated in subsection 1 shall be used by the drug policy coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug policy coordinator shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 8. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS FORMULA GRANT PROGRAM. There is appropriated from the fund created by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 633,248

Funds appropriated in this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 136, which provides grants for substance abuse treatment programs in state and local correctional facilities. The drug policy coordinator shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 9. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 6,956,142

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 106, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than 96 percent of the amount of the block grant to eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of not less than \$100,000. The minimum allocation shall be achieved by redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding 4 percent of the funds appropriated in subsection 1 shall be used by the division of community action agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of community action agencies for the costs of the audits.

Sec. 10. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of economic development for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 32,600,000

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 69, which provides for community development block grants. The Iowa department of economic development shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding \$1,504,000 for the federal fiscal year beginning October 1, 2003, shall be used by the Iowa department of economic development for administrative expenses for the community development block grant. The total amount used for administrative expenses includes \$752,000 for the federal fiscal year beginning October 1, 2003, of funds appropriated in subsection 1 and a matching contribution from the state equal to \$752,000 from the appropriation of state funds for the community development block grant and state appropriations for related activities of the Iowa department of economic development. From the funds set aside for administrative expenses by this subsection, the Iowa department of economic development shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department for the costs of the audit.

Sec. 11. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 31,116,126

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 94, subchapter II, which provides for the low-income home energy assistance block grants. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Up to 15 percent of the amount appropriated in this section that is actually received shall be used for residential weatherization or other related home repairs for low-income households. Of this allocation amount, not more than 10 percent may be used for administrative expenses. In order to receive low-income home energy assistance program funding, the head of an eligible household must be willing to allow residential weatherization or other related home repairs. However, if the eligible household is located in rental property, the unwillingness of the property owner to allow residential weatherization or other related home repairs shall not prevent the eligible household from receiving low-income home energy assistance program funding.

3. After subtracting the allocation in subsection 2, up to \$2,645,721 is allocated for administrative expenses of the low-income home energy assistance program of which \$290,000 is allocated for administrative expenses of the division. The costs of auditing the use and administration of the portion of the appropriation in this section that is retained by the state shall be paid from the amount allocated in this subsection to the division. The auditor of state shall bill the division for the audit costs.

4. The remainder of the appropriation in this section following the allocations made in subsections 2 and 3, shall be used to help eligible households as defined in 42 U.S.C., chapter 94, subchapter II, to meet home energy costs.

5. Not more than 10 percent of the amount appropriated in this section that is actually received may be carried forward for use in the succeeding federal fiscal year.

6. Expenditures for assessment and resolution of energy problems shall be limited to 5 percent of the amount appropriated in this section that is actually received.

Sec. 12. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 17,578,494

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter XX, which provides for the social services block grant. The department of human services shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than \$1,117,774 of the funds appropriated in subsection 1 shall be used by the department of human services for general administration. From the funds set aside in this subsection for general administration, the department of human services shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

3. In addition to the allocation for general administration in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated in the following amounts to supplement appropriations for the federal fiscal year beginning October 1, 2003, for the following programs within the department of human services:

- a. Field operations: \$ 6,685,530
- b. Child and family services: \$ 999,970
- c. Local administrative costs and other local services: \$ 709,019

d. Volunteers:	\$	77,490
e. Community-based services:	\$	89,111
f. MH/MR/DD/BI community service (local purchase):	\$	7,899,600

Sec. 13. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each state fiscal year shall develop a plan for the use of federal social services block grant funds for the subsequent state fiscal year.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

Sec. 14. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

1. Upon receipt of the minimum formula grant from the federal alcohol, drug abuse, and mental health administration to provide mental health services for the homeless, for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the department of human services shall assure that a project which receives funds under the formula grant from either the federal or local match share of 25 percent in order to provide outreach services to persons who have chronic mental illness and are homeless or who are subject to a significant probability of becoming homeless shall do all of the following:

- Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.
- Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.
- Provide appropriate training to persons who provide services to persons targeted by the grant.
- Provide case management to homeless persons.
- Provide supportive and supervisory services to certain homeless persons living in residential settings which are not otherwise supported.

2. Projects may expend funds for housing services including minor renovation, expansion and repair of housing, security deposits, planning of housing, technical assistance in applying for housing, improving the coordination of housing services, the costs associated with matching eligible homeless individuals with appropriate housing, and one-time rental payments to prevent eviction.

3. If the department has data indicating that a geographic area has a substantial number of persons with mental illness who are homeless and are not being served by an existing grantee for that area under the formula grant and the existing grantee has expressed a desire to no longer provide services or the grantee's contract was terminated by the department for non-performance, the department shall issue a request for proposals to replace the grantee. Otherwise, the department shall maximize available funding by continuing to contract to the extent possible with those persons who are grantees as of the effective date of this subsection. The department shall issue a request for proposals if additional funding becomes available for expansion to persons who are not being served and it is not possible to utilize existing grantees.

Sec. 15. CHILD CARE AND DEVELOPMENT APPROPRIATION. There is appropriated

from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, the following amount:

..... \$ 42,089,767

Funds appropriated in this section are the funds anticipated to be received from the federal government under 42 U.S.C., chapter 105, subchapter II-B, which provides for the child care and development block grant. The department shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 16. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. If the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the services to victims of sex offenses and for rape prevention education under section 4, subsection 2, of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, and the director of the legislative service bureau and the director of the legislative fiscal bureau or the director of legislative services agency succeeding the two bureaus if such agency is established by law, shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

3. If the amount of moneys received from the federal government for a specific grant number specified in this Act is less than the amount appropriated, the amount appropriated shall be reduced accordingly. An annual report listing any such appropriation reduction shall be submitted to the fiscal committee of the legislative council.

Sec. 17. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 5, 7, 10, and 12 of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If actual funds received from the federal government from block grants exceed the amount appropriated in section 11 of this Act for the low-income home energy assistance program, not more than 15 percent of the excess may be allocated to the low-income residential weatherization program and not more than 5 percent of the excess may be used for administrative costs.

3. If funds received from the federal government from community services block grants exceed the amount appropriated in section 9 of this Act, 100 percent of the excess is allocated to the community services block grant program.

4. If the amount of moneys received from the federal government for a specific grant number specified in this Act exceeds the amount appropriated, the excess amount is appropriated for the purpose designated in the specific grant's appropriation. An annual report listing any such excess appropriations shall be submitted to the fiscal committee of the legislative council.

Sec. 18. PROCEDURE FOR EXPENDITURE OF ADDITIONAL FEDERAL FUNDS. If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the applicable department or agency prior to March 15 of the fiscal year beginning July 1, 2003, and ending June 30, 2004, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 19. DEPARTMENT OF ADMINISTRATIVE SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part of the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of administrative services, if the department is established in law by the Eightieth General Assembly, 2003 Session,¹ for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 20. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For plant and animal disease and pest control, grant number 10025:		
.....	\$	1,622,448
2. For assistance for intrastate meat and poultry, grant number 10475:		
.....	\$	1,086,850
3. For surface coal mining regulation, grant number 15250:		
.....	\$	51,908
4. For abandoned mine land reclamation, grant number 15252:		
.....	\$	1,133,350
5. For farmers market nutrition program, grant number 10572:		
.....	\$	978,520
6. For performance partnership grants — pesticide use, grant number 66605:		
.....	\$	867,691
7. For agricultural and rural economic research, grant number 10250:		
.....	\$	35,000

Sec. 21. OFFICE OF AUDITOR OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the office of auditor of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 22. DEPARTMENT FOR THE BLIND. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department for the blind for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department for the blind for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For vocational rehabilitation, grant number 84126:		
.....	\$	704,777

¹ See chapter 145 herein

2. For rehabilitation services — basic support, grant number 84126:	\$	5,143,433
.....		
3. For rehabilitation training, grant number 84265:	\$	20,081
.....		
4. For independent living project, grant number 84169:	\$	61,132
.....		
5. For older blind, grant number 84177:	\$	271,841
.....		
6. For supported employment, grant number 84187:	\$	68,254
.....		
7. For field research, grant number 84133:	\$	279,094
.....		

Sec. 23. IOWA STATE CIVIL RIGHTS COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa state civil rights commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the Iowa state civil rights commission for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For housing and urban development (HUD) discrimination complaints, grant number 14401:	\$	138,600
.....		
2. For job discrimination — special projects, grant number 30002:	\$	832,650
.....		

Sec. 24. COLLEGE STUDENT AID COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the college student aid commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the college student aid commission for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For Stafford loan program, grant number 84032:	\$	26,884,185
.....		
2. For federal improvement of education (FIE), grant number 84215:	\$	800,000
.....		
3. For LEAP, grant number 84069:	\$	322,339
.....		

Sec. 25. DEPARTMENT OF COMMERCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of commerce for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 26. DEPARTMENT OF CORRECTIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of corrections for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

The following amounts are appropriated to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For corrections and law enforcement family support, grant number 16563:	\$	100,000
2. For incarcerated youth, grant number 84331:	\$	98,000

Sec. 27. DEPARTMENT OF CULTURAL AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of cultural affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of cultural affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For historic preservation grants-in-aid, grant number 15904:	\$	641,383
2. For national endowment for the arts (NEA) partner, grant number 45025:	\$	556,800
3. For library and museum grants, grant number 45312:	\$	30,059

Sec. 28. IOWA DEPARTMENT OF ECONOMIC DEVELOPMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa department of economic development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of economic development for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For federal Affordable Housing Act, grant number 14239:	\$	12,900,000
2. For federal Community Service Act funds for state commissions, grant number 94003:	\$	1,681,000
3. For empowerment zones, grant number 10772:	\$	125,000
4. For national corporation for community service, grant number 94006:	\$	185,000
5. For shelter grants, grant number 14231:	\$	1,560,000

Sec. 29. DEPARTMENT OF EDUCATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of education for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of education for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For school breakfast program, grant number 10553:	\$	10,286,966
2. For school lunch program, grant number 10555:	\$	52,320,000
3. For special milk program for children, grant number 10556:	\$	140,000
4. For child care food program, grant number 10558:	\$	17,129,628
5. For summer food service for children, grant number 10559:	\$	685,843

6. For administration expenses for child nutrition, grant number 10560:	\$	1,377,949
7. For public telecommunication facilities, grant number 11550:	\$	1,000,000
8. For vocational rehabilitation — state supplementary assistance, grant number 84101:	\$	704,454
9. For vocational rehabilitation — FICA, grant number 84048:	\$	16,061,107
10. For nutrition education and training, grant number 10574:	\$	200,000
11. For safe and drug-free schools and communities — community service for suspended and expelled students, grant number 84184:	\$	9,119
12. For star schools, grant number 84203:	\$	3,500,000
13. For twenty-first century community learning centers, grant number 84287:	\$	3,205,078
14. For ready to learn television, grant number 84295:	\$	45,000
15. For innovative education program strategies, grant number 84298:	\$	3,766,125
16. For class size reduction, grant number 84340:	\$	12,781,129
17. For occupational and employment information state grants, grant number 84346:	\$	150,814
18. For reading first state grants, grant number 84357:	\$	6,384,963
19. For rural education achievement program, grant number 84358:	\$	245,454
20. For English language acquisition, grant number 84365:	\$	1,958,427
21. For mathematics and science partnership, grant number 84366:	\$	21,991,566
22. For state assessments and related activities, grant number 84369:	\$	5,226,824
23. For mine health and safety, grant number 17600:	\$	108,578
24. For veterans education, grant number 64120:	\$	254,295
25. For adult education, grant number 84002:	\$	4,279,336
26. For federal Elementary and Secondary Education Act (ESEA) Title I — chapter 1, grant number 84010:	\$	66,070,681
27. For migrant education, grant number 84011:	\$	1,674,993
28. For education for neglected — delinquent children, grant number 84013:	\$	341,984
29. For rehabilitation services demonstration and training, grant number 84235:	\$	96,138
30. For special education grants to states, grant number 84027:	\$	92,392,607
31. For technology literacy challenge, grant number 84318:	\$	3,629,131

32. For library services and technology, grant number 45310:	\$	1,949,609
33. For vocational education — state grants, grant number 84048:	\$	13,308,530
34. For rehabilitation services — basic support, grant number 84126:	\$	21,206,716
35. For rehabilitation training, grant number 84129:	\$	68,161
36. For independent living project, grant number 84169:	\$	239,199
37. For special education preschool grants — incentive, grant number 84173:	\$	4,077,008
38. For special education grants for infants and families with disabilities, grant number 84181:	\$	4,036,730
39. For Byrd scholarship program, grant number 84185:	\$	414,000
40. For drug-free schools/communities, grant number 84186:	\$	3,419,873
41. For supported employment, grant number 84187:	\$	288,695
42. For homeless youth and children, grant number 84196:	\$	282,472
43. For even start, grant number 84213:	\$	1,020,237
44. For AIDS prevention project, grant number 93938:	\$	234,928
45. For headstart collaborative grant, grant number 93600:	\$	125,000
46. For infrastructure under the Iowa demonstration construction grant program and character education, grant number 84215:	\$	10,120,003
47. For teacher preparation education, grant number 84243:	\$	1,248,679
48. For learn and serve America, grant number 94004:	\$	176,442
49. For federal Elementary and Secondary Education Act (ESEA) Title I, accountability, grant number 84348:	\$	1,395,000
50. For school repair and renovation, grant number 84352:	\$	500,000
51. For state program improvement, grant number 84323:	\$	882,875
52. For school reform, grant number 84332:	\$	3,838,666
53. For ready to change, grant number 84286:	\$	124,776
54. For refugee schools, grant number 93576:	\$	250,000
55. For United States department of education task orders, grant number 84999:	\$	160,928
56. For advanced placement, grant number 84330:	\$	18,450

Sec. 30. DEPARTMENT OF ELDER AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of elder affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of elder affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For nutrition program for elderly, grant number 10570:	\$	2,076,739
2. For senior community service employment program, grant number 17235:	\$	1,135,441
3. For preventive health, grant number 93043:	\$	230,015
4. For supportive services, grant number 93044:	\$	4,623,557
5. For nutrition, grant number 93045:	\$	6,754,839
6. For health care financing administration, grant number 93779:	\$	345,566
7. For elder abuse, grant number 93041:	\$	55,928
8. For ombudsman program, grant number 93042:	\$	97,123
9. For federal Older Americans Act of 1965, Title IV, aging programs, grant number 93048:	\$	995,307
10. For caregiver support, grant number 93052:	\$	1,503,389

Sec. 31. ETHICS AND CAMPAIGN DISCLOSURE BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa ethics and campaign disclosure board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 32. DEPARTMENT OF GENERAL SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of general services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 33. OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the offices of the governor and lieutenant governor for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 34. GOVERNOR — DRUG POLICY COORDINATOR. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the office of the governor for the drug policy coordinator for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the office of the governor for the drug policy coordinator for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For bulletproof vest partnership program, grant number 16607:	\$	20,000
2. For community prosecution and safe neighborhood project, grant number 16609:	\$	100,000
3. For public safety partnership and community policy grants, grant number 16710:	\$	300,000
4. For discretionary drug and criminal justice assistance program, grant number 16580:	\$	2,000,000

Sec. 35. DEPARTMENT OF HUMAN RIGHTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of human rights for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of human rights for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For juvenile justice and delinquency prevention, grant number 16540:	\$	864,000
2. For weatherization assistance, grant number 81042:	\$	5,051,761
3. For client assistance, grant number 84161:	\$	120,724
4. For federal Juvenile Justice and Delinquency Prevention Act of 1974, § 505, Title V, delinquency prevention, grant number 16546:	\$	270,000
5. For juvenile accountability incentive block grant, grant number 16523:	\$	2,373,600

Sec. 36. DEPARTMENT OF HUMAN SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of human services, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For food stamps, grant number 10551:	\$	500,000
2. For administration expense for food stamps, grant number 10561:	\$	16,510,125
3. For commodity support food program, grant number 10565:	\$	309,557
4. For temporary emergency food assistance, grant number 10568:	\$	332,440
5. For health care and other facilities inspections, grant number 98887:	\$	100,000
6. For foster grandparent program, grant number 94011:	\$	205,616
7. For mental health training, grant number 93244:	\$	706,365
8. For child support enforcement, grant number 93563:	\$	33,320,705
9. For refugee and entrant assistance, grant number 93566:	\$	3,144,266

10. For developmental disabilities basic support, grant number 93630:	\$ 713,398
11. For children’s justice, grant number 93643:	\$ 203,995
12. For child welfare services, grant number 93645:	\$ 3,222,880
13. For federal Social Security Act, Title IV-E, foster care, grant number 93658:	\$ 17,488,776
14. For federal Social Security Act, Title IV-E, adoption assistance, grant number 93659:	\$ 23,047,667
15. For child abuse and neglect discretionary activity, grant number 93670:	\$ 227,725
16. For federal Social Security Act, Title IV-E, independent living, grant number 93674:	\$ 1,204,098
17. For preventive health services sexually transmitted diseases control grants, grant number 93977:	\$ 2,822,050
18. For medical assistance, grant number 93778:	\$ 1,336,501,417
19. For empowerment zones, grant number 10772:	\$ 327,142
20. For promoting safe and stable families, grant number 93556:	\$ 2,195,360
21. For state children’s health insurance program, grant number 93767:	\$ 48,607,780
22. For adoption opportunities, grant number 93652:	\$ 325,000
23. For mental health and mental retardation (MH/MR) federal crisis nurseries, grant number 93556:	\$ 85,378
24. For child abuse and neglect, grant number 93669:	\$ 279,722

Sec. 37. INFORMATION TECHNOLOGY DEPARTMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the information technology department for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 38. DEPARTMENT OF INSPECTIONS AND APPEALS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of inspections and appeals for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For assistance for intrastate meat and poultry, grant number 10475:	\$ 32,518
2. For food and drug research grants, grant number 13103:	\$ 39,653
3. For Title XVIII Medicare inspections, grant number 13773:	\$ 2,811,626
4. For state Medicaid fraud control, grant number 93775:	\$ 556,493

Sec. 39. JUDICIAL BRANCH. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the judicial branch for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the judicial branch for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For United States department of health and human services, grant number 13000:	\$	350,000
2. For United States department of justice, grant number 16000:	\$	148,583

Sec. 40. DEPARTMENT OF JUSTICE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of justice for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of justice for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For crime victim assistance, grant number 16575:	\$	5,050,000
2. For family violence prevention and services/grants for battered women's shelters, grant number 93671:	\$	1,200,000
3. For rural domestic violence and child victimization enforcement, grant number 16589:	\$	482,474

Sec. 41. IOWA LAW ENFORCEMENT ACADEMY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa law enforcement academy for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 42. DEPARTMENT OF MANAGEMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of management for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 43. DEPARTMENT OF NATURAL RESOURCES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of natural resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of natural resources for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For forestry incentive program, grant number 10064:	\$	350,000
2. For cooperative forestry assistance, grant number 10664:	\$	657,025
3. For fish restoration, grant number 15605:	\$	4,039,281
4. For wildlife restoration, grant number 15611:	\$	2,862,000
5. For acquisition, development, and planning, grant number 15916:	\$	200,000

6. For recreational boating safety financial assistance, grant number 20005:	\$	920,000
.....		
7. For consolidated environmental programs support, grant number 66600:	\$	15,290,112
.....		
8. For energy conservation, grant number 81041:	\$	1,404,020
.....		
9. For federal Clean Water Act revolving loan fund, grant number 66458:	\$	1,399,826
.....		
10. For flood mitigation assistance, grant number 83536:	\$	322,542
.....		
11. For United States geological survey, soil conservation service, mapping projects, grant number 15808:	\$	185,827
.....		
12. For wildlife restoration, grant number 15611:	\$	56,000
.....		
13. For highway construction, grant number 20205:	\$	564,144
.....		
14. For fish and wildlife watershed, grant number 10904:	\$	200,000
.....		

Sec. 44. BOARD OF PAROLE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the board of parole for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 45. DEPARTMENT OF PERSONNEL. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of personnel for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 46. DEPARTMENT OF PUBLIC DEFENSE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of public defense for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of public defense for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For public assistance grants, grant number 83544:	\$	1,231,286
.....		
2. For military construction, grant number 12400:	\$	5,305,000
.....		
3. For hazardous materials grants, grant number 83548:	\$	6,290,923
.....		
4. For emergency management performance grants, grant number 83552:	\$	2,154,520
.....		
5. For flood mitigation assistance, grant number 83535:	\$	141,900
.....		
6. For flood mitigation assistance, grant number 83536:	\$	205,000
.....		
7. For community disaster loans, grant number 83537:	\$	247,402
.....		

8. For hazardous materials transport, grant number 20703:	\$	231,996
9. For operations and maintenance, grant number 12401:	\$	27,759,665
10. For public defense operations projects, grant number 12402:	\$	118,000

Sec. 47. PUBLIC EMPLOYMENT RELATIONS BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the public employment relations board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 48. IOWA DEPARTMENT OF PUBLIC HEALTH. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa department of public health for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the Iowa department of public health for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For women, infants, and children, grant number 10557:	\$	33,235,646
2. For research on health care costs, quality, and outcomes, grant number 93226:	\$	260,000
3. For radon control, grant number 66032:	\$	472,290
4. For toxic substance compliance monitoring, grant number 66701:	\$	194,291
5. For drug-free schools — communities, grant number 84186:	\$	683,975
6. For hazardous waste, grant number 66802:	\$	109,872
7. For regional delivery systems, grant number 93110:	\$	803,738
8. For tuberculosis control — elimination, grant number 93116:	\$	783,077
9. For physician education, grant number 93161:	\$	109,675
10. For childhood lead abatement, grant number 93197:	\$	682,027
11. For family planning projects, grant number 93217:	\$	973,723
12. For public health and social services emergency fund, grant number 93003:	\$	1,383,675
13. For injury prevention and control research and state and community-based programs, grant number 93136:	\$	429,959
14. For disabilities prevention, grant number 93184:	\$	449,711
15. For state capacity building, grant number 93240:	\$	281,639
16. For improving EMS trauma care in rural areas, grant number 93952:	\$	40,000

17. For immunization program, grant number 93268:	\$	2,022,925
18. For investigation and technical assistance, grant number 93283:	\$	15,647,191
19. For rural health, grant number 93913:	\$	1,183,573
20. For HIV cares grants, grant number 93917:	\$	1,886,371
21. For preventive health services, grant number 93977:	\$	825,570
22. For AIDS prevention project, grant number 93940:	\$	1,672,474
23. For breast and cervical cancer, grant number 93919:	\$	3,067,191
24. For health care financing research, grant number 93779:	\$	1,500,000
25. For federal emergency medical services for children, grant number 93127:	\$	100,428
26. For refugee and entrant assistance, grant number 93576:	\$	64,916
27. For federal environmental protection agency lead certification program, grant number 66707:	\$	559,954
28. For loan repayment, grant number 93165:	\$	265,000
29. For primary care services, grant number 93130:	\$	175,721
30. For diabetes, grant number 93988:	\$	255,026
31. For abstinence education, grant number 93235:	\$	458,503
32. For AIDS prevention project, grant number 93944:	\$	169,198
33. For data information systems, grant number 93000:	\$	276,966
34. For traumatic brain injury, grant number 93234:	\$	98,115
35. For treatment outcome performance protocol, grant number 93238:	\$	13,780
36. For United States department of justice, grant number 16000:	\$	74,048
37. For consolidated knowledge development and application, grant number 93230:	\$	3,261,467
38. For infants and families with disabilities, grant number 84181:	\$	5,906
39. For state and rural health, grant number 93241:	\$	680,318
40. For lung diseases research, grant number 93838:	\$	41,179
41. For risk surveillance, grant number 93945:	\$	183,426
42. For state administration matching grants for food stamp program, grant number 10561:	\$	74,331

Sec. 49. DEPARTMENT OF PUBLIC SAFETY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of public safety, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of public safety for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For department of housing and urban development, grant number 14100:	
.....	\$ 25,000
2. For department of justice, grant number 16000:	
.....	\$ 1,120,620
3. For discretionary drug and criminal justice assistance, grant number 16580:	
.....	\$ 80,000
4. For state and community highway safety, grant number 20600:	
.....	\$ 2,772,239
5. For law enforcement assistance narcotics and dangerous drug training, grant number 16004:	
.....	\$ 1,250,000

Sec. 50. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the state board of regents for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For agricultural experiment, grant number 10203:	
.....	\$ 4,125,373
2. For cooperative extension service, grant number 10500:	
.....	\$ 8,400,000
3. For school breakfast program, grant number 10553:	
.....	\$ 9,000
4. For school lunch program, grant number 10555:	
.....	\$ 201,091
5. For maternal and child health, grant number 93110:	
.....	\$ 144,716
6. For cancer treatment research, grant number 93395:	
.....	\$ 37,758
7. For general research, grant number 83500:	
.....	\$ 277,619,637
8. For special education grants to states, grant number 84027:	
.....	\$ 69,240

Sec. 51. DEPARTMENT OF REVENUE AND FINANCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 52. OFFICE OF SECRETARY OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the office of secretary of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 53. IOWA STATE FAIR AUTHORITY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa state fair authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 54. OFFICE OF STATE-FEDERAL RELATIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the office of state-federal relations for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 55. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the Iowa telecommunications and technology commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 56. OFFICE OF TREASURER OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the treasurer of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

For flood control, grant number 90000:
 \$ 350,000

Sec. 57. STATE DEPARTMENT OF TRANSPORTATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the state department of transportation for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the state department of transportation for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

- 1. For highway research, plan and construction, grant number 20205:
 \$ 254,800,000
- 2. For motor carrier safety assistance, grant number 20217:
 \$ 50,000
- 3. For urban mass transportation, grant number 20507:
 \$ 6,800,000

Sec. 58. COMMISSION OF VETERANS AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the commission of veterans affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

The following amounts are appropriated to the commission of veterans affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

- 1. For the veterans state domiciliary care, grant number 64014:
 \$ 303,023
- 2. For the veterans state nursing home care, grant number 64015:
 \$ 10,589,647

3. For Medicare supplementary medical insurance, grant number 93774:	\$	600,000
4. For the veterans prescription service, grant number 64012:	\$	1,036,000

Sec. 59. DEPARTMENT OF WORKFORCE DEVELOPMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of workforce development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of workforce development for the fiscal year beginning July 1, 2003, and ending June 30, 2004:

1. For employment statistics, grant number 17002:	\$	2,521,732
2. For research and statistics, grant number 17005:	\$	155,449
3. For labor certification, grant number 17202:	\$	49,000
4. For employment service, grant number 17207:	\$	10,100,000
5. For unemployment insurance grant to state, grant number 17225:	\$	32,200,000
6. For occupational safety and health, grant number 17503:	\$	2,013,359
7. For disabled veterans outreach, grant number 17801:	\$	887,000
8. For local veterans employment representation, grant number 17804:	\$	1,322,000
9. For unemployment insurance trust receipts, grant number 17225:	\$	357,465,000
10. For food stamps, grant number 10561:	\$	250,000
11. For WIA adult program, grant number 17258:	\$	4,979,493
12. For WIA youth activities, grant number 17259:	\$	6,049,284
13. For labor certification, grant number 17203:	\$	96,000
14. For federal Trade Adjustment Act, grant number 17245:	\$	2,500,000
15. For Title IV, grant number 93668:	\$	50,000

Approved April 14, 2003

CHAPTER 171

APPROPRIATIONS — TRANSPORTATION

H.F. 652

AN ACT relating to and making transportation and other infrastructure-related appropriations to the state department of transportation, including allocation and use of moneys from the road use tax fund and the primary road fund, and providing for the nonreversion of certain moneys.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For the payment of costs associated with the production of driver's licenses, as defined in section 321.1, subsection 20A:

.....	\$	2,820,000
Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2004, from the appropriation made in this subsection, shall not revert, but shall remain available for subsequent fiscal years for the purposes specified in this subsection.		

2. For salaries, support, maintenance, and miscellaneous purposes:

a. Operations and finance:

.....	\$	5,227,174
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b. Administrative services:

.....	\$	517,917
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c. Planning:

.....	\$	443,851
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d. Motor vehicles:

.....	\$	28,798,337
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3. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:

.....	\$	37,500
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4. Unemployment compensation:

.....	\$	17,000
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5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:

.....	\$	77,000
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6. For payment to the general fund of the state for indirect cost recoveries:

.....	\$	102,000
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7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

.....	\$	54,314
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8. For costs associated with the county issuance of driver's licenses:

.....	\$	30,000
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9. For transfer to the department of public safety for operating a system providing toll-free telephone road and weather conditions information:

.....	\$	100,000
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10. For costs associated with the rewrite of the vehicle registration system:

.....	\$	5,000,000
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11. For costs associated with the participation in the Mississippi river parkway commission:

.....	\$	40,000
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12. For membership in the North America's superhighway corridor coalition:

.....	\$	50,000
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13. For scale facilities improvements throughout the state:

..... \$ 200,000

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year that begins July 1, 2006.

Sec. 2. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

a. Operations and finance:

..... \$ 32,109,775

..... FTEs 270

b. Administrative services:

..... \$ 3,181,482

..... FTEs 37

c. Planning:

..... \$ 8,433,165

..... FTEs 142

d. Highways:

..... \$ 170,840,643

..... FTEs 2,485

e. Motor vehicles:

..... \$ 1,147,381

..... FTEs 508

2. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:

..... \$ 712,500

3. Unemployment compensation:

..... \$ 328,000

4. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:

..... \$ 1,883,000

5. For disposal of hazardous wastes from field locations and the central complex:

..... \$ 800,000

6. For payment to the general fund for indirect cost recoveries:

..... \$ 748,000

7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

..... \$ 336,036

8. For costs associated with producing transportation maps:

..... \$ 275,000

9. For replacement of roofs according to the department's priority list at field facilities throughout the state:

..... \$ 300,000

10. For replacement of field garage facilities throughout the state:

..... \$ 2,000,000

11. For deferred maintenance projects at field facilities throughout the state:

..... \$ 351,500

Notwithstanding section 8.33, moneys appropriated in subsections 9 through 11 that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins July 1, 2006.

Sec. 3. 2000 Iowa Acts, chapter 1216, section 2, subsection 10, is amended to read as follows:

10. For improvements to the various scale facilities in ~~Clarke and Worth counties throughout the state:~~

..... \$ 940,000

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year that begins July 1, ~~2003~~ 2004.

Sec. 4. 1999 Iowa Acts, chapter 198, section 2, subsection 9, is amended to read as follows:

9. For improvements to the various scale ~~facility in Clarke county~~ facilities throughout the state:

..... \$ 550,000

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the fiscal year that begins July 1, ~~2002~~ 2004.

Sec. 5. EFFECTIVE DATE. The section of this Act amending 1999 Acts, chapter 198, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 2003

CHAPTER 172

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

S.F. 425

AN ACT relating to and making appropriations involving state government, including provisions affecting agriculture and natural resources.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

GENERAL APPROPRIATION

Section 1. **GENERAL DEPARTMENT APPROPRIATION.** There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

a. For purposes of supporting the department, including its divisions, for administration, regulations, and programs, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 16,365,273

..... FTEs 440.13

b. Of the amount appropriated in paragraph "a", the department shall not expend less than \$50,000 for salaries, support, maintenance, and miscellaneous purposes related to the admin-

istration of the senior farmers' market nutrition program under the jurisdiction of the United States department of agriculture.

DIVISION II
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
SPECIAL APPROPRIATIONS

Sec. 2. RIVER AUTHORITY. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department for membership in the state interagency Missouri river authority, created in section 28L.1, in the Missouri river basin association:
\$ 9,780

Sec. 3. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the administrative division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:
\$ 305,516

Sec. 4. REGULATORY DIVISION DAIRY PRODUCTS CONTROL BUREAU. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the operations of the dairy products control bureau within the department's regulatory division, including salaries, support, maintenance, and miscellaneous purposes:
\$ 648,379

DIVISION III
DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

Sec. 5. GENERAL DEPARTMENT APPROPRIATION. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department, including its divisions, for administration, regulation, and programs, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 15,489,070
FTEs 1079.12

Sec. 6. STATE FISH AND GAME PROTECTION FUND — APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. a. There is appropriated from the state fish and game protection fund to the department of natural resources for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For use by the division of fish and wildlife for administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:
\$ 29,288,895

b. Notwithstanding section 455A.10, the department may use the unappropriated balance remaining in the fish and game protection fund to provide for the funding of health and life insurance premium payments from unused sick leave balances of conservation peace officers employed in a protection occupation who retire, pursuant to section 97B.49B.

2. The department shall not expend more moneys from the fish and game protection fund than provided in this section, unless the expenditure derives from contributions made by a private entity, or a grant or moneys received from the federal government, and is approved by the natural resource commission. The department of natural resources shall promptly notify the legislative fiscal bureau and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

DIVISION IV
DEPARTMENT OF NATURAL RESOURCES
RELATED TRANSFERS AND APPROPRIATIONS

Sec. 7. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2003, from the fees required to be deposited in the special conservation fund under section 321G.7 to the fish and game protection fund and appropriated to the department of natural resources for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:
..... \$ 100,000

Sec. 8. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2003, from the fees required to be deposited in the special conservation fund under section 462A.52 to the fish and game protection fund and appropriated to the natural resource commission for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the administration and enforcement of navigation laws and water safety:
..... \$ 1,400,000

Notwithstanding section 8.33, moneys transferred and appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the credit of the fish and game protection fund but shall be credited to the special conservation fund established by section 462A.52 to be used as provided in that section.

DIVISION V
DEPARTMENT OF NATURAL RESOURCES
SPECIAL APPROPRIATIONS

Sec. 9. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK FUND BOARD. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board, to the department of natural resources for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration expenses of the underground storage tank section of the department of natural resources:
..... \$ 200,000

Sec. 10. OIL OVERCHARGE MONEYS. There is appropriated from those moneys designated within the energy conservation trust created in section 473.11, for disbursement

pursuant to section 473.11, to the following named agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects which target the highest energy users, and including administrative costs:

To be expended from the Exxon fund:
..... \$ 50,000

2. To the department of natural resources for the following purposes:

a. For the state energy program, from the Exxon fund:
..... \$ 50,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:
..... \$ 25,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Sec. 11. FLOODPLAIN PERMIT BACKLOG. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees for the staffing of the following additional full-time staff members to reduce the department's floodplain permit backlog:
..... FTEs 2.00

Sec. 12. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees for the staffing of the following additional full-time equivalent positions for implementation of the federal total maximum daily load program:
..... FTEs 2.00

Approved May 23, 2003

CHAPTER 173

APPROPRIATIONS — JUDICIAL BRANCH

S.F. 435

AN ACT relating to and making appropriations to the judicial branch.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, receipt and disbursement of child support payments, reimbursement of the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court during the fiscal year beginning July 1, 2003, and maintenance, equipment, and miscellaneous purposes:

..... \$ 113,354,603

1. The judicial branch, except for purposes of internal processing, shall use the current state budget system, the state payroll system, and the Iowa finance and accounting system in administration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

2. The judicial branch shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include a comparison of the dollars and percentage spent of budgeted versus actual revenues and expenditures on a cumulative basis for full-time equivalent positions and dollars.

3. The judicial branch shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

4. It is the intent of the general assembly that the offices of the clerks of the district court operate in all ninety-nine counties and be accessible to the public as much as is reasonably possible in order to address the relative needs of the citizens of each county.

5. In addition to the requirements for transfers under section 8.39, the judicial branch shall not change the appropriations from the amounts appropriated to the judicial branch in this Act, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the branch's rationale for making the changes and details concerning the work load and performance measures upon which the changes are based.

6. The judicial branch shall submit a semiannual update to the legislative fiscal bureau specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system since the last report. The judicial branch shall continue to facilitate the sharing of vital sentencing and other information with other state departments and governmental agencies involved in the criminal justice system through the Iowa court information system.

7. The judicial branch shall provide a report to the general assembly by January 1, 2004, concerning the amounts received and expended from the enhanced court collections fund created in section 602.1304 and the court technology and modernization fund created in section 602.8108, subsection 5, during the fiscal year beginning July 1, 2002, and ending June 30, 2003, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2003, and ending June 30, 2004. A copy of the report shall be provided to the legislative fiscal bureau.

8. The supreme court, in consultation with the Iowa state bar association and district judges, shall study methods to achieve efficiency and cost savings within the judicial branch. The state public defender, juvenile probation officers, clerks of the district court, the legal services corporation of Iowa, the supervisors affiliate of the Iowa state association of counties, the judicial district department of correctional services, the Iowa county attorneys association, and other interested departments, agencies, or organizations may each file a report with the supreme court detailing their recommendations on achieving efficiency and cost savings within the judicial branch by October 1, 2003. The study shall include recommendations on the best practices for court administration, utilizing court personnel including judges, magistrates, and clerks of the district court, customer service and delivery of court services, measuring of performance and performance-based budgeting, and judicial district redistricting. The supreme court, after consulting with the Iowa state bar association and the district judges, and after reviewing the reports filed by the interested departments, agencies, or organizations, shall

submit a report with findings and recommendations to the general assembly by December 15, 2003.

Sec. 2. JUDICIAL RETIREMENT FUND. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Notwithstanding section 602.9104, for the state's contribution to the judicial retirement fund in the amount of 8.4 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... \$ 2,039,664

Sec. 3. APPOINTMENT OF CLERK OF COURT. The appointment of a clerk of the district court shall not occur unless the state court administrator approves the appointment.

Sec. 4. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE FISCAL BUREAU. All reports or copies of reports required to be provided by the judicial branch for fiscal year 2003-2004 to the legislative fiscal bureau shall be provided in an electronic format. The legislative fiscal bureau shall post the reports on its internet site and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.

Approved May 23, 2003

CHAPTER 174

APPROPRIATIONS — JUSTICE SYSTEM

S.F. 439

AN ACT relating to and making appropriations to the justice system and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. DEPARTMENT OF JUSTICE.

1. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the general office of attorney general for salaries, support, maintenance, miscellaneous purposes including the prosecuting attorney training program, victim assistance grants, office of drug control policy (ODCP) prosecuting attorney program, legal services for persons in poverty grants as provided in section 13.34, odometer fraud enforcement, and for not more than the following full-time equivalent positions:

..... \$ 7,271,979
..... FTEs 208.50

It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of justice shall maintain a record of the estimated time incurred representing each agency or department.

2. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2003, and ending June 30, 2004, an amount not exceeding \$200,000 to be used for the enforcement of the Iowa competition law. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from either damages awarded to the state or a political subdivision of the state by a civil judgment under chapter 553, if the judgment authorizes the use of the award for enforcement purposes or costs or attorneys fees awarded the state in state or federal antitrust actions. However, if the amounts received as a result of these judgments are in excess of \$200,000, the excess amounts shall not be appropriated to the department of justice pursuant to this subsection. The department of justice shall report the department's actual costs and an estimate of the time incurred enforcing the competition law, to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by November 15, 2003.

3. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2003, and ending June 30, 2004, an amount not exceeding \$1,125,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16, and an amount not exceeding \$75,000 for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older Iowans. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment or settlement, if the judgment or settlement authorizes the use of the award for public education on consumer fraud. However, if the funds received as a result of these judgments and settlements are in excess of \$1,200,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection. The department of justice shall report to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by November 15, 2003, the department's actual costs and an estimate of the time incurred in providing education pursuant to and enforcing this subsection.

4. a. The funds used for victim assistance grants shall be used to provide grants to care providers providing services to crime victims of domestic abuse or to crime victims of rape and sexual assault.

b. The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 22 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

5. The department of justice shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include comparisons of the moneys and percentage spent of budgeted to actual revenues and expenditures on a cumulative basis for full-time equivalent positions and available moneys.

6. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2004, pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include, but are not limited to, reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall report actual reimbursements for the fiscal year commencing July 1, 2002, and actual and expected reimbursements for the fiscal year commencing July 1, 2003.

b. The department of justice shall include the report required under paragraph "a", as well as information regarding any revisions occurring as a result of reimbursements actually received or expected at a later date, in a report to the co-chairpersons and ranking members of

the joint appropriations subcommittee on the justice system and the legislative fiscal bureau. The department of justice shall submit the report on or before January 15, 2004.

7. As a condition for accepting a grant for legal services for persons in poverty funded pursuant to section 13.34, an organization receiving a grant shall submit a report to the general assembly by January 1, 2004, concerning the use of any grants received during the previous fiscal year and efforts made by the organization to find alternative sources of revenue to replace any reductions in federal funding for the organization.

8. The department of justice and the department of revenue and finance shall, in consultation with one another, issue a request for information from private sector collection agencies, concerning the use of such agencies for the collection of fines, fees, surcharges, and court costs which are delinquent more than one year. The department of justice and the department of revenue and finance shall submit a report regarding the request for information by December 15, 2003, for consideration by the general assembly in 2004.

Sec. 2. DEPARTMENT OF JUSTICE — ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION — FUNDING. There is appropriated from the environmental crime fund of the department of justice, consisting of court-ordered fines and penalties awarded to the department arising out of the prosecution of environmental crimes, to the department of justice for the fiscal year beginning July 1, 2003, and ending June 30, 2004, an amount not exceeding \$20,000 to be used by the department, at the discretion of the attorney general, for the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal, and other local governmental agencies cooperating with the department in the investigation and prosecution of environmental crimes.

The funds appropriated in this section are contingent upon receipt by the environmental crime fund of the department of justice of an amount at least equal to the appropriations made in this section and received from contributions, court-ordered restitution as part of judgments in criminal cases, and consent decrees entered into as part of civil or regulatory enforcement actions. However, if the funds received during the fiscal year are in excess of \$20,000, the excess funds shall be deposited in the general fund of the state.

Notwithstanding section 8.33, moneys appropriated in this section that remain unexpended or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

Sec. 3. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the general fund of the state to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,750,386
.....	FTEs	27.00

Sec. 4. DEPARTMENT OF CORRECTIONS — FACILITIES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the operation of adult correctional institutions, reimbursement of counties for certain confinement costs, and federal prison reimbursement, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	35,673,163
.....	FTEs	576.50

b. For the operation of the Anamosa correctional facility, including salaries, support, main-

tenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	24,531,917
.....	FTEs	375.75

Moneys are provided within this appropriation for one full-time substance abuse counselor for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.¹

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	22,107,007
.....	FTEs	326.50

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	22,865,691
.....	FTEs	371.25

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of correctional officers and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	21,329,386
.....	FTEs	327.06

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,383,506
.....	FTEs	110.00

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	18,595,788
.....	FTEs	291.76

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.²

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	12,260,590
.....	FTEs	216.00

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	24,693,949
.....	FTEs	394.00

j. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 901.7, 904.908, and 906.17 and for offenders confined pursuant to section 904.513:

.....	\$	674,954
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k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

.....	\$	241,293
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¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §8 herein

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §8 herein

The department of corrections shall use funds appropriated in this subsection to continue to contract for the services of a Muslim imam.

2. a. If the inmate tort claim fund for inmate claims of less than \$100 is exhausted during the fiscal year, sufficient funds shall be transferred from the institutional budgets to pay approved tort claims for the balance of the fiscal year. The warden or superintendent of each institution or correctional facility shall designate an employee to receive, investigate, and recommend whether to pay any properly filed inmate tort claim for less than the above amount. The designee's recommendation shall be approved or denied by the warden or superintendent and forwarded to the department of corrections for final approval and payment. The amounts appropriated to this fund pursuant to 1987 Iowa Acts, chapter 234, section 304, subsection 2, are not subject to reversion under section 8.33.

b. Tort claims denied at the institution shall be forwarded to the state appeal board for their consideration as if originally filed with that body. This procedure shall be used in lieu of chapter 669 for inmate tort claims of less than \$100.

3. It is the intent of the general assembly that the department of corrections shall timely fill correctional positions authorized for correctional facilities pursuant to this section.

Sec. 5. DEPARTMENT OF CORRECTIONS — ADMINISTRATION.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For general administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,713,159
.....	FTEs	42.18

(1) The department shall monitor the use of the classification model by the judicial district departments of correctional services and has the authority to override a district department's decision regarding classification of community-based clients. The department shall notify a district department of the reasons for the override.

(2) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this paragraph, the department of corrections shall not, except as otherwise provided in subparagraph (3), enter into a new contract, unless the contract is a renewal of an existing contract, for the expenditure of moneys in excess of \$100,000 during the fiscal year beginning July 1, 2003, for the privatization of services performed by the department using state employees as of July 1, 2003, or for the privatization of new services by the department, without prior consultation with any applicable state employee organization affected by the proposed new contract and prior notification of the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system.

(3) It is the intent of the general assembly that each lease negotiated by the department of corrections with a private corporation for the purpose of providing private industry employment of inmates in a correctional institution shall prohibit the private corporation from utilizing inmate labor for partisan political purposes for any person seeking election to public office in this state and that a violation of this requirement shall result in a termination of the lease agreement.

(4) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this paragraph, the department of corrections shall not enter into a lease or contractual agreement pursuant to section 904.809 with a private corporation for the use of building space for the purpose of providing inmate employment without providing that the terms of the lease or contract establish safeguards to restrict, to the greatest extent feasible, access by inmates working for the private corporation to personal identifying information of citizens.

b. For educational programs for inmates at state penal institutions:

.....	\$	1,000,000
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It is the intent of the general assembly that moneys appropriated in this paragraph shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this subsection to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

To maximize the funding for educational programs, the department shall establish guidelines and procedures to prioritize the availability of educational and vocational training for inmates based upon the goal of facilitating an inmate's successful release from the correctional institution.

The director of the department of corrections may transfer moneys from Iowa prison industries for use in educational programs for inmates.

Notwithstanding section 8.33, moneys appropriated in this paragraph that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this paragraph until the close of the succeeding fiscal year.

c. For the development of the Iowa corrections offender network (ICON) data system:

..... \$ 427,700

2. The department of corrections shall submit a report to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2004, concerning the development and implementation of the Iowa corrections offender network (ICON) data system.

3. It is the intent of the general assembly that the department of corrections shall continue to operate the correctional farms under the control of the department at the same or greater level of participation and involvement as existed as of January 1, 2003, shall not enter into any rental agreement or contract concerning any farmland under the control of the department that is not subject to a rental agreement or contract as of January 1, 2003, without prior legislative approval, and shall further attempt to provide job opportunities at the farms for inmates. The department shall attempt to provide job opportunities at the farms for inmates by encouraging labor-intensive farming or gardening where appropriate, using inmates to grow produce and meat for institutional consumption, researching the possibility of instituting food canning and cook-and-chill operations, and exploring opportunities for organic farming and gardening, livestock ventures, horticulture, and specialized crops.

4. The department shall work to increase produce gardening by inmates under the control of the correctional institutions, and, if appropriate, may use the central distribution network at the Woodward state resource center. The department shall file a report with the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system by December 1, 2003, regarding the feasibility of expanding the number of acres devoted to organic gardening and to the growing of organic produce for sale.

5. The department of corrections shall submit a report to the general assembly by January 1, 2004, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2002, for each correctional institution and judicial district department of correctional services. In addition, each correctional institution and judicial district department of correctional services shall continue to submit a report to the legislative fiscal bureau on a monthly basis concerning moneys recouped from inmate earnings pursuant to sections 904.702, 904.809, and 905.14.

6. The department of corrections, in cooperation with the judicial district departments of correctional services, shall develop an agency strategic plan as required by section 8E.204. The plan shall consist of outcome measures for all treatment programs, including but not limited to successful completion and return rates, and cost per offender treated. The plan shall also include a brief description for each program offered within each judicial district department, the goals for each program, the program capacity, and the funding source of the program. The plan shall further include the level and sublevel classifications for each program

on the corrections continuum in Code chapter 901B. The department and the judicial district departments of correctional services shall file a report by December 15, 2003, with the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau, detailing the agency strategic plan.

7. Notwithstanding the number of full-time equivalent positions authorized for the department of corrections, the department may employ more than the number of full-time equivalent positions as necessary to alleviate staff shortages caused by members of the Iowa national guard or armed forces reserve units being called up for active duty.

Sec. 6. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 9,282,883

b. For the second judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 7,288,784

c. For the third judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 4,232,132

d. For the fourth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 3,998,773

e. For the fifth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 12,129,142

f. For the sixth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 9,293,841

g. For the seventh judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 5,231,406

h. For the eighth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 5,280,849

2. Each judicial district department of correctional services, within the funding available,

shall continue programs and plans established within that district to provide for intensive supervision, sex offender treatment, diversion of low-risk offenders to the least restrictive sanction available, job development, and expanded use of intermediate criminal sanctions.

3. Each judicial district department of correctional services shall provide alternatives to prison consistent with chapter 901B. The alternatives to prison shall ensure public safety while providing maximum rehabilitation to the offender. A judicial district department may also establish a day program.

4. The governor's office of drug control policy shall consider federal grants made to the department of corrections for the benefit of each of the eight judicial district departments of correctional services as local government grants, as defined pursuant to federal regulations.

5. In addition to the requirements of section 8.39, the department of corrections shall not make an intradepartmental transfer of moneys appropriated to the department, unless notice of the intradepartmental transfer is given prior to its effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the transfer and details concerning the work load and performance measures upon which the transfers are based.

Sec. 7. INTENT — REPORTS.

1. It is the intent of the general assembly that each correctional facility make all reasonable efforts to maintain vocational education programs for inmates during the fiscal year beginning July 1, 2003, and to identify available funding sources to continue these programs. The department of corrections shall submit a report to the general assembly by January 1, 2004, concerning the efforts made by each correctional facility in maintaining vocational education programs for inmates.

2. The department of corrections shall submit a report on inmate labor to the general assembly, the cochairpersons, and the ranking members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by January 15, 2004. The report shall specifically address the progress the department has made in implementing the requirements of section 904.701, inmate labor on capital improvement projects, community work crews, inmate produce gardening, and private-sector employment.

3. Each month the department shall provide a status report regarding private-sector employment to the legislative fiscal bureau beginning on July 1, 2003. The report shall include the number of offenders employed in the private sector, the combined number of hours worked by the offenders, and the total amount of allowances, and the distribution of allowances pursuant to section 904.702, including any moneys deposited in the general fund of the state.

Sec. 8. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

1. As used in this section, unless the context otherwise requires, "state agency" means the government of the state of Iowa, including but not limited to all executive branch departments, agencies, boards, bureaus, and commissions, the judicial branch, the general assembly and all legislative agencies, institutions within the purview of the state board of regents, and any corporation whose primary function is to act as an instrumentality of the state.

2. State agencies are hereby encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries. State agencies shall obtain bids from Iowa state industries for purchases of office furniture exceeding \$5,000 or in accordance with applicable administrative rules related to purchases for the agency.

Sec. 9. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be allocated as follows for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	16,330,999
.....	FTEs	202.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

.....	\$	19,851,587
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The office of the state public defender may reallocate the moneys appropriated in this section if the legislative fiscal bureau and the department of management are notified prior to the reallocation.

The state public defender's office shall, in consultation with the indigent defense advisory commission, the judicial branch, the Iowa state bar association, and other interested parties, file a report detailing how efficiency and cost savings measures can be achieved within the state public defender's office. The report shall be filed with the general assembly by December 15, 2003. The report shall include a review of the federal guidelines for appointing an attorney for an indigent defendant in federal court, make recommendations for changes to the definition of "indigent" for the purposes of appointing an attorney in state court, make recommendations on methods which can be used for recouping delinquent indigent defense fees, court costs, surcharges, fines, and other fees, and detail the office's cost containment efforts, and measurements of performance and performance-based budgeting.

Sec. 10. IOWA LAW ENFORCEMENT ACADEMY.

1. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	\$	1,002,629
.....	FTEs	30.05 ³

It is the intent of the general assembly that the Iowa law enforcement academy may provide training of state and local law enforcement personnel concerning the recognition of and response to persons with Alzheimer's disease.

2. The Iowa law enforcement academy may select at least five automobiles of the department of public safety, division of the Iowa state patrol, prior to turning over the automobiles to the state fleet administrator to be disposed of by public auction and the Iowa law enforcement academy may exchange any automobile owned by the academy for each automobile selected if the selected automobile is used in training law enforcement officers at the academy. However, any automobile exchanged by the academy shall be substituted for the selected vehicle of the department of public safety and sold by public auction with the receipts being deposited in the depreciation fund to the credit of the department of public safety, division of the Iowa state patrol.

Sec. 11. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,015,780
.....	FTEs	16.50

The board of parole shall make recommendations regarding options to improve the criminal justice system which shall ensure public safety while providing maximum rehabilitation to the offender. The board shall file a report detailing the recommendations with the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system by December 15, 2003.

³ See chapter 179, §20 herein

Sec. 12. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,081,502
.....	FTEs	298.00

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 2004, within 60 days after the close of the fiscal year, the military division may incur up to an additional \$500,000 in expenditures from the surplus prior to transfer of the surplus pursuant to section 8.57.

2. EMERGENCY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,060,492
.....	FTEs	25.25

Sec. 13. IOWA COMMUNICATIONS NETWORK OPERATIONS.

1. There is appropriated from the general fund of the state to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated in this subsection:

For operations of the network consistent with chapter 8D and for the following full-time equivalent positions:

.....	\$	500,000
.....	FTEs	105.10

2. Notwithstanding section 8.33 or 8.39, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purposes designated in the succeeding fiscal year, and shall not be transferred to any other program.

3. It is the intent of the general assembly that the Iowa telecommunications and technology commission annually review the hourly rates established, as provided in section 8D.3, subsection 3, paragraph "i". Such rates shall be established in a manner to minimize any subsidy provided through state general fund appropriations.

Sec. 14. DEPARTMENT OF PUBLIC SAFETY. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

.....	\$	2,377,580
.....	FTEs	38.50

The department shall study the security needs for the state criminalistics laboratory, the state hygienic laboratory, the department of agriculture and land stewardship laboratory, and the state medical examiner's office located on the Des Moines area community college's campus in Ankeny. The department shall file a report detailing the results of the department's study with the general assembly by December 15, 2003.

2. For the division of criminal investigation and bureau of identification including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated,

to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	12,863,855
.....	FTEs	230.50

The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat regulated after July 1, 2003, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2003. One additional gaming enforcement officer, up to a total of four per boat, may be employed for each riverboat that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this paragraph are in addition to the full-time equivalent positions otherwise authorized in this subsection.

3. a. For the division of narcotics enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	3,608,471
.....	FTEs	61.00

b. For the division of narcotics enforcement for undercover purchases:

.....	\$	123,343
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4. a. For the state fire marshal's office, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	1,818,352
.....	FTEs	40.00

b. For the state fire marshal's office, for fire protection services as provided through the state fire service and emergency response council as created in the department, and for not more than the following full-time equivalent positions:

.....	\$	595,619
.....	FTEs	12.00

5. a. For the division of the Iowa state patrol of the department of public safety, for salaries, support, maintenance, workers' compensation costs, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	37,339,586
.....	FTEs	544.00

b. District 16, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated and for not more than the following full-time equivalent positions:

.....	\$	1,210,075
.....	FTEs	26.00

6. For deposit in the public safety law enforcement sick leave benefits fund established under section 80.42, for all departmental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

.....	\$	216,104
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7. An employee of the department of public safety who retires after July 1, 2003, but prior to June 30, 2004, is eligible for payment of life or health insurance premiums as provided for in the collective bargaining agreement covering the public safety bargaining unit at the time of retirement if that employee previously served in a position which would have been covered by the agreement. The employee shall be given credit for the service in that prior position as though it were covered by that agreement. The provisions of this subsection shall not operate

to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

8. For costs associated with the training and equipment needs of volunteer fire fighters and for not more than the following full-time equivalent position:

.....	\$	544,587
.....	FTEs	1.00

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this subsection until the close of the succeeding fiscal year.

Sec. 15. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	806,894
.....	FTEs	28.00

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds \$1,144,875 during the fiscal year beginning July 1, 2003, the Iowa state civil rights commission may exceed the staffing level authorized in this section to hire additional staff to process or to support the processing of employment and housing complaints during that fiscal year.

The Iowa state civil rights commission may enter into a contract with a nonprofit organization to provide legal assistance to resolve civil rights complaints.

Sec. 16. Section 100B.9, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The building known as the fire service institute at Iowa state university, the land upon which the building is located, and parking space associated with the building shall, until July 1, 2003 ~~2010~~, be leased by Iowa state university to the department of public safety at a cost not to exceed the actual cost of heating, lighting, and maintaining the building and parking space. ~~In the event the department of public safety locates suitable facilities prior to that time, the lease may be terminated at the option of the department.~~ All equipment owned by Iowa state university and used exclusively to conduct fire service training, classes, or business shall transfer on July 1, 2000, to the department of public safety unless such transfer is prohibited or restricted by law or agreement. This equipment includes, but is not limited to, breathing apparatus, fire suppression gear, mobile equipment, office furniture, computers, copying machines, library, file cabinets, and training records.

Sec. 17. 1998 Iowa Acts, chapter 1101, section 15, subsection 2, as amended by 1999 Iowa Acts, chapter 202, section 25, as amended by 2000 Iowa Acts, chapter 1229, section 25, as amended by 2001 Iowa Acts, chapter 186, section 21, and as amended by 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 170, is amended to read as follows:

2. a. There is appropriated from surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for each fiscal year in the fiscal period beginning July 1, 1998, and ending June 30, ~~2003~~ 2004, an amount not to exceed two hundred thousand dollars to be used for the implementation, support, and maintenance of the functions of the E911 administrator. The amount appropriated in this paragraph includes any amounts necessary to reimburse the division of emergency management of the department of public defense pursuant to paragraph "b".

b. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and prior to any such distribution, of the initial surcharge moneys received by the E911 administra-

tor and deposited into the wireless E911 emergency communications fund, for each fiscal year in the fiscal period beginning July 1, 1998, and ending June 30, 2003 2004, an amount is appropriated to the division of emergency management of the department of public defense as necessary to reimburse the division for amounts expended for the implementation, support, and maintenance of the E911 administrator, including the E911 administrator's salary.

Sec. 18. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE FISCAL BUREAU. All reports or copies of reports required to be provided in this Act for fiscal year 2003-2004 to the legislative fiscal bureau shall be provided in an electronic format. The legislative fiscal bureau shall post the reports on its internet site and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.

Sec. 19. EFFECTIVE DATE. The section of this Act amending 1998 Iowa Acts, chapter 1101, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003

CHAPTER 175

APPROPRIATIONS — HEALTH AND HUMAN SERVICES

H.F. 667

AN ACT relating to and making appropriations for health and human services to the department of elder affairs, the Iowa department of public health, the department of inspections and appeals, the department of human services, and the commission of veterans affairs, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

**DIVISION I
ELDER AFFAIRS**

Section 1. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For aging programs for the department of elder affairs and area agencies on aging to provide citizens of Iowa who are 60 years of age and older with case management for the frail elderly, the retired and senior volunteer program, resident advocate committee coordination, employment, and other services which may include, but are not limited to, adult day services, respite care, chore services, telephone reassurance, information and assistance, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which make residences accessible to the physically handicapped, and for salaries, support, administration, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions with the department of elder affairs:

.....	\$	2,653,222
.....	FTEs	25.50

1. Funds appropriated in this section may be used to supplement federal funds under federal regulations. To receive funds appropriated in this section, a local area agency on aging shall match the funds with moneys from other sources according to rules adopted by the department. Funds appropriated in this section may be used for elderly services not specifically enumerated in this section only if approved by an area agency on aging for provision of the service within the area.

2. Of the funds allocated under this section and any other state funds allocated for aging programs of the area agencies on aging not more than 7.5 percent of the total amount allocated shall be used for area agencies on aging administrative purposes.

3. It is the intent of the general assembly that the Iowa chapters of the Alzheimer's association and the case management program for the frail elderly shall collaborate and cooperate fully to assist families in maintaining family members with Alzheimer's disease in the community for the longest period of time possible.

4. The department shall maintain policies and procedures regarding Alzheimer's support and the retired and senior volunteer program.

DIVISION II
PUBLIC HEALTH

Sec. 2. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADDICTIVE DISORDERS

For reducing the prevalence of use of tobacco, alcohol, and other drugs, and treating individuals affected by addictive behaviors, including gambling, and for not more than the following full-time equivalent positions:

.....	\$	1,277,947
.....	FTEs	13.75

a. The department shall continue to coordinate with substance abuse treatment and prevention providers regardless of funding source to assure the delivery of substance abuse treatment and prevention programs.

b. The commission on substance abuse, in conjunction with the department, shall continue to coordinate the delivery of substance abuse services involving prevention, social and medical detoxification, and other treatment by medical and nonmedical providers to uninsured and court-ordered substance abuse patients in all counties of the state.

c. The department and any grantee or subgrantee of the department shall not discriminate against a nongovernmental organization that provides substance abuse treatment and prevention services or applies for funding to provide those services on the basis that the organization has a religious character. **The department shall report to the governor and the general assembly on or before February 1, 2004, regarding the number of religious or other nongovernmental organizations that applied for funds in the preceding fiscal year, the amounts awarded to those organizations, and the basis for any refusal by the department or grantee or subgrantee of the department to award funds to any of those organizations that applied.**

2. ADULT WELLNESS

For maintaining or improving the health status of adults, with target populations between the ages of 18 through 60, and for not more than the following full-time equivalent positions:

.....	\$	260,582
.....	FTEs	23.85

3. CHILD AND ADOLESCENT WELLNESS

For promoting the optimum health status for children and adolescents from birth through 21 years of age, and for not more than the following full-time equivalent positions:

.....	\$	835,959
.....	FTEs	44.15

* Item veto; see message at end of the Act

4. CHRONIC CONDITIONS

For serving individuals identified as having chronic conditions or special health care needs, and for not more than the following full-time equivalent positions:

.....	\$	1,036,805
.....	FTEs	11.15

5. COMMUNITY CAPACITY

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

.....	\$	1,287,158
.....	FTEs	25.10

Of the funds appropriated in this subsection, \$100,000 is allocated for a child vision screening program implemented through the university of Iowa hospitals and clinics in collaboration with community empowerment areas.

6. ELDERLY WELLNESS

For optimizing the health of persons 60 years of age and older, and for not more than the following full-time equivalent positions:

.....	\$	9,470,754
.....	FTEs	4.35

7. ENVIRONMENTAL HAZARDS

For reducing the public's exposure to hazards in the environment, primarily chemical hazards, and for not more than the following full-time equivalent positions:

.....	\$	349,547
.....	FTEs	8.50

8. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

.....	\$	977,340 ¹
.....	FTEs	36.90

9. INJURIES

For providing support and protection to victims of abuse or injury, or programs that are designed to prevent abuse or injury, and for not more than the following full-time equivalent positions:

.....	\$	1,412,918
.....	FTEs	7.75

Of the funds appropriated in this subsection, \$660,000 shall be credited to the emergency medical services fund created in section 135.25.

10. PUBLIC PROTECTION

For protecting the health and safety of the public through establishing standards and enforcing regulations, and for not more than the following full-time equivalent positions:

.....	\$	6,510,871
.....	FTEs	149.10

a. The department may expend funds received from licensing fees in addition to amounts appropriated in this subsection, if those additional expenditures are directly the result of a scope of practice review committee's unanticipated litigation costs arising from the discharge of an examining board's regulatory duties. Before the department expends or encumbers funds for a scope of practice review committee or for an amount in excess of the funds budgeted for an examining board, the director of the department of management shall approve the expenditure or encumbrance. The amounts necessary to fund any unanticipated litigation or scope of practice review committee expense in the fiscal year beginning July 1, 2003, shall not exceed 5 percent of the average annual fees generated by the boards for the previous two fiscal years. The funds authorized for expenditure pursuant to this lettered paragraph are appropriated to the department for the purposes described in this paragraph.

b. For the fiscal year beginning July 1, 2003, the department shall retain fees collected from the certification of lead inspectors and lead abaters pursuant to section 135.105A to support

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §12 herein

the certification program; and shall retain fees collected from the licensing, registration, authorization, accreditation, and inspection of x-ray machines used for mammographically guided breast biopsy, screening, and diagnostic mammography, pursuant to section 136C.10 to support the administration of the chapter. The department may also retain fees collected pursuant to section 136C.10 on all shippers of radioactive material waste containers transported across Iowa if the department does not obtain funding to support the oversight and regulation of this activity, and for x-ray radiology examination fees collected by the department and reimbursed to a private organization conducting the examination. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

c. The department may retain and expend not more than \$297,961 for lease and maintenance expenses from fees collected pursuant to section 147.80 by the board of dental examiners, the board of pharmacy examiners, the board of medical examiners, and the board of nursing in the fiscal year beginning July 1, 2003, and ending June 30, 2004. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

d. The department may retain and expend not more than \$100,000 for reduction of the number of days necessary to process medical license requests and for reduction of the number of days needed for consideration of malpractice cases from fees collected pursuant to section 147.80 by the board of medical examiners in the fiscal year beginning July 1, 2003, and ending June 30, 2004. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

e. If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to hepatitis testing and immunization in accordance with the latest available medical technology to determine if infection with hepatitis has occurred. The person shall be entitled to reimbursement from the funds appropriated in this subsection only if the reimbursement is not available through any employer or third-party payor.

f. The board of dental examiners may retain and expend not more than \$148,060 from revenues generated pursuant to section 147.80. Fees retained by the board pursuant to this lettered paragraph are appropriated to the department to be used for the purposes of regulating dental assistants.

g. The board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing shall prepare estimates of projected receipts to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected receipts equal projected costs.

h. The board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing shall retain their individual executive officers, but are strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

i. For the fiscal year beginning July 1, 2003, the board of nursing may retain and expend 90 percent of the revenues generated from any increase in licensing fees pursuant to section 147.80 for purposes related to the state board's duties, including but not limited to addition of full-time equivalent positions. Fees retained by the board pursuant to this lettered paragraph are appropriated to the board of nursing for the purposes described in this paragraph.

11. RESOURCE MANAGEMENT

For establishing and sustaining the overall ability of the department to deliver services to the public, and for not more than the following full-time equivalent positions:

.....	\$	666,717
.....	FTEs	53.15

12. The university of Iowa hospitals and clinics under the control of the state board of regents shall not receive indirect costs from the funds appropriated in this section.

13. A local health care provider or nonprofit health care organization seeking grant moneys administered by the Iowa department of public health shall provide documentation that the provider or organization has coordinated its services with other local entities providing similar services.

14. a. The department shall apply for available federal funds for sexual abstinence education programs.

b. It is the intent of the general assembly to comply with the United States Congress' intent to provide education that promotes abstinence from sexual activity outside of marriage and reduces pregnancies, by focusing efforts on those persons most likely to father and bear children out of wedlock.

c. Any sexual abstinence education program awarded moneys under the grant program shall meet the definition of abstinence education in the federal law. Grantees shall be evaluated based upon the extent to which the abstinence program successfully communicates the goals set forth in the federal law.

Sec. 3. GAMBLING TREATMENT FUND — APPROPRIATION.

1. There is appropriated from funds available in the gambling treatment fund established in the office of the treasurer of state pursuant to section 99E.10 to the Iowa department of public health for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

a. Addictive disorders

To be utilized for the benefit of persons with addictions:

..... \$ 1,690,000

b. It is the intent of the general assembly that from the moneys appropriated in this section, persons with a dual diagnosis of substance abuse and gambling addictions shall be given priority in treatment services.

c. Gambling treatment program

The funds remaining in the gambling treatment fund after the appropriation in paragraph "a" is made shall be used for funding of administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, education and preventive services, and financial management services.

2. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, from the tax revenue received by the state racing and gaming commission pursuant to section 99D.15, subsections 1, 3, and 4, an amount equal to three-tenths of one percent of the gross sum wagered by the pari-mutuel method is to be deposited into the gambling treatment fund.

Sec. 4. VITAL RECORDS. The vital records modernization project as enacted in 1993 Iowa Acts, chapter 55, section 1, as amended by 1994 Iowa Acts, chapter 1068, section 8, as amended by 1997 Iowa Acts, chapter 203, section 9, 1998 Iowa Acts, chapter 1221, section 9, and 1999 Iowa Acts, chapter 201, section 17, and as continued by 2000 Iowa Acts, chapter 1222, section 10, 2001 Iowa Acts, chapter 182, section 13, and 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 104, shall be extended until June 30, 2004, and the increased fees to be collected pursuant to that project shall continue to be collected and are appropriated to the Iowa department of public health until June 30, 2004.

Sec. 5. SCOPE OF PRACTICE REVIEW PROJECT. The scope of practice review committee pilot project as enacted in 1997 Iowa Acts, chapter 203, section 6, and as continued by 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 107, shall be extended until June 30, 2004. The Iowa department of public health shall submit an annual progress report to the governor and the general assembly by January 15 and shall include any recommendations for legislative action as a result of review committee activities. The department may contract with a school or college of public health in Iowa to assist in implementing the project.

Sec. 6. HEALTH CARE ACCESS PARTNERSHIP PILOT PROJECT.

1. The director of public health shall establish a health care access partnership pilot project in a county with a population of more than 250,000 for a two-year period. The director shall adopt rules as necessary to establish and administer the pilot project. In adopting rules, the director shall consult with persons and agencies who may be involved with a health care access partnership and with the department of human services.

2. The purpose of the health care access partnership pilot project is to implement systems of health care services for low-income persons or persons without health insurance coverage, and others, by enhancing collaboration between persons and agencies providing charity care or services under the medical assistance program.

3. The elements of the partnership pilot project shall include but are not limited to all of the following:

a. A person participating in the partnership may be a public, private, for-profit, or nonprofit entity.

b. Participation provisions shall be outlined in a written agreement between those participating. If authorized under chapter 28E, a chapter 28E agreement may be utilized for all or a portion of the participant provisions.

c. If a participant in the partnership is a medical assistance program provider, the participant must be a medical assistance program provider in good standing and must accept medical assistance reimbursement as full payment for any service provided. Unless expressly prohibited by the federal government, a medical assistance program provider offering services in the area served by the partnership shall be required to participate in the partnership as a condition of participation in the medical assistance program.

d. Participants shall be authorized to share confidential information if the sharing is in the best interests of a client and the client has provided written authorization for the information sharing. If it is determined that the optimal approach for the information sharing is for the participants to establish a multidisciplinary community services team under section 331.909, notwithstanding section 331.909, subsection 4, the participants may disclose information other than oral information with one another.

e. A referral process among the participants shall be established.

f. The geographic area to be served by those participating in the agreement shall be identified in the agreement and may encompass the entire county.

g. Provision shall be made for receipt and expenditure of funding for the joint purposes of those participating or for clients of those participating and for receiving and expending funding received from foundations, grants, or other revenue sources.

h. Provision to allow the partnership to form any governance structure that is appropriate to the purposes of the partnership and that meets all federal or state statutory requirements for the specific elements of the partnership's charter.

4. If administrative rules are necessary to implement the provisions of this section, the initial rules shall be adopted on or before September 1, 2003. The director of public health may adopt the initial rules as emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", and the rules shall be effective immediately upon filing unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later date is specified in the rules. Any rules adopted in accordance with this subsection shall not take effect before the administrative rules review committee reviews the rules. Any rules adopted in accordance with this subsection shall also be published as a notice of intended action as provided in section 17A.4.

DIVISION III
HUMAN SERVICES

Sec. 7. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, from moneys received under

the federal temporary assistance for needy families block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193 and successor legislation, which are federally appropriated for the federal fiscal years beginning October 1, 2002, and ending September 30, 2003, and beginning October 1, 2003, and ending September 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

If the federal government appropriation received for Iowa's portion of the federal temporary assistance for needy families block grant amounts for the federal fiscal years beginning October 1, 2002, and ending September 30, 2003, and beginning October 1, 2003, and ending September 30, 2004, are less than \$131,524,959, it is the intent of the general assembly to act expeditiously during the 2004 legislative session to adjust appropriations or take other actions to address the reduced amount. Moneys appropriated in this section shall be used in accordance with the federal law making the funds available, applicable Iowa law, appropriations made from the general fund of the state in this Act for the purpose designated, and administrative rules adopted to implement the federal and Iowa law:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

..... \$ 51,492,790

2. To be credited to the family investment program account and used for the job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with chapter 239B:

..... \$ 13,412,794

3. For field operations:

..... \$ 14,152,174

4. For general administration:

..... \$ 3,238,614

5. For local administrative costs:

..... \$ 2,122,982

6. For state child care assistance:

..... \$ 21,145,765

a. Of the funds appropriated in this subsection, \$200,000 shall be used for provision of educational opportunities to registered child care home providers in order to improve services and programs offered by this category of providers and to increase the number of providers. The department may contract with institutions of higher education or child care resource and referral centers to provide the educational opportunities. Allowable administrative costs under the contracts shall not exceed 5 percent. The application for a grant shall not exceed two pages in length.

b. Of the funds appropriated in this subsection, the maximum amount allowed under Pub. L. No. 104-193 and successor legislation shall be transferred to the child care and development block grant appropriation. Funds appropriated in this subsection that remain following the transfer shall be used to provide direct spending for the child care needs of working parents in families eligible for the family investment program.

7. For the parental involvement program established in section 217A.1, if enacted by this Act:

..... \$ 35,000

8. For mental health and developmental disabilities community services:

..... \$ 4,349,266

9. For child and family services:

..... \$ 25,256,571

10. For child abuse prevention grants:

..... \$ 250,000

11. For pregnancy prevention grants on the condition that family planning services are funded:

..... \$ 2,514,413

a. Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2003, if the programs are comprehensive in scope and have demonstrated positive outcomes. Grants shall be awarded to pregnancy prevention programs which are developed after July 1, 2003, if the programs are comprehensive in scope and are based on existing models that have demonstrated positive outcomes. Grants shall comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, including the requirement that grant programs must emphasize sexual abstinence. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females age 13 or older but younger than age 18 within the geographic area to be served by the grant.

b. In addition to the full-time equivalent positions funded in this Act, the department may use a portion of the funds appropriated in this subsection to employ an employee in up to 1.00 FTE for the administration of programs specified in this subsection.

12. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:

..... \$ 1,037,186

13. For volunteers:

..... \$ 42,663

14. For the healthy opportunities for parents to experience success (HOPES) program administered by the Iowa department of public health to target child abuse prevention:

..... \$ 200,000

15. To be credited to the Iowa marriage initiative grant fund created in section 234.45:

..... \$ 85,000

**a. Moneys credited to the Iowa marriage initiative grant fund under this subsection are appropriated to the department for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to be used in accordance with this section.*

b. The department shall establish an Iowa fatherhood and family initiative grant program utilizing funds credited to the Iowa marriage initiative grant fund created in section 234.45 to fund services to support fatherhood and to encourage the formation and maintenance of two-parent families that are secure and nurturing. The department of human services shall adopt rules pursuant to chapter 17A to administer the grant fund and to establish procedures for awarding of grants.

c. The program shall require that a grantee be a nonprofit organization incorporated in this state with demonstrated successful experience in facilitating fatherhood promotion activities, marriage and family promotion activities, in using media resources to promote fatherhood and marriage and family formation, in making presentations to service or faith-based organizations, and in raising private funding for activities that support fatherhood, marriage, and families.

d. Preference in awarding grants may be given to those nonprofit organizations working with faith-based groups and those groups targeting young fathers.

e. The program activities funded by a grant shall include but are not limited to all of the following:

(1) Working with individuals who have a demonstrated ability in working with at-risk fathers or working with those who may solemnize marriages pursuant to section 598.10 to utilize premarital diagnostic tools, to implement marriage agreements developed by the individuals who may solemnize marriages pursuant to section 595.10 that provide for an appropriate engagement period and premarital and post marital counseling, and to use volunteer mentors in program activities.

(2) Provision of a series of meetings sharing best practices that encourage young fathers to fulfill their responsibilities to the expectant mother of the child during the pregnancy, and to the mother of the child following the birth of the child, that promote happy and healthy marriages, and that offer counseling to determine the father's level of commitment to the child and the child's mother.

* Item veto; see message at end of the Act

f. The program activities funded by a grant shall be privately funded at no less than fifty percent of the grant amount.

g. Grants shall be awarded in a manner that results in provision of services throughout the state in an equal number of urban and rural geographic areas.

h. The department shall implement the grant program so that the initial request for proposals is issued on or before October 1, 2003, and so that any grants are awarded on or before January 1, 2004.

i. A grantee shall submit a quarterly financial report to the department and to the legislative fiscal bureau and shall be subject to an annual independent evaluation to assess accomplishment of the purposes of the program.

j. The department shall provide a copy of the request for proposals and shall submit a report concerning the proposals received and grants awarded to those persons designated by this division of this Act to receive reports.

k. The department may adopt emergency rules to implement the provisions of this subsection.*

16. To be credited to the state child care assistance appropriation made in this section to be used for funding of community-based early childhood programs targeted to children from birth through five years of age, developed by community empowerment areas as provided in this subsection:

..... \$ 7,350,000

a. The department may transfer federal temporary assistance for needy families block grant funding appropriated and allocated in this subsection to the child care and development block grant appropriation in accordance with federal law as necessary to comply with the provisions of this subsection. The funding shall then be provided to community empowerment areas for the fiscal year beginning July 1, 2003, in accordance with all of the following:

(1) The area must be approved as a designated community empowerment area by the Iowa empowerment board.

(2) The maximum funding amount a community empowerment area is eligible to receive shall be determined by applying the area's percentage of the state's average monthly family investment program population in the preceding fiscal year to the total amount appropriated for fiscal year 2003-2004 from the TANF block grant to fund community-based programs targeted to children from birth through five years of age developed by community empowerment areas.

(3) A community empowerment area receiving funding shall comply with any federal reporting requirements associated with the use of that funding and other results and reporting requirements established by the Iowa empowerment board. The department shall provide technical assistance in identifying and meeting the federal requirements.

(4) The availability of funding provided under this subsection is subject to changes in federal requirements and amendments to Iowa law.

b. The moneys distributed in accordance with this subsection shall be used by communities for the purposes of enhancing quality child care capacity in support of parent capability to obtain or retain employment. The moneys shall be used with a primary emphasis on low-income families and children from birth to five years of age. Moneys shall be provided in a flexible manner to communities, and shall be used to implement strategies identified by the communities to achieve such purposes. In addition to the full-time equivalent positions funded in this division of this Act, 1.00 FTE position is authorized and the department may use funding appropriated in this subsection for provision of technical assistance and other support to communities developing and implementing strategies with moneys distributed in accordance with this subsection.

c. Moneys that are subject to this subsection which are not distributed to a community empowerment area or otherwise remain unobligated or unexpended at the end of the fiscal year shall revert to the fund created in section 8.41 to be available for appropriation by the general assembly in a subsequent fiscal year.

Of the amounts appropriated in this section, \$11,612,112 for the fiscal year beginning July

* Item veto; see message at end of the Act

1, 2003, shall be transferred to the appropriation of the federal social services block grant for that fiscal year. If the federal government revises requirements to reduce the amount that may be transferred to the federal social services block grant, it is the intent of the general assembly to act expeditiously during the 2004 legislative session to adjust appropriations or the transfer amount or take other actions to address the reduced amount.

Eligible funding available under the federal temporary assistance for needy families block grant that is not appropriated or not otherwise expended shall be considered reserved for economic downturns and welfare reform purposes and is subject to further state appropriation to support families in their movement toward self-sufficiency.

Federal funding received that is designated for activities supporting marriage or two-parent families is appropriated to the Iowa marriage initiative grant fund created in section 234.45.

Sec. 8. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be used in accordance with the following requirements:

- a. The department of human services shall provide assistance in accordance with chapter 239B.
- b. The department shall continue the special needs program under the family investment program.
- c. The department shall continue to comply with federal welfare reform data requirements pursuant to the appropriations made for that purpose.
- d. The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal food stamp benefit requirements. The target date for state-wide implementation of the program is October 1, 2003.

2. The department may use a portion of the moneys credited to the family investment program account under this section, as necessary for salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions which are in addition to any other full-time equivalent positions authorized by this Act:

..... FTEs 8.00

3. The department may transfer funds in accordance with section 8.39, either federal or state, to or from the child care appropriations made for the fiscal year beginning July 1, 2003, if the department deems this would be a more effective method of paying for JOBS program child care, to maximize federal funding, or to meet federal maintenance of effort requirements.

4. Moneys appropriated in this Act and credited to the family investment program account for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are allocated as follows:

a. For the family development and self-sufficiency grant program as provided under section 217.12:

..... \$ 5,133,042

(1) Of the funds allocated for the family development and self-sufficiency grant program in this lettered paragraph, not more than 5 percent of the funds shall be used for the administration of the grant program.

(2) Based upon the annual evaluation report concerning each grantee funded by previously appropriated funds and through the solicitation of additional grant proposals, the family development and self-sufficiency council may use the allocated funds to renew or expand existing grants or award new grants. In utilizing the funding allocated in this lettered paragraph, the council shall give consideration, in addition to other criteria established by the council, to a grantee's intended use of local funds with a grant and to whether approval of a grant proposal would expand the availability of the program's services.

(3) The department may continue to implement the family development and self-sufficiency grant program statewide during FY 2003-2004.

b. For the diversion subaccount of the family investment program account:

..... \$ 2,814,000

(1) Moneys allocated to the diversion subaccount shall be used to implement FIP diversion statewide while continuing the local flexibility in program design. A family that meets income eligibility requirements for the family investment program may receive a one-time payment to remedy an immediate need in order to permit the family to maintain self-sufficiency without providing ongoing cash assistance. A FIP participant family may receive diversion assistance to overcome barriers to obtaining employment and to assist in stabilizing employment in order to increase the likelihood of the family leaving FIP more quickly. The department shall assess and screen individuals who would most likely benefit from the assistance. In addition to the full-time equivalent positions authorized in this Act, 1.00 FTE is authorized for purposes of diversion. The department may adopt additional eligibility criteria as necessary for compliance with federal law and for screening those families who would be most likely to become eligible for FIP if diversion incentives would not be provided.

(2) A portion of the moneys allocated for the subaccount may be used for field operations salaries, data management system development, and implementation costs and support deemed necessary by the director of human services in order to administer the FIP diversion program.

(3) Of the funds allocated in this lettered paragraph, not more than \$250,000 shall be used to develop or continue community-level parental obligation pilot projects. The requirements established under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (3), shall remain applicable to the parental obligation pilot projects for fiscal year 2003-2004.

c. For the food stamp employment and training program:

..... \$ 63,000

5. Of the child support collections assigned under the family investment program, an amount equal to the federal share of support collections shall be credited to the child support recovery appropriation. Of the remainder of the assigned child support collections received by the child support recovery unit, a portion shall be credited to the family investment program account and a portion may be used to increase recoveries.

6. For the fiscal year beginning July 1, 2003, the department shall continue the process for the state to receive refunds of utility and rent deposits, including any accrued interest, for emergency assistance program recipients which were paid by persons other than the state. The department shall also receive refunds, including any accrued interest, of assistance paid with funding available under this program. The refunds received by the department shall be credited to the family investment program (FIP) account to offset FIP cash grants expended in the same year. Notwithstanding section 8.33, moneys received by the department under this subsection which remain after the emergency assistance program is terminated and state or federal moneys in the emergency assistance account which remain unobligated or unexpended at the close of the fiscal year beginning July 1, 2003, shall not revert to any other fund but shall be credited to the family investment program account.

7. The department may adopt emergency administrative rules for the family investment, food stamp, and medical assistance programs, if necessary, to comply with federal requirements.

8. The department may continue the initiative to streamline and simplify the employer verification process for applicants, participants, and employers in the administration of the department's programs. The department may contract with companies collecting data from employers when the information is needed in the administration of these programs. The department may limit the availability of the initiative on the basis of geographic area or number of individuals.

Sec. 9. FAMILY INVESTMENT PROGRAM GENERAL FUND. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To be credited to the family investment program account and used for family investment program assistance under chapter 239B:

..... \$ 36,187,879

1. The department of workforce development, in consultation with the department of human services, shall continue to utilize recruitment and employment practices to include former and current family investment program recipients.

2. The department of human services shall continue to work with the department of workforce development and local community collaborative efforts to provide support services for family investment program participants. The support services shall be directed to those participant families who would benefit from the support services and are likely to have success in achieving economic independence.

3. Of the funds appropriated in this section, \$9,274,143 is allocated for the JOBS program.

4. The department shall continue to work with religious organizations and other charitable institutions to increase the availability of host homes, referred to as second chance homes or other living arrangements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 103. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance under the family investment program who, under chapter 239B, may receive assistance while living in an alternative setting other than with their parent or legal guardian.

Sec. 10. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 5,482,793

..... FTEs 405.00

1. The director of human services, within the limitations of the moneys appropriated in this section, or moneys transferred from the family investment program account for this purpose, shall establish new positions and add employees to the child support recovery unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level.

2. Nonpublic assistance application fees and other user fees received by the child support recovery unit are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add positions within the limitations of the amount appropriated for salaries and support for the positions.

3. The director of human services, in consultation with the department of management and the legislative fiscal committee, is authorized to receive and deposit state child support incentive earnings in the manner specified under applicable federal requirements.

4. a. The director of human services may establish new positions and add state employees to the child support recovery unit or contract for delivery of services if the director determines the employees are necessary to replace county-funded positions eliminated due to termination, reduction, or nonrenewal of a chapter 28E contract. However, the director must also determine that the resulting increase in the state share of child support recovery incentives exceeds the cost of the positions or contract, the positions or contract are necessary to ensure continued federal funding of the program, or the new positions or contract can reasonably be expected to recover at least twice the amount of money necessary to pay the salaries and support for the new positions or the contract will generate at least 200 percent of the cost of the contract.

b. Employees in full-time positions that transition from county government to state government employment under this subsection are exempt from testing, selection, and appointment provisions of chapter 19A and from the provisions of collective bargaining agreements relating to the filling of vacant positions.

5. Surcharges paid by obligors and received by the unit as a result of the referral of support delinquency by the child support recovery unit to any private collection agency are appropriated to the department and shall be used to pay the costs of any contracts with the collection agencies.

6. The department shall expend up to \$31,000, including federal financial participation, for the fiscal year beginning July 1, 2003, for a child support public awareness campaign. The department and the office of the attorney general shall cooperate in continuation of the campaign. The public awareness campaign shall emphasize, through a variety of media activities, the importance of maximum involvement of both parents in the lives of their children as well as the importance of payment of child support obligations.

7. Federal access and visitation grant moneys shall be issued directly to private not-for-profit agencies that provide services designed to increase compliance with the child access provisions of court orders, including but not limited to neutral visitation site and mediation services.

Sec. 11. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical assistance reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2003, except as otherwise expressly authorized by law, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

..... \$ 357,486,073

1. Medically necessary abortions are those performed under any of the following conditions:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

c. The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

2. Notwithstanding section 8.39, the department may transfer funds appropriated in this section to a separate account established in the department's case management unit for expenditures required to provide case management services for mental health, mental retardation, and developmental disabilities services under medical assistance which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were appropriated in this section.

3. a. The county of legal settlement shall be billed for 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization in accordance with sections 249A.26 and 249A.27, and 100 percent of the nonfederal share of the cost of care for adults which is reimbursed under a federally approved home and community-based waiver that would otherwise be approved for provision in an intermediate care facility for persons with mental retardation, provided under the medical assistance program. The state shall have responsibility for the remaining 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization.

For persons without a county of legal settlement, the state shall have responsibility for 100 percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based waiver services. The case management services specified in this subsection shall be billed to a county only if the services are provided outside of a managed care contract.

b. The state shall pay the entire nonfederal share of the costs for case management services provided to persons 17 years of age and younger who are served in a medical assistance home and community-based waiver program for persons with mental retardation.

c. Medical assistance funding for case management services for eligible persons 17 years of age and younger shall also be provided to persons residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in their service plan and the decategorization project county is willing to provide the nonfederal share of costs.

d. When paying the necessary and legal expenses of intermediate care facilities for persons with mental retardation (ICFMR), the cost payment requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established for ICFMRs by the department and the state or a county of legal settlement is not obligated for any amount in excess of the rates.

e. Unless a county has paid or is paying for the nonfederal share of the cost of a person's home and community-based waiver services or ICFMR placement under the county's mental health, mental retardation, and developmental disabilities services fund, or unless a county of legal settlement would become liable for the costs of services at the ICFMR level of care for a person due to the person reaching the age of majority, the state shall pay the nonfederal share of the costs of an eligible person's services under the home and community-based waiver for persons with brain injury.

4. The department shall utilize not more than \$60,000 of the funds appropriated in this section to continue the AIDS/HIV health insurance premium payment program as established in 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 409, subsection 6. Of the funds allocated in this subsection, not more than \$5,000 may be expended for administrative purposes.

5. Of the funds appropriated to the Iowa department of public health for substance abuse grants, \$950,000 for the fiscal year beginning July 1, 2003, shall be transferred to the department of human services for an integrated substance abuse managed care system.

6. In administering the medical assistance home and community-based waivers, the total number of openings at any one time shall be limited to the number approved for a waiver by the secretary of the United States department of health and human services. The openings shall be available on a first-come, first-served basis.

7. The department of human services, in consultation with the Iowa department of public health and the department of education, shall continue the program to utilize the early and periodic screening, diagnosis, and treatment (EPSDT) funding under medical assistance, to the extent possible, to implement the screening component of the EPSDT program through the school system. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this provision.

8. The department shall continue working with county representatives in aggressively implementing the rehabilitation option for services to persons with chronic mental illness under the medical assistance program, and county funding shall be used to provide the match for the federal funding, except for individuals with state case status, for whom state funding shall provide the match.

9. If the federal centers for Medicare and Medicaid services approves a waiver request from the department, the department shall provide a period of 24 months of guaranteed eligibility for medical assistance family planning services, regardless of the change in circumstances of a woman who was a medical assistance recipient when a pregnancy ended.

10. The department shall aggressively pursue options for providing medical assistance or

* Item veto; see message at end of the Act

other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic, screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age, who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to policy process.

11. The drug utilization review commission shall submit copies of the board's annual review, including facts and findings, of the drugs on the department's prior authorization list to the department and to the members of the joint appropriations subcommittee on health and human services.

12. The department shall expend the anticipated savings for operation of the state maximum allowable cost program for pharmaceuticals as additional funding for the medical assistance program.

13. The department shall implement the elimination of hospital crossover claims for dually eligible federal Medicare and medical assistance program beneficiaries for hospitals licensed under chapter 135B, only if approval of a medical assistance state plan amendment is received from the centers for Medicare and Medicaid services of the United States department of health and human services that protects hospitals from financial losses specifically due to the hospital crossover claims process under the medical assistance program or the Medicare cost reports.

Sec. 12. HEALTH INSURANCE PREMIUM PAYMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration of the health insurance premium payment program, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	573,968
.....	FTEs	21.00

Sec. 13. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

.....	\$	8,990,035
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1. In any managed care contract for mental health or substance abuse services entered into or extended by the department on or after July 1, 2003, the request for proposals shall provide for coverage of dual diagnosis mental health and substance abuse treatment provided at the state mental health institute at Mount Pleasant. To the extent possible, the department shall also amend any such contract existing on July 1, 2003, to provide for such coverage.

2. The department may either continue or procure the contract existing on June 30, 2003, with the department's fiscal agent.²

Sec. 14. STATE SUPPLEMENTARY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance and the medical assistance home and community-based services waiver rent subsidy program:

.....	\$	19,198,735
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1. The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §6 herein

income and federal social security benefits are increased due to a recognized increase in the cost of living. The department may adopt emergency rules to implement this subsection.

2. If during the fiscal year beginning July 1, 2003, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this Act to ensure that federal requirements are met. In addition, the department may make other programmatic and rate adjustments necessary to remain within the amount appropriated in this section while ensuring compliance with federal requirements. The department may adopt emergency rules to implement the provisions of this subsection.

Sec. 15. CHILDREN’S HEALTH INSURANCE PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance of the healthy and well kids in Iowa (hawk-i) program pursuant to chapter 514I for receipt of federal financial participation under Title XXI of the federal Social Security Act, which creates the state children’s health insurance program:

..... \$ 11,118,275

1. The department may transfer funds appropriated in this section to be used for the purpose of expanding health care coverage to children under the medical assistance program. The department shall provide periodic updates to the general assembly of expenditures of funds appropriated in this section.

2. Moneys in the hawk-i trust fund are appropriated to the department of human services and shall be used to offset any program costs for the fiscal year beginning July 1, 2003, and ending June 30, 2004.

Sec. 16. CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

..... \$ 5,050,752

1. a. Of the funds appropriated in this section, \$4,525,228 shall be used for state child care assistance in accordance with section 237A.13.

b. During the 2003-2004 fiscal year, the moneys deposited in the child care credit fund created in section 237A.28 are appropriated to the department to be used for state child care assistance in accordance with section 237A.13, in addition to the moneys allocated for that purpose in paragraph “a”.

2. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level consistent with the waiting list requirements of section 237A.13. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated in this section.

3. Of the funds appropriated in this section, \$525,524 is allocated for the statewide program for child care resource and referral services under section 237A.26.

4. The department may use any of the funds appropriated in this section as a match to obtain federal funds for use in expanding child care assistance and related programs. For the purpose of expenditures of state and federal child care funding, funds shall be considered obligated at the time expenditures are projected or are allocated to the department’s service areas. Projections shall be based on current and projected caseload growth, current and projected provider rates, staffing requirements for eligibility determination and management of program

requirements including data systems management, staffing requirements for administration of the program, contractual and grant obligations and any transfers to other state agencies, and obligations for decategorization or innovation projects.

5. If the federal government appropriates additional funding under the federal child care and development block grant than was anticipated would be received for the state fiscal year beginning July 1, 2003, in addition to the notification requirements for expenditure requirements for additional federal funds under 2002 Iowa Acts, chapter 1170, the department shall consult with the chairpersons and ranking members of the joint appropriations subcommittee on health and human services at least thirty days in advance of committing to expenditure of the additional funding.

6. A portion of the state match for the federal child care and development block grant shall be provided through the state general fund appropriation for child development grants and other programs for at-risk children in section 279.51.

7. a. The department shall develop consumer information material to assist parents in selecting a child care provider. In developing the material, the department shall consult with department of human services staff, department of education staff, the state child care advisory council, the Iowa empowerment board, and child care resource and referral services. In addition, the department may consult with other entities at the local, state, and national level.

**b. The consumer information material developed by the department for parents and other consumers of child care services shall include but is not limited to all of the following:*

(1) A pamphlet or other printed material containing consumer-oriented information on locating a quality child care provider.

(2) Information explaining important considerations a consumer should take into account in selecting a licensed or registered child care provider.

(3) Information explaining how a consumer can identify quality services, including what questions to ask of providers and what a consumer might expect or demand to know before selecting a provider.

(4) An explanation of the applicable laws and regulations written in layperson's terms.

(5) An explanation of what it means for a provider to be licensed, registered, or unregistered.

(6) An explanation of the information considered in registry and record background checks.

(7) Other information deemed relevant to consumers.

c. The department shall implement and publicize an internet page or site that provides all of the following:

(1) The written information developed pursuant to paragraphs "a" and "b".

(2) Regular informational updates, including when a child care provider was last subject to a state quality review or inspection and, based upon a final score or review, the results indicating whether the provider passed or failed the review or inspection.

(3) Capability for a consumer to be able to access information concerning child care providers, such as informational updates, identification of provider location, name, and capacity, and identification of providers participating in the state child care assistance program and those participating in the child care food program, by sorting the information or employing other means that provide the information in a manner that is useful to the consumer. Information regarding provider location shall identify providers located in the vicinity of an address selected by a consumer and provide contact information without listing the specific addresses of the providers.

(4) Other information deemed appropriate by the department.*

8. If the department receives additional funding from the federal government designated for purposes of improving child care quality, the funding shall be used for additional child care consultant positions within the department's field operations.

Sec. 17. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

* Item veto; see message at end of the Act

1. For operation of the Iowa juvenile home at Toledo and for salaries, support, maintenance, and for not more than the following full-time equivalent positions:

.....	\$	6,160,878
.....	FTEs	130.54

2. For operation of the state training school at Eldora and for salaries, support, maintenance, and for not more than the following full-time equivalent positions:

.....	\$	10,285,696
.....	FTEs	218.53

3. During the fiscal year beginning July 1, 2003, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for subsequent changes in capacity at the institutions.

4. A portion of the moneys appropriated in this section shall be used by the state training school and by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 2003.

5. Within the amounts appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

Sec. 18. CHILD AND FAMILY SERVICES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

.....	\$	107,091,253
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2. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under medical assistance or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

3. a. Of the funds appropriated in this section, up to \$30,154,516 is allocated as the state-wide expenditure target under section 232.143 for group foster care maintenance and services.

b. If at any time after September 30, 2003, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under section 232.143 by more than 5 percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

c. (1) Of the funds appropriated in this section, not more than \$6,355,170 is allocated as the state match funding for psychiatric medical institutions for children.

(2) The department may transfer all or a portion of the amount allocated in this lettered paragraph for psychiatric medical institutions for children (PMICs) to the appropriation in this Act for medical assistance.

d. Of the funds allocated in this subsection, \$1,419,988 is allocated as the state match funding for 50 highly structured juvenile program beds. If the number of beds provided for in this lettered paragraph is not utilized, the remaining funds allocated may be used for group foster care.

e. For the fiscal year beginning July 1, 2003, the requirements of section 232.143 applicable to the juvenile court and to representatives of the juvenile court shall be applicable instead to juvenile court services and to representatives of juvenile court services. The representatives appointed by the department of human services and by juvenile court services to establish the

plan to contain expenditures for children placed in group foster care ordered by the court within the budget target allocated to the service area shall establish the plan in a manner so as to ensure the moneys allocated to the service area under section 232.143 shall last the entire fiscal year. Funds for a child placed in group foster care shall be considered encumbered for the duration of the child's projected or actual length of stay, whichever is applicable.

4. Of the funds appropriated in this section, \$3,000,000 is allocated specifically for expenditure through the decategorization of child welfare funding pools and governance boards established pursuant to section 232.188. Notwithstanding section 8.33, moneys allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

5. Of the funds appropriated in this section, up to \$915,892 is allocated for additional funding of the family preservation program.

6. The department shall continue the goal that not more than 15 percent of the children placed in foster care funded under the federal Social Security Act, Title IV-E, may be placed in foster care for a period of more than 24 months.

7. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services funding in additional counties or clusters of counties.

8. A portion of the funding appropriated in this section may be used for emergency family assistance to provide other resources required for a family participating in a family preservation or reunification project to stay together or to be reunified.

9. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 2003, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to \$6,922,509.

10. The department shall continue to make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

11. Federal funds received by the state during the fiscal year beginning July 1, 2003, as the result of the expenditure of state funds appropriated during a previous state fiscal year for a service or activity funded under this section, are appropriated to the department to be used as additional funding for services and purposes provided for under this section. Notwithstanding section 8.33, moneys received in accordance with this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for the purposes designated until the close of the succeeding fiscal year.

12. The department and juvenile court services shall continue to develop criteria for the department service area administrator and chief juvenile court officer to grant exceptions to extend eligibility, within the funds allocated, for intensive tracking and supervision and for supervised community treatment to delinquent youth beyond age 18 who are subject to release from the state training school, a highly structured juvenile program, or group foster care.

13. Of the moneys appropriated in this section, not more than \$442,100 is allocated to provide clinical assessment services as necessary to continue funding of children's rehabilitation services under medical assistance in accordance with federal law and requirements. The funding allocated is the amount projected to be necessary for providing the clinical assessment services.

14. Of the funding appropriated in this section, \$3,696,285 shall be used for protective child care assistance.

15. Of the moneys appropriated in this section, up to \$2,859,851 is allocated for the payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4.

a. Notwithstanding section 232.141 or any other provision of law to the contrary, the amount allocated in this subsection shall be distributed to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 2003.

b. Notwithstanding chapter 232 or any other provision of law to the contrary, a district or

* Item veto; see message at end of the Act

juvenile court shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district court distribution amount to pay for the service. The chief juvenile court officer shall encourage use of the funds allocated in this subsection such that there are sufficient funds to pay for all court-related services during the entire year. The chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the distribution amounts and shall cooperatively request the state court administrator to transfer funds between the districts' distribution amounts as prudent.

c. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

d. Of the funding allocated in this subsection, not more than \$100,000 may be used by the judicial branch for administration of the requirements under this subsection and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.

16. a. Of the funding appropriated in this section, \$3,062,193 is allocated to provide school-based supervision of children adjudicated under chapter 232, including not more than \$1,431,597 from the allocation in this section for court-ordered services. Not more than \$15,000 of the funding allocated in this subsection may be used for the purpose of training.

b. A portion of the cost of each school-based liaison officer shall be paid by the school district or other funding source as approved by the chief juvenile court officer.

17. The department shall maximize the capacity to draw federal funding under Title IV-E of the federal Social Security Act.

18. Any unanticipated federal funding that is received during the fiscal year due to improvements in the hours counted by the judicial branch under the claiming process for federal Title IV-E funding are appropriated to the department to be used for additional or expanded services and support for court-ordered services pursuant to section 232.141. Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

19. Notwithstanding section 234.39, subsection 5, and 2000 Iowa Acts, chapter 1228, section 43, the department may operate a subsidized guardianship program if the United States department of health and human services approves a waiver under Title IV-E of the federal Social Security Act or the federal Social Security Act is amended to allow Title IV-E funding to be used for subsidized guardianship, and the subsidized guardianship program can be operated without loss of Title IV-E funds.

20. It is the intent of the general assembly that the department continue its practice of providing strong support for Iowa's nationally recognized initiative of decategorization of child welfare funding.

21. The department shall develop a plan for privatizing the administration of the foster care and adoption programs. The plan shall be submitted to the governor and the general assembly on or before December 15, 2003.

22. Notwithstanding section 237.5A, a foster parent who is unable to complete six hours of foster parent training prior to annual licensure renewal because the foster parent is engaged in active duty in the military service shall be considered to be in compliance with the training requirement for annual licensure renewal.

Sec. 19. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2003, and ending June 30, 2004, are appropriated to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, for distribution as follows:

1. An amount equal to ten percent of the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 2002. Moneys appropriated for distribution in accordance with this subsection

* Item veto; see message at end of the Act

shall be allocated among eligible detention homes, prorated on the basis of an eligible detention home's proportion of the costs of all eligible detention homes in the fiscal year beginning July 1, 2002. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2003, shall be limited to the amount appropriated for the purposes of this subsection.

2. For renewal of a grant to a county with a population between 189,000 and 196,000 for implementation of the county's runaway treatment plan under section 232.195:

..... \$ 80,000

3. For continuation and expansion of the community partnership for child protection sites: \$ 159,000

4. For grants to counties implementing a runaway treatment plan under section 232.195.

5. The remainder for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1.

Sec. 20. FAMILY SUPPORT SUBSIDY PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program: \$ 1,936,434

1. The department may use up to \$333,312 of the moneys appropriated in this section to continue the children-at-home program in current counties, of which not more than \$20,000 shall be used for administrative costs.

2. Notwithstanding section 225C.38, subsection 1, the monthly family support payment amount for the fiscal year beginning July 1, 2003, shall remain the same as the payment amount in effect on June 30, 2003.

Sec. 21. CONNER DECREE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For building community capacity through the coordination and provision of training opportunities in accordance with the consent decree of Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa, July 14, 1994):

..... \$ 42,623

Sec. 22. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state mental health institute at Cherokee for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 12,401,246

..... FTEs 227.65

2. For the state mental health institute at Clarinda for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 7,065,672

..... FTEs 118.15

3. For the state mental health institute at Independence for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 16,912,302

..... FTEs 317.80

The state mental health institute at Independence shall continue the 30 psychiatric medical

institution for children (PMIC) beds authorized in section 135H.6, in a manner which results in no net state expenditure amount in excess of the amount appropriated in this subsection. Counties are not responsible for the costs of PMIC services described in this subsection. Subject to the approval of the department, with the exception of revenues required under section 249A.11 to be credited to the appropriation in this Act for medical assistance, revenues attributable to the PMIC beds described in this subsection for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be deposited in the institute's account, including but not limited to any of the following revenues:

- a. The federal share of medical assistance revenue received under chapter 249A.
- b. Moneys received through client participation.
- c. Any other revenues directly attributable to the PMIC beds.

4. For the state mental health institute at Mount Pleasant for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	5,830,810
.....	FTEs	100.44

a. Funding is provided in this subsection for the state mental health institute at Mount Pleasant to continue the dual diagnosis mental health and substance abuse program on a net budgeting basis in which 50 percent of the actual per diem and ancillary services costs are chargeable to the patient's county of legal settlement or as a state case, as appropriate. Subject to the approval of the department, revenues attributable to the dual diagnosis program for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be deposited in the institute's account, including but not limited to all of the following revenues:

- (1) Moneys received by the state from billings to counties under section 230.20.
- (2) Moneys received from billings to the Medicare program.
- (3) Moneys received from a managed care contractor providing services under contract with the department or any private third-party payor.
- (4) Moneys received through client participation.
- (5) Any other revenues directly attributable to the dual diagnosis program.

b. The following additional provisions are applicable in regard to the dual diagnosis program:

- (1) A county may split the charges between the county's mental health, mental retardation, and developmental disabilities services fund and the county's budget for substance abuse expenditures.
- (2) If an individual is committed to the custody of the department of corrections at the time the individual is referred for dual diagnosis treatment, the department of corrections shall be charged for the costs of treatment.
- (3) Prior to an individual's admission for dual diagnosis treatment, the individual shall have been screened through a county's single entry point process to determine the appropriateness of the treatment.
- (4) A county shall not be chargeable for the costs of treatment for an individual enrolled in and authorized by or decertified by a managed behavioral care plan under the medical assistance program.
- (5) Notwithstanding section 8.33, state mental health institute revenues related to the dual diagnosis program that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available up to the amount which would allow the state mental health institute to meet credit obligations owed to counties as a result of year-end per diem adjustments for the dual diagnosis program.

5. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutes provided for in the appropriation.

6. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state or a county.

Sec. 23. STATE RESOURCE CENTERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state resource center at Glenwood for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 4,399,479

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 2,660,237

3. a. The department shall continue operating the state resource centers at Glenwood and Woodward with a net general fund appropriation. The amounts allocated in this section are the net amounts of state moneys projected to be needed for the state resource centers. The purposes of operating with a net general fund appropriation are to encourage the state resource centers to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts between the state resource centers and counties and other funders of services available from the state resource centers. The state resource centers shall not be operated under the net appropriation in a manner which results in a cost increase to the state or cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state resource centers. Moneys appropriated in this section may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management the state resource centers may temporarily draw more than the amounts appropriated, provided the amounts appropriated are not exceeded at the close of the fiscal year.

b. Subject to the approval of the department, except for revenues under section 249A.11, revenues attributable to the state resource centers for the fiscal year beginning July 1, 2003, shall be deposited into each state resource center's account, including but not limited to all of the following:

- (1) Moneys received by the state from billings to counties under section 222.73.
- (2) The federal share of medical assistance revenue received under chapter 249A.
- (3) Federal Medicare program payments.
- (4) Moneys received from client financial participation.
- (5) Other revenues generated from current, new, or expanded services which the state resource center is authorized to provide.

c. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the state resource centers shall be considered to be funded entirely with state moneys.

d. Notwithstanding section 8.33, up to \$500,000 of a state resource center's revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

4. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

5. The department may continue to bill for state resource center services utilizing a scope of services approach used for private providers of ICFMR services, in a manner which does not shift costs between the medical assistance program, counties, or other sources of funding for the state resource centers.

6. The state resource centers may expand the time limited assessment and respite services during the fiscal year.

7. If the department's administration and the department of management concur with a finding by a state resource center's superintendent that projected revenues can reasonably be expected to pay the salary and support costs for a new employee position, or that such costs for adding a particular number of new positions for the fiscal year would be less than the overtime costs if new positions would not be added, the superintendent may add the new position or positions. If the vacant positions available to a resource center do not include the position classification desired to be filled, the state resource center's superintendent may reclassify any

vacant position as necessary to fill the desired position. The superintendents of the state resource centers may, by mutual agreement, pool vacant positions and position classifications during the course of the fiscal year in order to assist one another in filling necessary positions.

8. If existing capacity limitations are reached in operating units, a waiting list is in effect for a service or a special need for which a payment source or other funding is available for the service or to address the special need, and facilities for the service or to address the special need can be provided within the available payment source or other funding, the superintendent of a state resource center may authorize opening not more than two units or other facilities and to begin implementing the service or addressing the special need during fiscal year 2003-2004.

9. The state resource centers shall develop a proposal providing options for addressing the service needs of persons with developmental disabilities who behave in a manner that presents a danger to themselves or to others. The proposal shall be submitted to the governor and general assembly on or before December 15, 2003.

Sec. 24. MI/MR/DD STATE CASES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:
..... \$ 11,014,619

The general assembly encourages the department to continue discussions with the Iowa state association of counties and administrators of county central point of coordination offices regarding proposals for moving state cases to county budgets.

Sec. 25. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES — COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental health and developmental disabilities community services fund created in section 225C.7 for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental health and developmental disabilities community services in accordance with this Act:
..... \$ 17,757,890

1. Of the funds appropriated in this section, \$17,727,890 shall be allocated to counties for funding of community-based mental health and developmental disabilities services. The monies shall be allocated to a county as follows:

a. Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

b. Fifty percent based upon the county's proportion of the state's general population.

2. a. A county shall utilize the funding the county receives pursuant to subsection 1 for services provided to persons with a disability, as defined in section 225C.2. However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

b. A county shall use at least 50 percent of the funding the county receives under subsection 1 for contemporary services provided to persons with a disability, as described in rules adopted by the department.

3. Of the funds appropriated in this section, \$30,000 shall be used to support the Iowa compass program providing computerized information and referral services for Iowans with disabilities and their families.

4. a. Funding appropriated for purposes of the federal social services block grant is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

b. The funds allocated in this subsection shall be expended by counties in accordance with

the county's approved county management plan. A county without an approved county management plan shall not receive allocated funds until the county's management plan is approved.

c. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase of services in the preceding fiscal year.

5. A county is eligible for funds under this section if the county qualifies for a state payment as described in section 331.439.

Sec. 26. PERSONAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... \$ 205,748

1. The funds appropriated in this section shall be used to continue the pilot project for the personal assistance services program under section 225C.46 in an urban and a rural area. Not more than 10 percent of the amount appropriated shall be used for administrative costs. The pilot project shall not be implemented in a manner which would require additional county or state costs for assistance provided to an individual served under the pilot project.

2. In accordance with 2001 Iowa Acts, chapter 191, section 25, subsection 2, new applicants shall not be accepted into the pilot project. An individual receiving services under the pilot project as of June 30, 2003, shall continue receiving services until the individual voluntarily leaves the project or until another program with similar services exists.

Sec. 27. SEXUALLY VIOLENT PREDATORS.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 2,675,179

..... FTEs 46.00³

2. Unless specifically prohibited by law, if the amount charged provides for recoupment of at least the entire amount of direct and indirect costs, the department of human services may contract with other states to provide care and treatment of persons placed by the other states at the unit for sexually violent predators at Cherokee. The moneys received under such a contract shall be considered to be repayment receipts and used for the purposes of the appropriation made in this section.

Sec. 28. FIELD OPERATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 50,657,828

..... FTEs 1,800.00

³ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §32 herein

Priority in filling full-time equivalent positions shall be given to those positions related to child protection services.

2. In operating the service area system established pursuant to 2001 Iowa Acts, Second Extraordinary Session, chapter 4, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department shall utilize the service areas and service area administrators in lieu of regions and regional administrators, notwithstanding the references to department regions or regional administrators in sections 232.2, 232.52, 232.68, 232.72, 232.102, 232.117, 232.127, 232.143, 232.188, and 234.35, or other provision in law. *The department shall submit proposed legislation under section 2.16 for consideration by the Eightieth General Assembly, 2004 Session, to correct the references in the necessary Code sections.*

Sec. 29. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:
..... \$ 10,803,626
..... FTEs 286.00

1. Of the funds appropriated in this section, \$57,000 is allocated for the prevention of disabilities policy council established in section 225B.3.

2. Up to \$500,000 of the moneys received in any settlement of overpayments made to a child development center or to any other provider that results in a settlement in excess of \$150,000 shall be considered as repayment receipts and shall only be used for the costs of filling full-time equivalent positions authorized but not funded by the appropriations made for the purposes of this section.

Sec. 30. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:
..... \$ 109,568

Sec. 31. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. For the fiscal year beginning July 1, 2003, nursing facilities shall be reimbursed at 100 percent of the modified price-based case-mix reimbursement rate. Nursing facilities reimbursed under the medical assistance program shall submit annual cost reports and additional documentation as required by rules adopted by the department.

b. For the fiscal year beginning July 1, 2003, the department shall reimburse pharmacy dispensing fees using a single rate of \$4.26 per prescription or the pharmacy's usual and customary fee, whichever is lower.

c. For the fiscal year beginning July 1, 2003, reimbursement rates for inpatient and outpatient hospital services shall remain at the rates in effect on June 30, 2003. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f". In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide reimbursement for costs of screening and treatment provided in the hospital emergency room if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program. Any rebasing of hospital inpatient or outpatient rates shall not increase total payments for inpatient and outpatient services.

* Item veto; see message at end of the Act

d. For the fiscal year beginning July 1, 2003, reimbursement rates for rural health clinics, hospices, independent laboratories, and acute mental hospitals shall be increased in accordance with increases under the federal Medicare program or as supported by their Medicare audited costs.

e. For the fiscal year beginning July 1, 2003, reimbursement rates for home health agencies shall remain at the rates in effect on June 30, 2003.

f. For the fiscal year beginning July 1, 2003, federally qualified health centers shall receive cost-based reimbursement for 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

g. Beginning July 1, 2003, the reimbursement rates for dental services shall remain at the rates in effect on June 30, 2003.

h. Beginning July 1, 2003, the reimbursement rates for community mental health centers shall remain at the rates in effect on June 30, 2003.

i. For the fiscal year beginning July 1, 2003, the maximum reimbursement rate for psychiatric medical institutions for children shall remain at the rate in effect on June 30, 2003, based on per day rates for actual costs.

j. For the fiscal year beginning July 1, 2003, unless otherwise specified in this Act, all non-institutional medical assistance provider reimbursement rates shall remain at the rates in effect on June 30, 2003, except for area education agencies, local education agencies, infant and toddler services providers, and those providers whose rates are required to be determined pursuant to section 249A.20.

k. Notwithstanding section 249A.20, the average reimbursement rates for health care providers eligible for use of the reimbursement methodology under that section shall remain at the rate in effect on June 30, 2003; however, this rate shall not exceed the maximum level authorized by the federal government.

2. For the fiscal year beginning July 1, 2003, the reimbursement rate for residential care facilities shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement.

3. For the fiscal year beginning July 1, 2003, the reimbursement rate for providers reimbursed under the in-home-related care program shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement.

4. Unless otherwise directed in this section, when the department's reimbursement methodology for any provider reimbursed in accordance with this section includes an inflation factor, this factor shall not exceed the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31, 2002.

5. Notwithstanding section 234.38, in the fiscal year beginning July 1, 2003, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be \$14.28, the rate for children ages 6 through 11 years shall be \$15.07, the rate for children ages 12 through 15 years shall be \$16.83, and the rate for children ages 16 and older shall be \$16.83.

6. For the fiscal year beginning July 1, 2003, the maximum reimbursement rates for social service providers shall remain at the rates in effect on June 30, 2003. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2003, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

b. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

7. The group foster care reimbursement rates paid for placement of children out of state

shall be calculated according to the same rate-setting principles as those used for in-state providers unless the director of human services or the director's designee determines that appropriate care cannot be provided within the state. The payment of the daily rate shall be based on the number of days in the calendar month in which service is provided.

8. For the fiscal year beginning July 1, 2003, the reimbursement rates for rehabilitative treatment and support services providers shall remain at the rates in effect on June 30, 2003.

9. For the fiscal year beginning July 1, 2003, the combined service and maintenance components of the reimbursement rate paid to a shelter care provider shall be based on the cost report submitted to the department. The maximum reimbursement rate shall be \$83.69 per day. The department shall reimburse a shelter care provider at the provider's actual and allowable unit cost, plus inflation, not to exceed the maximum reimbursement rate.

10. For the fiscal year beginning July 1, 2003, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

11. For the fiscal year beginning July 1, 2003, for child care providers, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 1998. The department shall set rates in a manner so as to provide incentives for a non-registered provider to become registered.

12. For the fiscal year beginning July 1, 2003, reimbursements for providers reimbursed by the department of human services may be modified if appropriated funding is allocated for that purpose from the senior living trust fund created in section 249H.4, or as specified in appropriations from the healthy Iowans tobacco trust created in section 12.65.

13. The department may adopt emergency rules to implement the hospital crossover claims process.

14. The department may adopt emergency rules to implement this section.

Sec. 32. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 2003, if necessary to meet federal maintenance of effort requirements or to transfer federal temporary assistance for needy families block grant funding to be used for purposes of the federal social services block grant or to meet cash flow needs resulting from delays in receiving federal funding or to implement, in accordance with this Act, targeted case management for child protection and for activities currently funded with juvenile court services, county, or community moneys and state moneys used in combination with such moneys, the department of human services may transfer within or between any of the appropriations made in this Act and appropriations in law for the federal social services block grant to the department for the following purposes, provided that the combined amount of state and federal temporary assistance for needy families block grant funding for each appropriation remains the same before and after the transfer:

1. For the family investment program.
2. For child care assistance.
3. For child and family services.
4. For field operations.
5. For general administration.
6. MH/MR/DD/BI community services (local purchase).

This section shall not be construed to prohibit existing state transfer authority for other purposes.

Sec. 33. FRAUD AND RECOUPMENT ACTIVITIES. During the fiscal year beginning July 1, 2003, notwithstanding the restrictions in section 239B.14, recovered moneys generated through fraud and recoupment activities are appropriated to the department of human services to be used for additional fraud and recoupment activities performed by the department of human services or the department of inspections and appeals, and the department of human services may add not more than five full-time equivalent positions, in addition to those funded in this Act, subject to both of the following conditions:

1. The director of human services determines that the investment can reasonably be

expected to increase recovery of assistance paid in error, due to fraudulent or nonfraudulent actions, in excess of the amount recovered in the fiscal year beginning July 1, 1997.

2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

Sec. 34. **ELECTRONIC BENEFIT TRANSFER IMPLEMENTATION NONREVERSION.** Unspent funds appropriated in 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 112, and allocated by the department of human services for the purpose of meeting federal food stamp electronic benefit transfer requirements shall not revert but shall remain available for the same purpose until the close of the succeeding fiscal year.

Sec. 35. **VEHICLE DEPRECIATION. The following facilities and institutions administered by the department of human services are exempt from the depreciation requirement in section 18.120, subsection 1, and the appropriations for the facilities, institutions, and the department shall not be charged for vehicle depreciation otherwise attributable to the facilities and institutions during the fiscal year beginning July 1, 2003:*

1. *The state juvenile institutions.*
2. *The state resource centers.*
3. *The state mental health institutes.*
4. *The unit for commitment of sexually violent predators located at the state mental health institute at Cherokee.**

Sec. 36. **NEW SECTION. 217A.1 PARENTAL INVOLVEMENT PROGRAM.**

1. The department of human services shall convene an advisory group that includes representatives of the Iowa department of public health, the department of education, the department of workforce development, the department of corrections, the Iowa empowerment board, other state agencies that provide services to families, and representatives of business and industry, parents, faith-based organizations, and state and local community leaders, to present a plan to the general assembly that provides a comprehensive approach to policy and service delivery at the state, county, and local level and provides a network of services to assist both mothers and fathers in parenting their children. While the comprehensive approach shall address the needs of both parents, the focus shall be on creating a policy and service delivery system that provides a network of resources to assist fathers in becoming and remaining engaged in their children's lives. The plan shall be submitted on or before December 31, 2003.

**2. The comprehensive approach to parental involvement shall provide for all of the following:*

*a. **STRUCTURE AND POLICIES.***

(1) Identification of practices that interfere with or fail to help fathers become or remain engaged in their children's lives.

(2) Development of flexible service delivery options within the state system, including the public assistance system, to address the varying needs of families which may include modifying traditional enforcement of program requirements, referral to services, or other options.

(3) Continuation of child support program efforts to assist fathers in providing for their children and remaining engaged in their children's lives while complying with federal requirements. The efforts may include continuing the fatherhood internet site, seeking additional federal access and visitation grants, and applying for other federal funds that become available, for the purpose of actively engaging fathers in the lives of their children.

(4) Integration of the state system and community level services to provide a social service network that is accessible to fathers as well as mothers.

(5) Creation of a systemwide approach for delivery of services to families that creates a family support network that does all of the following:

(a) Trains service workers to include both fathers and mothers as a family unit, rather than separately, in the delivery of services.

* Item veto; see message at end of the Act

(b) Promotes a common awareness across disciplines, for workers providing services to parents and families, of the importance of both parents in children's lives.

(c) Systematically engages both parents and does not segment families in the provision of services.

(d) Improves communication across delivery systems.

(e) Provides for the partnering of various disciplines and levels of government in providing services to parents and families.

b. CONNECTING FATHERS WITH NECESSARY SERVICES.

(1) Utilization of the existing service system to connect fathers with local community-based services that help fathers develop the skills to become better parents and partners and more productive members of the workforce.

(2) Utilization of employment opportunities and training as catalysts to involve fathers with programs that help fathers develop skills to retain jobs and build healthy relationships.

c. PUBLIC AWARENESS.

(1) Promotion of public awareness of the importance of the emotional and financial involvement of both parents in their children's lives.

(2) Use of the media to encourage parents to discuss pregnancy prevention and parental responsibility with their children.*

Sec. 37. Section 234.35, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. When the department has agreed to provide foster care services for the child for a period of not more than ~~thirty~~ ninety days on the basis of a signed placement agreement between the department and the child's parent or guardian ~~initiated on or after July 1, 1992.~~

Sec. 38. Section 514I.4, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 1A. The director, with the approval of the board, may contract with participating insurers to provide dental only services.

Sec. 39. Section 514I.5, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 9. The hawk-i board may provide approval to the director to contract with participating insurers to provide dental only services. In determining whether to provide such approval to the director, the board shall take into consideration the impact on the overall program of single source contracting for dental services.

Sec. 40. 2002 Iowa Acts, chapter 1125, section 1, subsection 2, paragraphs b and d, are amended to read as follows:

b. Amending rules to ~~maintain the group care standard for a weekly average number of hours of therapy and counseling, but determine compliance by averaging the hours per week over the course of a month for group care documentation and recoupment to streamline requirements relating to skills development by removing the requirements for billed services documentation and clarifying the requirements for meeting weekly average hours of therapy and counseling and the methodology for determining compliance and overpayments. The recoupment for failure to comply shall be applied for a week at a time for noncompliance, not to exceed the number of days paid. This standard shall not be applied to a highly structured juvenile group care program.~~

d. ~~Utilizing a weekly results summary for documentation of the group care requirement for daily provision of skills development.~~

Sec. 41. 2002 Iowa Acts, chapter 1175, section 104, is amended to read as follows:

SEC. 104. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — FISCAL YEAR 2003-2004. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June

* Item veto; see message at end of the Act

30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, as provided in this section in lieu of the provisions of section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... \$ 19,073,638

1. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2003-2004, and is allocated as follows:

a. For distribution as provided in this section:

..... \$ 17,073,638

b. For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2:

..... \$ 2,000,000⁴

2. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2003-2004 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

a. For calculation of an allowed growth factor adjustment amount for each county in accordance with the formula in section 331.438, subsection 2, paragraph "b":

..... \$ 12,000,000

b. For calculation of a distribution amount for eligible counties from the per capita expenditure target pool created in the property tax relief fund in accordance with the requirements in section 426B.5, subsection 1:

..... \$ 12,492,712⁵

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in 2002 Iowa Acts, Senate File 2326, section 119, subsection 1 the appropriation made for the MH/DD community services fund for the fiscal year beginning July 1, 2003:

..... \$ 18,127,352

17,727,890

3. Notwithstanding any contrary provisions of sections 225C.7, 331.438, subsection 2, 331.439, subsection 3, and 426B.5, the moneys allocated for distribution in subsection 1, paragraph "b", and in any other Act of the Eightieth General Assembly, 2003 Session, for distribution to counties in the fiscal year beginning July 1, 2003, for purposes of the mental health and developmental disabilities (MH/DD) community services fund under section 225C.7, and for the allowed growth factor adjustment for services paid under a county's section 331.424A mental health, mental retardation, and developmental disabilities services fund and as calculated under subsection 2 to produce preliminary distribution amounts for counties shall be subject to withholding as provided in this section.

4. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 2 for purposes to produce preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2002, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 10 percent, a withholding factor of 0 percent.

b. For an ending balance percentage of 10 through 24 percent, a withholding factor of 25 percent.

c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 60 percent.

⁴ See chapter 183, §5 herein

⁵ See chapter 179, §3 herein

d. For an ending balance percentage of 35 through 44 percent, a withholding factor of 85 percent.

e. For an ending balance percentage of 45 percent or more, a withholding factor of 100 percent.⁶

5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of \$7,419,074 and the appropriation enacted by the Eightieth General Assembly, 2003 Session, for the MH/DD community services fund shall be reduced by the amount necessary to attain the withholding target amount. If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor specified in subsection 4, paragraph "a".⁷

6. A county must comply with both the requirements listed in this subsection to be eligible to receive a funding distribution under this section. The amount that would otherwise be available for distribution to a county that fails to so comply shall be proportionately distributed among the eligible counties. Both of the following requirements are applicable:

a. A county must comply with the December 1, 2003, filing deadline for the county annual financial report in accordance with section 331.403.

b. A county must levy the not less than 70 percent of the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A for taxes due and payable in the fiscal year beginning July 1, 2003.

7. The department of human services shall authorize the issuance of warrants payable to the county treasurer for the distribution amounts due the counties eligible under this section and notwithstanding prior practice for the MH/DD community services fund, the warrants shall be issued in January 2004.

Sec. 42. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 126, subsection 3, paragraph d, is amended to read as follows:

d. Notwithstanding section 8.33, ~~up to \$500,000 of~~ a state resource center's revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

Sec. 43. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 131, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available until the close of the succeeding fiscal year for the purposes designated under this section.

Sec. 44. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of human services or the mental health and developmental disabilities commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

⁶ See chapter 179, §3 herein

⁷ See chapter 179, §3 herein

Sec. 45. REPORTS.

1. Any reports or information required to be compiled and submitted under this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative fiscal bureau, the legislative service bureau, and to the legislative caucus staffs on or before the dates specified for submission of the reports or information.

2. In order to reduce mailing and paper processing costs, the department shall provide, to the extent feasible, reports, notices, minutes, and other documents by electronic means to those persons who have the capacity to access the documents in that manner.

Sec. 46. LAW INAPPLICABLE FOR FISCAL YEAR 2003-2004.

1. The following provisions in Code or rule shall be suspended for the period beginning July 1, 2003, and ending June 30, 2004:

a. The requirements of section 239B.2A, relating to school attendance by children participating in the family investment program.

b. For a case permanency plan, as defined in section 232.2, the requirement for a six-month case permanency plan review for an intact family.

c. The requirements of section 225C.42, relating to an annual evaluation of the family support subsidy program.

2. The department may adopt emergency rules to implement the provisions of this section.

Sec. 47. EFFECTIVE DATES. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The provision under the appropriation for child and family services, relating to requirements of section 232.143 for representatives of the department of human services and juvenile court services to establish a plan for continuing group foster care expenditures for the 2002-2003 fiscal year.

2. The provision under the appropriation for child and family services, relating to the state court administrator determining allocation of court-ordered services funding by June 15, 2003.

3. The provision under the appropriation for child and family services, relating to the requirements in section 237.5A involving a foster parent unable to complete annual training due to being engaged in active duty in the military service.

4. The provision relating to unspent funds for food stamp electronic benefit transfer remaining available from the appropriation made in 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 112, for the 2003-2004 fiscal year.

5. The provisions amending 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, sections 126 and 131, relating to nonreversion of moneys appropriated in fiscal year 2002-2003 for the state resource centers and for the sexually violent predator program.

DIVISION IV
SENIOR LIVING TRUST FUND

Sec. 48. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of elder affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the development and implementation of a comprehensive senior living program, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes:

..... \$ 7,480,814

1. It is the intent of the general assembly that the department not transfer moneys appropriated to the department for purposes of the assisted living program and adult day care for the fiscal year beginning July 1, 2003.

2. Notwithstanding section 249H.7, the department of elder affairs shall distribute up to

\$300,000 of the funds appropriated in this section in a manner that will supplement and maximize federal funds under the federal Older Americans Act and shall not use the amount distributed for any administrative purposes of either the department of elder affairs or the area agencies on aging.

Sec. 49. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the inspection and certification of assisted living facilities and adult day care services, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	800,000
.....	FTEs	6.00

Sec. 50. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the senior living trust fund created in section 249H.4 to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To provide grants to nursing facilities for conversion to assisted living programs or to provide long-term care alternatives and to provide grants to ICF/MR for conversion to assisted living programs or home and community-based services and to provide grants to long-term care providers for development of long-term care alternatives:

.....	\$	20,000,000
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Up to 25 percent of this amount may be used for development of less restrictive community-based services with a significant focus on reducing the numbers of persons served in state resource centers and other intermediate care facilities for persons with mental retardation as well as for activities designed to facilitate the planning for or placement of such services and persons.

2. To supplement the medical assistance appropriation, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	101,600,000
.....	FTEs	5.00

3. To provide reimbursement for health care services and rent expenses to eligible persons through the home and community-based services waiver and the state supplementary assistance program, including program administration and data system costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,733,406
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Participation in the rent subsidy program shall be limited to only those persons who are at risk for nursing facility care. The department shall adopt emergency rules to implement this provision.

4. To implement nursing facility provider reimbursements as provided in 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c":

.....	\$	29,950,000
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In order to carry out the purposes of this section, the department shall transfer funds appropriated in this section to supplement other appropriations made to the department of human services.

5. Notwithstanding sections 249H.4 and 249H.5, the department of human services may use moneys from the senior living trust fund for cash flow purposes to make payments under the nursing facility or hospital upper payment limit methodology. The amount of any moneys so used shall be refunded to the senior living trust fund within the same fiscal year and in a prompt manner.

6. Notwithstanding section 8.33, moneys committed to grantees under contract to provide for conversion to assisted living programs or for development of long-term care alternatives that remain unexpended at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for purposes of the contract.

Sec. 51. CONVERSION GRANT PROJECTS — RULES.

1. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of human services shall continue to give greater weight in the scoring methodology to nursing facility conversion projects that are primarily for the renovation and remodeling of the existing nursing facility structure and give less weight to conversion projects that are primarily for new construction. The department of human services shall encourage cooperative efforts between the department of inspections and appeals, the state fire marshal, and the grant applicant to promote the acceptance of nursing facility conversion projects that are primarily renovation and remodeling of the existing nursing facility structure.

2. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of inspections and appeals shall certify all assisted living programs established through nursing facility conversion grants. The department of inspections and appeals shall consult with conversion grant applicants and recipients to establish and monitor occupancy agreements and assisted living program residents shall be allowed access to third-party payors.

DIVISION V
HOSPITAL TRUST FUND

Sec. 52. DEPARTMENT OF HUMAN SERVICES APPROPRIATION. There is appropriated from the hospital trust fund created in section 249I.4 to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the medical assistance appropriation:
..... \$ 15,000,000

DIVISION VI
MEDICAL ASSISTANCE PROGRAM SUPPLEMENTATION

Sec. 53. MEDICAL ASSISTANCE APPROPRIATION SUPPLEMENTATION — FISCAL YEAR 2002-2003. There is appropriated from the following sources, to the department of human services, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to supplement the appropriations made for the medical assistance program for that fiscal year:

1. From the general fund of the state:
..... \$ 41,535,000

2. From the senior living trust fund created in section 249H.4:
..... \$ 9,465,000

3. From the hospital trust fund created in section 249I.4:
..... \$ 7,000,000

Sec. 54. MEDICAL ASSISTANCE PROGRAM — REVERSION TO SENIOR LIVING TRUST FUND FOR FY 2002-2003. Notwithstanding section 8.33, if moneys appropriated in this division for supplementation of the medical assistance program appropriation for the fiscal year beginning July 1, 2002, and ending June 30, 2003, from the general fund of the state, the senior living trust fund, and the hospital trust fund are in excess of actual expenditures for the medical assistance program and remain unencumbered or unobligated at the close of the fiscal year, the excess moneys shall not revert but shall be transferred to the senior living trust fund created in section 249H.4.

Sec. 55. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII
COMMISSION OF VETERANS AFFAIRS

Sec. 56. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the commission of veterans affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION OF VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, including the war orphans educational aid fund established pursuant to chapter 35, and for not more than the following full-time equivalent positions:

.....	\$	288,193
.....	FTEs	4.00

The commission of veterans affairs may use the gifts accepted by the chairperson of the commission of veterans affairs, or designee, and other resources available to the commission for use at its Camp Dodge office. The commission shall report annually to the governor and the general assembly on monetary gifts received by the commission for the Camp Dodge office.

2. IOWA VETERANS HOME

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	14,205,741
.....	FTEs	843.50

a. The Iowa veterans home may use the gifts accepted by the chairperson of the commission of veterans affairs and other resources available to the commission for use at the Iowa veterans home.

b. Any Iowa veterans home successor contractor shall not consider employees of a state institution or facility to be new employees for purposes of employee wages, health insurance, or retirement benefits.

c. The chairpersons and ranking members of the joint appropriations subcommittee on health and human services or successor subcommittee shall be notified by January 15 of any calendar year during which a request for proposals is anticipated to be issued regarding any Iowa veterans home contract involving employment, for purposes of providing legislative review and oversight.

d. The Iowa veterans home shall operate with a net state general fund appropriation. The amount appropriated in this subsection is the net amount of state moneys projected to be needed for the Iowa veterans home. The purposes of operating with a net state general fund appropriation are to encourage the Iowa veterans home to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts among all funders of services available from the Iowa veterans home. Moneys appropriated in this subsection may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management the Iowa veterans home may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

e. Revenues attributable to the Iowa veterans home for the fiscal year beginning July 1, 2003, shall be deposited into the Iowa veterans home account and shall be treated as repayment receipts, including but not limited to all of the following:

- (1) Federal veterans administration payments.
- (2) Medical assistance revenue received under chapter 249A.
- (3) Federal Medicare program payments.
- (4) Moneys received from client financial participation.
- (5) Other revenues generated from current, new, or expanded services which the Iowa veterans home is authorized to provide.

f. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the Iowa veterans home shall be considered to be funded entirely with state moneys.

g. Notwithstanding section 8.33, up to \$500,000 of the Iowa veterans home revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

Sec. 57. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 102, subsection 2, paragraph g, is amended to read as follows:

g. Notwithstanding section 8.33, up to ~~\$500,000~~ \$1,000,000 of the Iowa veterans home revenues that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used in the succeeding fiscal year.

Sec. 58. EFFECTIVE DATE. The section of this division of this Act amending 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 102, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 667, an Act relating to and making appropriations for health and human services to the Department of Elder Affairs, the Iowa Department of Public Health, the Department of Inspections and Appeals, the Department of Human Services, and Commission of Veterans Affairs, and providing effective dates.

There were cooperative efforts to resolve issues in areas addressed by this bill that will allow Iowa to continue to provide services to children and families, even in these challenging times. The Legislature was thoughtful and receptive and this bill reflects a very collaborative process between the stakeholders. Strong efforts were made to protect vulnerable Iowans, including seniors, the disabled, dependent children and families. This bill reflects joint efforts to address Medicaid and child welfare issues.

However, this bill continues to demand more services and reporting requirements at the same time funding levels have been reduced. With a goal of working to provide needed services and reducing process requirements, this bill has several provisions that I cannot support.

I am unable to approve the designated portion of Section 2, subsection 1, paragraph c. This section would require the department of health to produce a report of all the organizations that applied for substance abuse treatment funds, the amounts awarded, and the basis for refusal to award funds to any of the organizations that applied. In accordance with the Accountable Government Act all substance abuse treatment and prevention grants are awarded on a competitive basis. This item is an un-funded mandate that takes time away from customers and communities for unnecessary reporting.

I am unable to approve the item designated as Section 7, subsection 15, paragraphs a through k in their entirety. This language creates a new Iowa marriage grant initiative. The language involved adds new bureaucratic rules and regulations that require extensive staff time that could otherwise be spent providing services to families. Furthermore, language already exists in statute for this program.

I am unable to approve the item designated as Section 11, subsection 8 in its entirety. This language directs the Department of Human Services to work with counties to implement services to people with chronic mental illness. This effort has already been accomplished and is, therefore, redundant.

I am unable to approve the item designated as Section 16, subsection 5 in its entirety. This

language requires additional notice to legislators if additional federal child-care funds are received. This is an unnecessary reporting requirement at a time when funding for staff has been reduced.

I am unable to approve the item designated as Section 16, subsection 7, paragraphs b and c in their entirety. This language directs the Department of Human Services to develop consumer information to assist parents in selecting a child care provider. The department currently provides consumer information to customers and will continue to do so. Staff and funding of the department have been severely reduced leaving the department ill-equipped to provide the support necessary to complete this effort.

I am unable to approve the item designated as Section 18, subsection 12 in its entirety. This language requires the Department of Human Services and juvenile court officers to develop criteria for intensive tracking and supervision of delinquent youth. These criteria were developed three years ago in response to this language; thus, this language is no longer needed.

I am unable to approve the item designated as Section 18, subsection 21. This directs the Department of Human Services to develop a plan to privatize the administration of foster care and adoption programs. Given the fact that no additional funds were provided for this purpose, staffing has been severely reduced, and the child welfare redesign effort is included in SF 453, implementation of this section is counter-productive.

I am unable to approve the item designated as a portion of Section 28, subsection 2. This item requires the Department of Human Services to submit proposed legislation to correct Code references related to service areas. This appears to be the realm of the Legislative Service Bureau or Code Editor rather than the Department of Human Services, especially at a time when the department's resources have been severely reduced.

I am unable to approve the item designated as Section 35. This language exempts the Department of Human Services from making payments to the Vehicle Dispatcher for fiscal year 2004. This would hamper the state's efforts to purchase vehicles when needed and at the best price.

I am unable to approve the item designated as Section 36, subsection 2, in its entirety. This language creates a new initiative on parental involvement. The language involved is very prescriptive, time intensive and can be accomplished without directing the effort.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 667 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 176

APPROPRIATIONS — ECONOMIC DEVELOPMENT

S.F. 433

AN ACT relating to and making appropriations to the department of economic development, certain board of regents institutions, department of workforce development, and the public employment relations board and related matters.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. GOALS AND ACCOUNTABILITY.

1. The goals for the department of economic development shall be to expand and stimulate the state economy, increase the wealth of Iowans, and increase the population of the state.

2. To achieve the goals in subsection 1, the department of economic development shall do all of the following:

- a. Concentrate its efforts on programs and activities that result in commercially viable products and services.
- b. Adopt practices and services consistent with free market, private sector philosophies.
- c. Ensure economic growth and development throughout the state.

*3. *The department of economic development shall demonstrate accountability by using performance measures appropriate to show the attainment of the goals in subsection 1 for the state and by measuring the effectiveness and results of the department's programs and activities. The performance measures and associated benchmarks shall be developed or identified in cooperation with the legislative fiscal bureau and approved by the joint appropriations subcommittee on economic development. The data demonstrating accountability collected by the department shall be made readily available and maintained in computer-readable format.**

Sec. 2. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, programs, for the transfer to the Iowa state commission grant program, and for not more than the following full-time equivalent positions:

.....	\$	1,479,746
.....	FTEs	28.75

b. The department shall work with businesses and communities to continually improve the economic development climate along with the economic well-being and quality of life for Iowans. The administrative services division shall coordinate with other state agencies ensuring that all state departments are attentive to the needs of an entrepreneurial culture.

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For business development operations and programs, international trade, export assistance, workforce recruitment, the partner state program, for transfer to the strategic investment fund, for transfer to the value-added agricultural products and processes financial assistance fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,068,491
.....	FTEs	57.00

b. The department shall establish a strong and aggressive marketing image to showcase Iowa's workforce, existing industry, and potential. A priority shall be placed on recruiting new

* Item veto; see message at end of the Act

businesses, business expansion, and retaining existing Iowa businesses. Emphasis shall also be placed on entrepreneurial development through helping to secure capital for entrepreneurs, and developing networks and a business climate conducive to entrepreneurs and small business.

c. Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

3. COMMUNITY AND RURAL DEVELOPMENT DIVISION

a. Community development programs

For salaries, support, maintenance, miscellaneous purposes, community economic development programs, tourism operations, community assistance, the film office, the mainstreet and rural mainstreet programs, the school-to-career program, the community development block grant, and housing and shelter-related programs and for not more than the following full-time equivalent positions:

.....	\$	5,750,196
.....	FTEs	61.75

b. The department shall encourage development of communities and quality of life to foster economic growth. The department shall prepare communities for future growth and development through development, expansion, and modernization of infrastructure.

c. The department shall develop public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

d. Notwithstanding section 8.33, moneys that remain unexpended at the end of the fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

4. For allocating moneys for the world food prize:

.....	\$	285,000
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Sec. 3. VISION IOWA PROGRAM — FTE AUTHORIZATION. For purposes of administrative duties associated with the vision Iowa program, the department of economic development is authorized an additional 3.00 full-time equivalent positions above those otherwise authorized in this Act.

Sec. 4. RURAL COMMUNITY 2000 PROGRAM. There is appropriated from loan repayments on loans under the former rural community 2000 program, sections 15.281 through 15.288, Code 2001, to the department of economic development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For providing financial assistance to Iowa’s councils of governments that provide technical and planning assistance to local governments:

.....	\$	150,000
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2. For the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

.....	\$	150,000
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Sec. 5. INSURANCE ECONOMIC DEVELOPMENT. There is appropriated from moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, to the department of economic development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

.....	\$	100,000
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Sec. 6. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsections 5 and 6, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of economic development for the community development program to be used by the department for the purposes of the program.

Sec. 7. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account created in section 15.342A, to the workforce development fund created in section 15.343, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, for the purposes of the workforce development fund, and for not more than the following full-time equivalent positions:

.....	\$	4,000,000
.....	FTEs	4.00

Sec. 8. WORKFORCE DEVELOPMENT ADMINISTRATION. From funds appropriated or transferred to or receipts credited to the workforce development fund created in section 15.343, up to \$400,000 for the fiscal year beginning July 1, 2003, and ending June 30, 2004, may be used for the administration of workforce development activities including salaries, support, maintenance, and miscellaneous purposes and for not more than 4.00 full-time equivalent positions.

Sec. 9. JOB TRAINING FUND. Notwithstanding section 15.251, all remaining moneys in the job training fund on July 1, 2003, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2003, shall be transferred to the workforce development fund established pursuant to section 15.343.

Sec. 10. IOWA STATE UNIVERSITY.

1. There is appropriated from the general fund of the state to the Iowa state university of science and technology for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for small business development centers, the science and technology research park, the institute for physical research, and for not more than the following full-time equivalent positions:

.....	\$	2,424,161
.....	FTEs	56.53

2. Of the moneys appropriated in subsection 1, Iowa state university shall allocate at least \$550,000 for purposes of funding small business development centers. **Small business development centers shall be located equally throughout the different regions of the state. Iowa state university may allocate moneys appropriated in subsection 1 to the various small business development centers in any manner necessary to achieve the purposes of this subsection.**

3. Iowa state university of science and technology shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

4. It is the intent of the general assembly that the industrial incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from businesses, industrial foundations, and trade associations and that moneys for the institute for physical research and technology industrial incentive program shall only be allocated for projects which are matched by private sector moneys for directed contract research or for nondirected research. The match required of small businesses as defined in section 15.102, subsection 4, for directed contract research or for nondirected research shall be \$1 for each \$3 of state funds. The match required for other businesses for directed contract research or for nondirected research shall

* Item veto; see message at end of the Act

be \$1 for each \$1 of state funds. The match required of industrial foundations or trade associations shall be \$1 for each \$1 of state funds.

Iowa state university of science and technology shall report annually to the joint appropriations subcommittee on economic development and the legislative fiscal bureau the total amount of private contributions, the proportion of contributions from small businesses and other businesses, and the proportion for directed contract research and nondirected research of benefit to Iowa businesses and industrial sectors.

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 11. UNIVERSITY OF IOWA.

1. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the university of Iowa research park and for the advanced drug development program at the Oakdale research park, including salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	253,338
.....	FTEs	6.00

2. The university of Iowa shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

3. The board of regents shall submit a report on the progress of regents institutions in meeting the strategic plan for technology transfer and economic development to the secretary of the senate, the chief clerk of the house of representatives, and the legislative fiscal bureau by January 15, 2004.

4. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 12. UNIVERSITY OF NORTHERN IOWA.

1. There is appropriated from the general fund of the state to the university of northern Iowa for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the metal casting institute, and for the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	370,555
.....	FTEs	4.75

2. The university of northern Iowa shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

3. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

* Item veto; see message at end of the Act

Sec. 13. DEPARTMENT OF WORKFORCE DEVELOPMENT.

1. There is appropriated from the general fund of the state, to the department of workforce development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the division of labor services, the division of workers' compensation, the workforce development state and regional boards, the new employment opportunity fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,792,391
.....	FTEs	94.87

2. From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

3. The division of workers' compensation shall continue charging a \$65 filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim. However, the fee can be taxed as a cost and paid by the losing party, except in cases where it would impose an undue hardship or be unjust under the circumstances.

4. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 14. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. Notwithstanding section 96.7, subsection 12, paragraph "c", there is appropriated from the administrative contribution surcharge fund of the state to the department of workforce development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, any moneys remaining in the administrative contribution surcharge fund on June 30, 2003, and the entire amount collected during the fiscal year beginning July 1, 2003, and ending June 30, 2004, or so much thereof as is necessary, for salaries, support, maintenance, conducting labor market surveys, miscellaneous purposes, and for workforce development regional advisory board member expenses.

Sec. 15. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of workforce development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF WORKERS' COMPENSATION

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	471,000
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2. IMMIGRATION SERVICE CENTERS

For salaries, support, maintenance, and miscellaneous purposes for the pilot immigration service centers:

.....	\$	160,000
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The department of workforce development shall maintain pilot immigration service centers that offer one-stop services to deal with the multiple issues related to immigration and employment. The pilot centers shall be designed to support workers, businesses, and communities with information, referrals, job placement assistance, translation, language training, resettlement, as well as technical and legal assistance on such issues as forms and documentation. Through the coordination of local, state, and federal service providers, and through the development of partnerships with public, private, and nonprofit entities with established records of international service, these pilot centers shall seek to provide a seamless service delivery system for new Iowans.

Any additional penalty and interest revenue may be used to accomplish the mission of the department upon notification of the use to the chairpersons and ranking members of the joint appropriations subcommittee on economic development, the department of management, and the legislative fiscal bureau. However, the department shall not allocate any additional penalty and interest revenue prior to January 30, 2004.

* Item veto; see message at end of the Act

Sec. 16. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	869,156
.....	FTEs	10.00

Sec. 17. VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE FUND MONEYS. The office of renewable fuels and coproducts may apply to the department of economic development for moneys in the value-added agricultural products and processes financial assistance fund for deposit in the renewable fuels and coproducts fund created in section 159A.7.

Sec. 18. IOWA FINANCE AUTHORITY AUDIT. The auditor of state is requested to review the audit of the Iowa finance authority performed by the auditor hired by the authority. The auditor of state is also requested to conduct a performance audit of the authority to determine the effectiveness of the authority and the programs of the authority.

Sec. 19. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MON- EYS. For the fiscal year beginning July 1, 2003, any entity that was specifically identified in 2001 Iowa Acts, chapter 188, to receive funding from the department of economic develop- ment, excluding any entity identified to receive a direct appropriation beginning July 1, 2003, may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.

Sec. 20. EXPENDITURE AND ALLOCATION REPORTS. The department of economic development, the department of workforce development, and the regents institutions receiving an appropriation pursuant to this Act shall file a written report on a quarterly basis with the chairpersons and ranking members of the joint appropriations subcommittee on economic de- velopment and the legislative fiscal bureau regarding all expenditures of moneys appropriated pursuant to this Act during the quarter, allocations of moneys appropriated pursuant to this Act during the quarter, and full-time equivalent positions allocated during the quarter.

Sec. 21. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of economic development shall explore the potential of allocating moneys to homeless shelter programs based in part on their ability to move their clients toward self-sufficiency.

Sec. 22. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies ap- propriated funds under this division of this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 23. UNEMPLOYMENT COMPENSATION PROGRAM. Notwithstanding section 96.9, subsection 4, paragraph "a", moneys credited to the state by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act shall be appropriated to the department of workforce development and shall be used by the department for the ad- ministration of the unemployment compensation program only. This appropriation shall not apply to any fiscal year beginning after December 31, 2003.

Sec. 24. PAYROLL EXPENDITURE REFUNDS. In lieu of the appropriation made in sec-

* Item veto; see message at end of the Act

tion 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 2003, and ending June 30, 2004, \$28,498, or so much thereof as is necessary, from the general fund of the state to the department of economic development to pay refunds as provided under section 15.365.

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 433, an Act relating to and making appropriations to the Department of Economic Development, certain Board of Regents Institutions, Department of Workforce Development and the Public Employment Relations Board for the fiscal year beginning July 1, 2003.

Senate File 433 continues current levels of funding for the World Food Prize and the workforce development fund account. It maintains funding for immigration service centers and provides a small increase to fund operations of the Public Employment Relations Board.

This Administration has made clear from the first day of the 2003 Session that our top priority is transforming Iowa's economy. This goal, which we share with a majority of legislators from both parties, can only be accomplished with a significant investment in Iowa's future — an investment that is provided through the Iowa Values Fund. While Senate File 433 funds some important services Iowans rely on everyday, it is completely inadequate and does not provide the commitment this state needs to retain our current employers, attract new businesses, incent business expansion, and create the high-paying jobs needed to keep our children and grandchildren living here.

It is vital the Legislature take action immediately to approve an Iowa Values Fund to send a strong message that Iowa is open for business. In the meantime, we must continue to provide the services that are funded through this bill. Senate File 433 is, therefore, signed on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 1, subsection 3. As I indicated last year, the Accountable Government Act establishes a comprehensive, enterprise-wide process for setting program goals and establishing results measures. These measures have been developed with data currently being compiled. This section would create redundancies in the development and reporting of goals and results measurements for the Department of Economic Development.

I am unable to approve the designated portion of Section 10, subsection 2. This would require that small business development centers be located equally throughout the different regions of the state. This bill contains no instruction as to the legislative meaning or intent of "located equally throughout the different regions of the state." As such, the bill is terminally vague making compliance impossible.

I am unable to approve the items designated as Section 10, subsection 3, paragraph b, Section 11, subsection 2, paragraph b, and Section 12, subsection 2, paragraph b. These sections would require any business or individual receiving benefits from specified Regent programs to have a commercially viable service or product. This legislative mandate would have an unacceptable dulling effect on innovation. Iowa should be encouraging entrepreneurship. These paragraphs of Senate File 433 would have the opposite impact.

I am unable to approve the designated portion of Section 15, subsection 2. This would restrict the expenditure of additional penalty and interest revenues to accomplish the mission of the department to provide safe workplaces and steady employment. The director of the Department of Workforce Development currently has the authority to reassign unused penalty and interest funds. We must maintain that flexibility to reallocate dollars when needed to ensure the safety and employment security of working Iowans.

I am unable to approve the item designated as Section 20. Expenditure information for executive branch agencies of state government is currently available to the economic development appropriations subcommittees and the Legislative Fiscal Bureau on a daily basis through the Iowa Financial and Accounting System. The Legislative Fiscal Bureau also has the authority to request expenditure information from Regent universities. The reporting requirement in this section would duplicate existing data and place an unneeded and unprecedented requirement on limited staff resources.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 433 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 177
APPROPRIATIONS — INFRASTRUCTURE
AND CAPITAL PROJECTS
S.F. 452

AN ACT relating to and making appropriations to state departments and agencies from the rebuild Iowa infrastructure fund, environment first fund, and tobacco settlement trust fund, relating to the capitol complex parking structure, and authorizing fees.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
REBUILD IOWA INFRASTRUCTURE FUND
STATE BOARD OF REGENTS

Section 1. There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For correction of deferred maintenance at the Iowa school for the deaf, notwithstanding section 8.57, subsection 5, paragraph "c":
..... \$ 100,000
2. For correction of deferred maintenance at the Iowa braille and sight saving school, notwithstanding section 8.57, subsection 5, paragraph "c":
..... \$ 100,000

DEPARTMENT OF CORRECTIONS

Sec. 2. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For costs of entering into a lease-purchase agreement to connect the electrical system supporting the special needs unit at Fort Madison:
..... \$ 333,168

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 3. There is appropriated from the rebuild Iowa infrastructure fund to the department of cultural affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:

..... \$ 830,000

Historical site preservation grants shall only be awarded for projects which meet the definition of "vertical infrastructure" in section 8.57, subsection 5, paragraph "c".

In making grants pursuant to this subsection, the department shall consider the existence and amount of other funds available to an applicant for the designated project. Each grant awarded from moneys appropriated in this subsection shall not exceed \$100,000 per project. Not more than two grants may be awarded in each county.

2. For continuation of the project recommended by the Iowa battle flag advisory committee to stabilize the condition of the battle flag collection, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 150,000

3. For allocation to the state historical society for the design, construction, and installation of a medal of honor kiosk, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 125,000

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 4. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development, or the Iowa finance authority, as designated, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the department of economic development for deposit in the local housing assistance program fund created in section 15.354, or, if the housing trust fund is created within the Iowa finance authority by the Eightieth General Assembly, 2003 Session, to the Iowa finance authority for deposit in the housing trust fund, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 800,000

2. For accelerated career education program capital projects at community colleges that are authorized under chapter 260G and that meet the definition of "vertical infrastructure" in section 8.57, subsection 5, paragraph "c":

..... \$ 3,000,000

The moneys appropriated in this subsection shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not obligated or encumbered by April 1, 2004, the unobligated and unencumbered portions shall be available for use by other community colleges.

DEPARTMENT OF EDUCATION

Sec. 5. There is appropriated from the rebuild Iowa infrastructure fund to the department

of education for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To provide resources for structural and technological improvements to local libraries, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 600,000

DEPARTMENT OF GENERAL SERVICES

Sec. 6. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services, or any successor agency, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For costs associated with the remodeling of the records and property center:

..... \$ 4,750,000

2. For costs associated with the planning for the vacation and demolition of the Wallace building:

..... \$ 50,000

3. For routine maintenance of state buildings and facilities, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 1,664,000

4. For relocation and transition costs directly associated with renovation of the records and property building, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 729,237

The move and relocation associated with renovation of the records and property building shall not commence until April 1, 2004.

5. For facility lease payments for the department of corrections, the Iowa department of public health, and the department of public safety, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 631,449

6. To provide matching funds for construction of the medical and education building for a child treatment center located in a county with a population between 189,000 and 196,000:

..... \$ 250,000

7. For construction and display of permanent exhibits for the statewide African-American museum located in Linn county, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 300,000

INFORMATION TECHNOLOGY DEPARTMENT

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund to the information technology department, or any successor agency, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For technology improvement projects, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 2,000,000

Of the amount appropriated in this section, \$250,000 is allocated to maintain and operate the enterprise warehouse technology project and \$65,000 is allocated to the division of criminal and juvenile justice planning of the department of human rights for 1.00 full-time equivalent position to provide support for the justice data warehouse technology project.

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

Sec. 8. There is appropriated from the rebuild Iowa infrastructure fund to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 2003, and

ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance and lease costs associated with Part III connections, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 2,727,000

NATIONAL PROGRAM FOR PLAYGROUND SAFETY

Sec. 9. There is appropriated from the rebuild Iowa infrastructure fund to the national program for playground safety at the university of northern Iowa for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa safe surfacing initiative, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 500,000

No more than 2.5 percent of the funds appropriated in this section shall be used by the national program for playground safety for administrative costs associated with the Iowa safe surfacing initiative.

The crumb rubber playground tiles for the initiative shall be international play equipment manufacturers association (IPEMA)-certified to the American society for testing and materials (ASTM) F1292 standard.

DEPARTMENT OF PUBLIC DEFENSE

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund to the department of public defense for the designated fiscal years the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For planning and design of a national guard readiness center in or near Iowa City:
FY 2003-2004 \$ 195,000

2. For planning, design, and construction of a national guard readiness center in or near Fort Dodge:

FY 2003-2004 \$ 750,000

FY 2004-2005 \$ 750,000

DEPARTMENT OF PUBLIC SAFETY

Sec. 11. There is appropriated from the rebuild Iowa infrastructure fund to the department of public safety for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For capitol building and judicial building security, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 800,000

2. To the division of fire safety of the department for allocation to the fire service training bureau for the planning, design, and construction of regional training facilities in the state:

..... \$ 50,000

3. To the division of fire safety of the department for allocation to the fire service training bureau to establish a revolving loan program for equipment purchases by local fire departments, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 500,000

STATE DEPARTMENT OF TRANSPORTATION

Sec. 12. There is appropriated from the rebuild Iowa infrastructure fund to the state department of transportation for the fiscal year beginning July 1, 2003, and ending June 30, 2004,

the following amounts, or so much thereof as is necessary, to be used for the purposes designated, notwithstanding section 8.57, subsection 5, paragraph "c":

For operation and maintenance of the network of automated weather observation and data transfer systems associated with the Iowa aviation weather system, the runway marking program for public airports, the windsock program for public airports, and the aviation improvement program:

..... \$ 500,000

Sec. 13. PAYMENTS IN LIEU OF TUITION. There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 350,000

Sec. 14. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2006, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 15. 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, section 6, is amended to read as follows:

SEC. 6. STATE BOARD OF REGENTS — ENGINEERING COMPLEX — BONDING.

There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For repayment of the bonding for the phase II construction of the engineering teaching and research complex at Iowa state university of science and technology, as authorized in this section:

..... \$ 7,000,000
0

Moneys appropriated in this section are not subject to transfer.

1. The state board of regents is authorized to issue bonds as provided in chapter 262A in an amount not exceeding \$7 million, except as provided in subsection 2, to undertake and carry out completion of the engineering teaching and research phase II construction at Iowa state university of science and technology and to finance the remaining cost of the project.

2. Notwithstanding the limitation established in subsection 1, the amount of bonds issued as authorized in subsection 1 may be exceeded by the amount the state board of regents determines to be necessary to capitalize interest, bond reserves, and issuance costs.

Sec. 16. 1999 Iowa Acts, chapter 204, section 6, unnumbered paragraph 2, as amended by 2000 Iowa Acts, chapter 1225, section 13, is amended to read as follows:

For planning, design, and construction of a new judicial building:

FY 1999-2000 \$ 10,000,000
FY 2000-2001 \$ 8,000,000

Of the amount appropriated in this section for FY 2000-2001, up to \$400,000 may be used by the judicial branch for costs associated with operation of the judicial building, notwithstanding section 8.57, subsection 5, paragraph "c".

DIVISION II
 ENVIRONMENT FIRST FUND
 DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 17. There is appropriated from the environment first fund to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the conservation reserve enhancement program to restore and construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices:

..... \$ 1,500,000

2. For continuation of a program that provides multi-objective resource protections for flood control, water quality, erosion control, and natural resource conservation:

..... \$ 2,700,000

3. For continuation of a statewide voluntary farm management demonstration program to demonstrate the effectiveness and adaptability of emerging practices in agronomy that protect water resources and provide other environmental benefits:

..... \$ 850,000

4. For deposit in the alternative drainage system assistance fund created in section 460.303 to be used for purposes of supporting the alternative drainage system assistance program as provided in section 460.304:

..... \$ 500,000

5. To provide financial assistance for the establishment of permanent soil and water conservation practices:

..... \$ 5,500,000

a. Not more than 5 percent of the moneys appropriated in this subsection may be allocated for cost-sharing to abate complaints filed under section 161A.47.

b. Of the moneys appropriated in this subsection, 5 percent shall be allocated for financial incentives to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment as provided in section 161A.73.

c. Not more than 30 percent of a district's allocation of moneys as financial incentives may be provided for the purpose of establishing management practices to control soil erosion on land that is row-cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping as provided in section 161A.73.

d. The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in this subsection to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

e. The financial incentive payments may be used in combination with department of natural resources moneys.

f. Not more than 10 percent of the moneys appropriated in this subsection may be used for costs of administration and implementation of soil and water conservation practices.

6. To encourage and assist farmers in enrolling in the continuous sign-up federal conservation reserve program and work with them to enhance their revegetation efforts to improve water quality and habitat:

..... \$ 2,000,000

7. For deposit in the loess hills development and conservation fund created in section 161D.2:

..... \$ 600,000

Of the amount appropriated in this subsection, \$400,000 shall be allocated to the hungry canyons account and \$200,000 shall be allocated to the loess hills alliance account, to be used for the purposes for which the moneys in those accounts are authorized to be used under chapter 161D.

No more than five percent of the moneys appropriated in this subsection may be used for administrative costs.

8. For deposit in the southern Iowa development and conservation fund created in section 161D.12:

..... \$ 300,000

No more than five percent of the moneys appropriated in this subsection may be used for administrative costs.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 18. There is appropriated from the environment first fund to the department of economic development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount or so much thereof as necessary to be used for the purpose designated:

For deposit in the brownfield redevelopment fund created in section 15.293 to provide assistance under the brownfield redevelopment program:

..... \$ 500,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 19. There is appropriated from the environment first fund to the department of natural resources for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To provide local watershed managers with geographic information system data for their use in developing, monitoring, and displaying results of their watershed work:

..... \$ 195,000

2. For statewide coordination of volunteer efforts under the water quality and keepers of the land programs:

..... \$ 100,000

3. For continuing the establishment and operation of water quality monitoring stations:

..... \$ 2,955,000

4. For deposit in the administration account of the water quality protection fund, to carry out the purposes of that account:

..... \$ 500,000

5. For air quality monitoring equipment:

..... \$ 500,000

6. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:

..... \$ 1,000,000

It is the intent of the general assembly that the department shall consider the following criteria for funding lake dredging projects as provided in this subsection, and shall prioritize projects based on the following:

- a. Documented efforts to address watershed protection, considering testing, conservation efforts, and amount of time devoted to watershed protection.
b. Protection of a natural resource and natural habitat.
c. Percentage of public access and undeveloped lakefront property.
d. Continuation of current projects partially funded by state resources to achieve department recommendations.

7. For purposes of funding capital projects for the purposes specified in section 452A.79, and for expenditures for the local cost share grants to be used for capital expenditures to local governmental units for boating accessibility:

..... \$ 2,300,000

8. For regular maintenance of state parks and staff time associated with these activities:

..... \$ 2,000,000

RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 20. Notwithstanding the amount of the standing appropriation from the general fund of the state under section 455A.18, subsection 3, there is appropriated from the environment first fund to the Iowa resources enhancement and protection fund, in lieu of the appropriation made in section 455A.18, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, to be allocated as provided in section 455A.19:

..... \$ 11,000,000

Sec. 21. REVERSION.

1. Except as provided in subsection 2, and notwithstanding section 8.33, moneys appropriated in this division of this Act that remain unencumbered or unobligated shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2004, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated in this division of this Act to the department of agriculture and land stewardship to provide financial assistance for the establishment of permanent soil and water conservation practices that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins July 1, 2006.

DIVISION III
TOBACCO SETTLEMENT TRUST FUND

Sec. 22. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the following departments and agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ECONOMIC DEVELOPMENT

For accelerated career education program capital projects at community colleges that are authorized under chapter 260G and that meet the definition of "vertical infrastructure" in section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 2,500,000

The moneys appropriated in this subsection shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not obligated or encumbered by April 1, 2004, the unobligated and unencumbered portions shall be available for use by other community colleges.

2. DEPARTMENT OF EDUCATION

For allocation to the public broadcasting division for costs of installation of digital television for Iowa public television facilities, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 10,000,000

3. DEPARTMENT OF GENERAL SERVICES (or any successor agency)

For major renovation and major repair needs including health, life, and fire safety needs, and for compliance with the federal Americans With Disabilities Act, for state-owned buildings and facilities:

..... \$ 11,500,000

a. Of the amount appropriated in this subsection, up to \$375,000 may be used for costs associated with project management services in the division of design and construction of the department, or to a similar division of any successor agency, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1).

b. Of the amount appropriated in this subsection, \$200,000 may be used for costs associated with the vertical infrastructure program, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1).

4. INFORMATION TECHNOLOGY DEPARTMENT (or any successor agency)

For the payment of claims relating to the purchase and implementation of an integrated information for Iowa system:

..... \$ 6,131,075

5. IOWA STATE FAIR AUTHORITY

For vertical infrastructure improvements on the state fairgrounds:

..... \$ 500,000

6. DEPARTMENT OF NATURAL RESOURCES

a. For costs associated with the planning, design, and construction of a premier destination park, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 3,000,000

The appropriation in this paragraph "a" is contingent upon receipt by the department of a funding commitment by June 30, 2005, from a private developer for development of the proposed honey creek resort areas near the premier destination park.

b. For continuation of the restore the outdoors program, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 2,500,000

7. DEPARTMENT OF PUBLIC DEFENSE

a. For maintenance and repair of national guard armories and facilities:

..... \$ 1,269,636

b. For construction of a new national guard armory at Boone:

..... \$ 1,095,000

8. DEPARTMENT OF PUBLIC SAFETY

For improvements to the capitol complex security system, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 1,000,000

9. STATE DEPARTMENT OF TRANSPORTATION

a. For vertical infrastructure improvements at the commercial air service airports within the state:

..... \$ 1,100,000

One-half of the funds appropriated in this paragraph "a" shall be allocated equally between each commercial service airport, 40 percent of the funds shall be allocated based on the percentage that the number of enplaned passengers at each commercial service airport bears to the total number of enplaned passengers in the state during the previous fiscal year, and 10 percent of the funds shall be allocated based on the percentage that the air cargo tonnage at each commercial service airport bears to the total air cargo tonnage in the state during the previous fiscal year. In order for a commercial service airport to receive funding under this paragraph "a", the airport shall be required to submit applications for funding of specific projects to the department for approval by the state transportation commission.

b. For a vertical infrastructure improvement grant program for improvements at general aviation airports within the state:

..... \$ 581,400

c. For acquiring, constructing, and improving recreational trails within the state:

..... \$ 1,000,000

Of the amount appropriated in this paragraph "c", \$500,000 shall be used for funding, on a matching basis, recreational trail projects, with priority given to completion of trail connections and sections between existing trails and parks within the established state recreational trails system. Such projects shall be matched by \$1 of private or other funds for each \$3 of state funds.

10. OFFICE OF TREASURER OF STATE

For county fair infrastructure improvements for distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs:

..... \$ 1,060,000

11. STATE BOARD OF REGENTS

For non-fire-related restoration of the Old Capitol on the University of Iowa campus in Iowa City, including but not limited to capital and other improvements related to exterior metal roofing, masonry repointing, and window replacement; electrical upgrades; asbestos abatement; elevator improvements; interior painting and lighting and exhibit displays; and site walkway and landscaping improvements:

..... \$ 350,000

12. TAX-EXEMPT STATUS — USE OF APPROPRIATIONS. Payment of moneys from the appropriations in this section shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

13. REVERSION. Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2006, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 23. DEPARTMENT OF CORRECTIONS — USE OF APPROPRIATIONS — REVERSION.

1. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the department of corrections for the fiscal period beginning July 1, 2003, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For construction of a 170-bed facility at the Iowa medical and classification center at Oakdale:

FY 2003-2004	\$	7,500,000
FY 2004-2005	\$	11,700,000
FY 2005-2006	\$	11,700,000

2. Payment of moneys from the appropriations in this section shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

3. Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated, but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2008, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 24. PAYMENTS IN LIEU OF TUITION. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund of the state to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 10,610,409

Sec. 25. TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION FEES. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the treasurer of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For payment of litigation fees incurred pursuant to the tobacco master settlement agreement:

..... \$ 700,000

Sec. 26. IOWA COMMUNICATIONS NETWORK DEBT SERVICE. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the treasurer of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service for the Iowa communications network, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 13,039,378

Funds appropriated in this section shall be deposited in a separate fund established in the office of the treasurer of state to be used solely for debt service for the Iowa communications network. The Iowa telecommunications and technology commission shall certify to the treasurer of state when a debt service payment is due, and upon receipt of the certification, the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

Sec. 27. PRISON DEBT SERVICE. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the treasurer of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For repayment of prison infrastructure bonds under section 16.177, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 5,411,986

DIVISION IV
CAPITOL COMPLEX PARKING STRUCTURE

*Sec. 28. NEW SECTION. 18A.8 CAPITOL COMPLEX PARKING STRUCTURE REVOLVING FUND.

*A capitol complex parking structure revolving fund is created in the state treasury. The capitol complex parking structure revolving fund shall be administered by the department of general services and shall consist of moneys collected by the department as parking fees, moneys appropriated to the fund by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department for costs associated with the management, operation, and maintenance of the capitol complex parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative fiscal bureau, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.**

*Sec. 29. CAPITOL COMPLEX PARKING STRUCTURE MANAGEMENT — REQUEST FOR PROPOSALS. *The department of general services, or any successor agency, shall issue a request for proposals for the management, operation, and maintenance of the state-owned parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. The request for proposals shall include all of the following services:*

1. *The collection of parking fees and administration of parking permits.*
2. *Daily janitorial maintenance and necessary annual maintenance, pursuant to standards outlined in the parking garage maintenance manual published by the parking consultants council of the national parking association.*
3. *Long-term structural maintenance.*

*Awarding of a contract for the management, operation, and maintenance of the parking structure is subject to approval by the general assembly.**

* Item veto; see message at end of the Act

Sec. 30. CAPITOL COMPLEX PARKING STRUCTURE — PARKING FEES. The department of general services, or any successor agency, shall establish reasonable parking fees for the public and for state employees for the use of the state-owned parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. Such fees shall be deposited in the capitol complex parking structure revolving fund created in section 18A.8, as enacted by this Act.

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 452, an Act relating to and making appropriations to state departments and agencies from the Rebuild Iowa Infrastructure Fund, Environment First Fund, and Tobacco Settlement Trust Fund, relating to the Capitol complex parking structure, and authorizing fees.

Senate File 452 is, approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Division IV, Sections 28, 29, and 30 in their entirety. These sections would require the establishment of a parking fee for the Capitol complex parking structure located at Pennsylvania and Grand avenues. Iowans should be encouraged to participate in their democracy by parking free to visit their State Capitol and the state office buildings surrounding their State Capitol. Charging parking fees for the newly constructed parking structure located at Pennsylvania and Grand Avenues operates as a hidden tax for the visiting public and would discourage some from exercising their fundamental rights as citizens. Such a fee should not have been and will not be sanctioned or approved.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 452 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

* Item veto; see message at end of the Act

CHAPTER 178STATE AND LOCAL GOVERNMENT FINANCIAL
AND REGULATORY MATTERS — MISCELLANEOUS PROVISIONS

S.F. 453

AN ACT relating to state and local government financial and regulatory matters, making and reducing appropriations, providing a fee, increasing civil penalties, and providing applicability and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
PROPERTY TAX REPLACEMENT

Section 1. Section 24.14, Code 2003, is amended to read as follows:
24.14 TAX LIMITED.

A greater tax than that so entered upon the record shall not be levied or collected for the municipality proposing the tax for the purposes indicated and a greater expenditure of public money shall not be made for any specific purpose than the amount estimated and appropriated for that purpose, except as provided in sections 24.6 and 24.15. All budgets set up in accordance with the statutes shall take such funds, and allocations made by sections 123.53, and 452A.79 and chapter 405A, into account, and all such funds, regardless of their source, shall be considered in preparing the budget.

Sec. 2. Section 331.403, subsection 3, Code 2003, is amended to read as follows:

3. A county that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county and allocated to the county pursuant to ~~chapter 405A section 425.1~~ an amount equal to five cents per capita until the financial report is filed.

Sec. 3. Section 331.427, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 9I.11, 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, section 331.554, subsection 6, sections 341A.20, 364.3, 368.21, 422A.2, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6, 602.8108, 904.908, and 906.17, ~~and chapter 405A~~, and the following:

Sec. 4. Section 384.22, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A city that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county which are allocated to the city pursuant to ~~chapter 405A section 425.1~~ an amount equal to five cents per capita until the annual report is filed with the auditor of state.

Sec. 5. Section 427B.19, subsection 3, unnumbered paragraph 1, Code 2003, is amended to read as follows:

On or before September 1 of each fiscal year through June 30, ~~2006~~ 2004, the county auditor shall prepare a statement, based upon the report received pursuant to subsections 1 and 2, listing for each taxing district in the county:

Sec. 6. Section 427B.19, subsection 3, paragraph c, Code 2003, is amended to read as follows:

c. The industrial machinery, equipment and computers tax replacement claim for each

taxing district. For fiscal years beginning July 1, 1996, and ending June 30, 2001, the replacement claim is equal to the amount determined pursuant to paragraph "a", multiplied by the tax rate specified in paragraph "b". For fiscal years beginning July 1, 2001, and ending June 30, 2006 ~~2004~~, the replacement claim is equal to the product of the amount determined pursuant to paragraph "a", less any increase in valuations determined in paragraph "d", and the tax rate specified in paragraph "b". If the amount subtracted under paragraph "d" is more than the amount determined in paragraph "a", there is no tax replacement for the fiscal year.

Sec. 7. Section 427B.19A, subsection 1, Code 2003, is amended to read as follows:

1. The industrial machinery, equipment and computers property tax replacement fund is created. For the fiscal year beginning July 1, 1996, through the fiscal year ending June 30, 2006 ~~2004~~, there is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the industrial machinery, equipment and computers property tax replacement fund, an amount sufficient to implement this division. However, for the fiscal year beginning July 1, 2003, the amount appropriated to the department of revenue and finance to be credited to the industrial machinery, equipment and computers tax replacement fund is ten million eighty-one thousand six hundred eighty-five dollars.¹

Sec. 8. Section 427B.19C, Code 2003, is amended to read as follows:

427B.19C ADJUSTMENT OF CERTAIN ASSESSMENTS REQUIRED.

In the assessment year beginning January 1, 2005 ~~2003~~, the amount of assessed value of property defined in section 403.19, subsection 1, for an urban renewal taxing district which received replacement moneys under section 427B.19A, subsection 4, shall be reduced by an amount equal to that portion of the amount of assessed value of such property which was assessed pursuant to section 427B.17, subsection 3.

Sec. 9. Section 441.73, subsection 4, Code 2003, is amended to read as follows:

4. The executive council shall transfer for the fiscal year beginning July 1, 1992, and each fiscal year thereafter, from funds established in sections 405A.8, 425.1, and 426.1, an amount necessary to pay litigation expenses. The amount of the fund for each fiscal year shall not exceed seven hundred thousand dollars. The executive council shall determine annually the proportionate amounts to be transferred from the ~~three~~ two separate funds. At any time when no litigation is pending or in progress the balance in the litigation expense fund shall not exceed one hundred thousand dollars. Any excess moneys shall be transferred in a proportionate amount back to the funds from which they were originally transferred.

Sec. 10. GUARANTEE OF REPLACEMENT FUNDS. The revaluation of all industrial machinery, equipment, and computers authorized in section 427B.19B, Code 2003, as a result of the insufficient funding of the industrial machinery, equipment and computers property tax replacement fund for the fiscal year beginning July 1, 2002, is void and taxes payable in the fiscal year beginning July 1, 2003, shall not be levied on the amount of such revaluation.

Sec. 11. Sections 403.23,² 405A.1, 405A.2, 405A.3, 405A.4, 405A.5, 405A.6, 405A.7, 405A.8, 405A.9, 405A.10, 422.65, 427A.12, and 427B.19B, Code 2003, are repealed.

Sec. 12. UNIFORM REDUCTIONS. The general assembly finds that the provisions of this division of this Act will result in reductions in appropriations that would otherwise be made from the general fund of the state for the fiscal year beginning July 1, 2003, that total \$70,000,000. If the governor vetoes a portion of this division of this Act, the governor shall order uniform reductions in appropriations allotments as provided in section 8.31, in an amount equal to the appropriations that are made as a result of the veto.

Sec. 13. EFFECTIVE DATE. The section of this division of this Act that voids the revaluation of machinery, equipment, and computers, being deemed of immediate importance, takes effect upon enactment.

¹ See chapter 179, §37 herein

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §42 herein

DIVISION II
PARKING TICKETS

Sec. 14. Section 321.236, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine payable to the city clerk or clerk of the district court, if authorized by ordinance. ~~The fine shall not exceed five dollars except for snow route parking violations in which case the fine shall not exceed twenty five dollars for each violation charged under a simple notice of a fine shall be established by ordinance.~~ The fine may be increased up to ten by five dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred, if authorized by ordinance. Violations of section 321L.4, subsection 2, may be charged and collected upon a simple notice of a one hundred dollar fine payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 15. Section 805.8A, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars, ~~except if the local authority has established the fine by ordinance pursuant to section 321.236, subsection 1.~~ The scheduled fine for a parking violation ~~of pursuant to section 321.236 increases in an amount up to ten by five dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars, or if the amount of the fine is greater than five dollars, the unsecured appearance bond shall be the amount of the fine established by the local authority pursuant to section 321.236, subsection 1.~~ However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 321.362 or 461A.38, the scheduled fine is ten dollars.

DIVISION III
LAW ENFORCEMENT ACADEMY

Sec. 16. NEW SECTION. 80B.11E ACADEMY TRAINING — APPLICATION BY INDIVIDUAL — INDIVIDUAL EXPENSE.

1. Notwithstanding any other provision of law to the contrary, an individual who is not a certified law enforcement officer may apply for attendance at the law enforcement academy at their own expense if such individual is sponsored by a law enforcement agency that either intends to hire or has hired the individual as a law enforcement officer on the condition that the individual meets the minimum eligibility standards described in subsection 2.

2. An individual who submits an application pursuant to subsection 1 shall, at a minimum, meet all minimum hiring standards as established by academy rules, including the successful completion of certain psychological and physical testing examinations. In addition, such individual shall be of good moral character as determined by a thorough background investigation by the academy for a fee. For such purposes, the academy shall have the authority to conduct a background investigation of the individual, including a fingerprint search of local, state, and national fingerprint files.

3. An individual shall not be granted permission to attend an academy training program if such acceptance would result in the nonacceptance of another qualifying applicant who is a law enforcement officer.

4. An individual who has not been hired by a law enforcement agency must be hired by a law enforcement agency within eighteen months of completing the appropriate coursework at the law enforcement academy in order to obtain certification pursuant to this section.

DIVISION IV
BUDGET

Sec. 17. Section 331.436, Code 2003, is amended to read as follows:
331.436 PROTEST.

Protests to the adopted budget must be made in accordance with sections 24.27 through 24.32 as if the county were the municipality under those sections except that the number of people necessary to file a protest under this section shall not be less than one hundred.

DIVISION V
INDEBTEDNESS REPORTING — COLLECTION OF TAXES

Sec. 18. Section 403.23, subsection 1, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

1. On or before December 1 of each odd-numbered year, each municipality that has established an urban renewal area shall report to the department of management and to the appropriate county auditor the total amount of loans, advances, indebtedness, or bonds outstanding at the close of the most recently ended fiscal year, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds. For purposes of this subsection, "indebtedness" includes written agreements whereby the municipality agrees to suspend, abate, exempt, rebate, refund, or reimburse property taxes, or provide a grant for property taxes paid, with moneys in the special fund. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each municipality reporting.

Sec. 19. Section 403.23, subsections 2 and 3, Code 2003, are amended to read as follows:

2. At the request of the legislative fiscal bureau, the department of management shall provide the reports and additional information to the legislative fiscal bureau. The department of management, in consultation with the legislative fiscal bureau, shall determine reporting criteria and shall prepare a form for reports filed with the department pursuant to this section. The department shall make the form available by electronic means.

3. If a municipality does not file the ~~annual~~ report with the department of management and the county auditor by December 1 of ~~each odd-numbered year~~, the county treasurer shall withhold disbursement of incremental taxes to the municipality until the ~~annual~~ report is filed beginning immediately with the next following disbursement of taxes. The county auditor shall notify the county treasurer if taxes are to be withheld.

Sec. 20. Section 631.1, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The district court sitting in small claims has concurrent jurisdiction of an action for the collection of taxes brought by a county treasurer pursuant to sections 445.3 and 445.4 where the amount in controversy is five thousand dollars or less for actions commenced on or after July 1, 2003, exclusive of interest and costs.

DIVISION VI
MUNICIPAL AND COUNTY INFRACTIONS

Sec. 21. Section 331.302, subsection 15, Code 2003, is amended to read as follows:

15. A county shall not provide a civil penalty in excess of ~~five~~ seven hundred ~~fifty~~ dollars for the violation of an ordinance which is classified as a county infraction or if the infraction is a repeat offense, a civil penalty not to exceed ~~seven hundred fifty one thousand~~ seven hundred fifty one thousand dollars for each repeat offense. A county infraction is not punishable by imprisonment.

Sec. 22. Section 331.307, subsection 1, Code 2003, is amended to read as follows:

1. A county infraction is a civil offense punishable by a civil penalty of not more than ~~five~~ seven hundred ~~fifty~~ dollars for each violation or if the infraction is a repeat offense a civil penalty not to exceed ~~seven hundred fifty~~ one thousand dollars for each repeat offense.

Sec. 23. Section 364.3, subsection 6, Code 2003, is amended to read as follows:

6. A city shall not provide a civil penalty in excess of ~~five~~ seven hundred ~~fifty~~ dollars for the violation of an ordinance which is classified as a municipal infraction or if the infraction is a repeat offense, a civil penalty not to exceed ~~seven hundred fifty~~ one thousand dollars for each repeat offense. A municipal infraction is not punishable by imprisonment.

Sec. 24. Section 364.22, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A municipal infraction is a civil offense punishable by a civil penalty of not more than ~~five~~ seven hundred ~~fifty~~ dollars for each violation or if the infraction is a repeat offense, a civil penalty not to exceed ~~seven hundred fifty~~ one thousand dollars for each repeat offense. However, notwithstanding section 364.3, a municipal infraction arising from noncompliance with a pre-treatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user may be punishable by a civil penalty of not more than one thousand dollars for each day a violation exists or continues.

DIVISION VII TRANSACTION FEE

Sec. 25. NEW SECTION. 331.605C ELECTRONIC TRANSACTION FEE — AUDIT.

1. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the recorder shall collect a fee of five dollars for each recorded transaction for which a fee is paid pursuant to section 331.604 to be used for the purposes of planning and implementing electronic recording and electronic transactions in each county and developing county and statewide internet websites to provide electronic access to records and information.

2. Beginning July 1, 2004, the recorder shall collect a fee of one dollar for each recorded transaction for which a fee is paid pursuant to section 331.604 to be used for the purpose of paying the county's ongoing costs of maintaining the systems developed and implemented under subsection 1.³

3. The county treasurer, on behalf of the recorder, shall establish and maintain an interest-bearing account into which all moneys collected pursuant to subsections 1 and 2 shall be deposited.

4. The state government electronic transaction fund is established in the office of the treasurer of state under the control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the state government electronic transaction fund shall be credited to the fund. Moneys in the state government electronic transaction fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this subsection. The treasurer of state shall enter into a contract with the Iowa state association of counties affiliate representing county recorders to develop, implement, and maintain a statewide internet website for purposes of providing electronic access to records and information recorded or filed by county recorders. On a monthly basis, the county treasurer shall pay one dollar of each fee collected pursuant to subsection 1 to the treasurer of state for deposit into the state government electronic transaction fund. Moneys credited to the state government electronic transaction fund are appropriated to the treasurer of state to be used for contract costs. This subsection is repealed June 30, 2004.⁴

5. The pooled local government electronic transaction fund is established in the office of the treasurer of state under control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in

³ See chapter 179, §124 herein

⁴ See chapter 179, §125 herein

the pooled local government electronic transaction fund shall be credited to the fund. Moneys in the fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this subsection. On a quarterly basis, the county treasurer shall pay four dollars of each fee collected pursuant to subsection 1 and all fees collected pursuant to subsection 2, to the treasurer of state for deposit into the pooled local government electronic transaction fund. Moneys credited to the pooled local government electronic transaction fund are appropriated to the treasurer of state to be distributed equally to all counties and paid to the county treasurers of each county within thirty days after the moneys are received by the treasurer of state. Moneys received by a county treasurer pursuant to this subsection shall be deposited into the account established and maintained by the county treasurer on behalf of the county recorder under subsection 3, and shall be used by the county recorder for the purposes set forth in subsections 1 and 2.

6. The recorder shall make available any information required by the county auditor or auditor of state concerning the fees collected under this section for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

DIVISION VIII LOCAL GOVERNMENT LEASES

Sec. 26. Section 346.27, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 26. Any incorporating unit may enter into a lease with an authority that the authority and the incorporating unit determine is necessary and convenient to effectuate their purposes and the purposes of this section. The power to enter into leases under this section is in addition to other powers granted to cities and counties to enter into leases and the provisions of chapter 75, section 364.4, subsection 4, and section 331.301, subsection 10, are not applicable to leases entered into under this section.

DIVISION IX LOCAL GOVERNMENT INNOVATION FUND

Sec. 27. NEW SECTION. 8.64 LOCAL GOVERNMENT INNOVATION FUND — COMMITTEE — LOANS.

1. The local government innovation fund is created in the state treasury under the control of the department of management for the purpose of stimulating and encouraging innovation in local government by the awarding of loans to cities and counties.

2. The director of the department of management shall establish a seven-member committee to be called the local government innovation fund committee. Committee members shall have expertise in local government. The committee shall review all requests for funds and approve loans of funds if the committee determines that a city or county project that is the subject of a request would result in cost savings, innovative approaches to service delivery, or added revenue to the city, county, or state. Eligible projects are projects which cannot be funded from a city's or county's operating budget without adversely affecting the city's or county's normal service levels. Preference shall be given to requests involving the sharing of services between two or more local governments. Projects may include, but are not limited to, purchase of advanced technology, contracting for expert services, and acquisition of equipment or supplies.

3. A city or county seeking a loan from the local government innovation fund shall complete an application form designed by the local government innovation fund committee which employs a return on investment concept and demonstrates how the project funded by the loan will result in reduced city, county, or state general fund expenditures or how city or county fund revenues will increase without an increase in state costs. Minimum loan requirements for city or county requests shall be determined by the committee.

4. a. In order for the local government innovation fund to be self-supporting, the local government innovation fund committee shall establish repayment schedules for each loan awarded. The loan requirements shall be outlined in a chapter 28E agreement executed

between the state and the city or county receiving the loan. A city or county shall repay the loan over a period not to exceed five years, with interest, at a rate to be determined by the local government innovation fund committee.

b. The local government innovation fund committee shall utilize the department of management, the department of revenue and finance, or other source of technical expertise designated by the committee to certify savings projected for a local government innovation fund project.

5. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the local government innovation fund shall be credited to the local government innovation fund. Notwithstanding section 8.33, moneys appropriated to and moneys remaining in the local government innovation fund at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 28. LOCAL GOVERNMENT INNOVATION FUND APPROPRIATION. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the local government innovation fund created in section 8.64:
..... \$ 10,000,000

Notwithstanding section 8.64, subsection 4, as enacted by this division of this Act, the local government innovation fund committee may provide up to 20 percent of the amount appropriated in this section in the form of forgivable loans or as grants for those projects that propose a new and innovative sharing initiative that would serve as an important model for cities and counties.⁵

DIVISION X
STUDY OF CITY AND COUNTY REGULATION BY THE
DEPARTMENT OF NATURAL RESOURCES

Sec. 29. STUDY. The legislative council shall establish a study committee for the 2003 interim to review the department of natural resources' enforcement and penalty policies relating to regulation of cities and counties. The study committee shall review options for changing the department's approach to enforcement from reliance on punitive measures to a collaborative approach. In addition, the amounts of fines shall be reviewed along with the possibility of designating a portion of a fine to be applied against the costs of compliance with the departmental regulation.

DIVISION XI
CHARGE FOR CAPITAL ASSETS

Sec. 30. CHARGE FOR CAPITAL ASSETS. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of management shall levy a charge against departments and establishments, as defined in section 8.2, for indirect costs associated with state ownership of land, buildings, equipment, or other capital assets controlled by a department or establishment. The charges shall not be levied against capital assets that are subject to charges levied by the department of administrative services, if the department is established by law, or against capital assets controlled by the state board of regents. Moneys received as a result of charges made under this section shall be transferred to the fund from which the moneys were originally appropriated. The total amount of charges levied under this section that are associated with appropriations made from the general fund of the state for the fiscal year shall not exceed \$1,720,000.⁶

Sec. 31. CHARGE FOR CAPITAL — APPROPRIATIONS REDUCTION — STATE BOARD OF REGENTS — STUDY.

1. In lieu of applying a charge for capital assets to the institutions under the control of the

⁵ See chapter 179, §42 herein

⁶ See chapter 179, §138 herein

state board of regents as otherwise provided in this division for executive branch agencies, the appropriations made from the general fund of the state to the state board of regents **for the general university** operating budgets at the state university of Iowa, Iowa state university of science and technology, and university of northern Iowa, in 2003 Iowa Acts, House File 662,⁷ section 9, subsections 2, 3, and 4, are reduced by \$17,880,000. **The state board of regents shall apply the reduction as follows: state university of Iowa, 46.7 percent, Iowa state university of science and technology, 36.8 percent, and university of northern Iowa, 16.5 percent.**

2. The legislative council shall authorize a study for the 2003 legislative interim on the policy option of levying charges for capital assets against all state agencies, including the state board of regents. The study recommendations and findings shall include but are not limited to identification of the capital assets that should be subject to charges and how capital assets funded by sources other than state funding should be charged. The study report, including findings and recommendations, shall be submitted to the general assembly for consideration during the 2004 legislative session. The study shall be conducted by a study committee consisting of the following: one member designated by the state board of regents, one member representing the department of management designated by the department's director, one member representing the state department of transportation appointed by the department's director, one member representing the judicial branch appointed by the chief justice of the supreme court, one member who is a member of the general assembly jointly appointed by the majority leader of the senate and the speaker of the house of representatives, and one member who is a member of the general assembly jointly appointed by the minority leader of the senate and the minority leader of the house of representatives. A chairperson or cochairpersons shall be designated by the legislative council.

DIVISION XII CHARTER AGENCIES

Sec. 32. NEW SECTION. 7J.1 CHARTER AGENCIES.

1. DESIGNATION OF CHARTER AGENCIES — PURPOSE. The governor may, by executive order, designate up to five state departments or agencies, as described in section 7E.5, other than the department of administrative services, if the department is established in law, or the department of management, as a charter agency by July 1, 2003. The designation of a charter agency shall be for a period of five years which shall terminate as of June 30, 2008. The purpose of designating a charter agency is to grant the agency additional authority as provided by this chapter while reducing the total appropriations to the agency.⁸

2. CHARTER AGENCY DIRECTORS.

a. Prior to each fiscal year, or as soon thereafter as possible, the governor and each director of a designated charter agency shall enter into an annual performance agreement which shall set forth measurable organization and individual goals for the director in key operational areas of the director's agency. The annual performance agreement shall be made public and a copy of the agreement shall be submitted to the general assembly.

b. In addition to the authority granted the governor as to the appointment and removal of a director of an agency that is a charter agency, the governor may remove a director of a charter agency for misconduct or for failure to achieve the performance goals set forth in the annual performance agreement.

c. Notwithstanding any provision of law to the contrary, the governor may set the salary of a director of a charter agency under the pay plan for exempt positions in the executive branch of government. In addition, the governor may authorize the payment of a bonus to a director of a charter agency in an amount not in excess of fifty percent of the director's annual rate of pay, based upon the governor's evaluation of the director's performance in relation to the goals set forth in the annual performance agreement.

d. A director of a charter agency may authorize the payment of bonuses to employees of the charter agency in a total amount not in excess of fifty percent of the director's annual rate of pay, based upon the director's evaluation of the employees' performance.

* Item veto; see message at end of the Act

⁷ Chapter 182 herein

⁸ See chapter 179, §85; 2003 Iowa Acts, First Extraordinary Session, chapter 2, §14 herein

3. APPROPRIATIONS AND ASSET MANAGEMENT.

a. It is the intent of the general assembly that appropriations to a charter agency for any fiscal year shall be reduced, with a target reduction of ten percent for each charter agency, from the appropriation that would otherwise have been enacted for that charter agency.⁹

b. Notwithstanding any provision of law to the contrary, proceeds from the sale or lease of capital assets that are under the control of a charter agency shall be retained by the charter agency and used for such purposes within the scope of the responsibilities of the charter agency.

c. Notwithstanding section 8.33, one-half of all unencumbered or unobligated balances of appropriations made for each fiscal year of that fiscal period to the charter agency shall not revert to the state treasury or to the credit of the funds from which the appropriations were made.

d. For the fiscal period beginning July 1, 2003, and ending June 30, 2005, a charter agency is not subject to a uniform reduction ordered by the governor in accordance with section 8.31.

4. PERSONNEL MANAGEMENT.

a. Notwithstanding any provision of law to the contrary, a charter agency shall not be subject to any limitation relating to the number of or pay grade assigned to its employees, including any limitation on the number of full-time equivalent positions as defined by section 8.36A.

b. A charter agency may waive any personnel rule and may exercise the authority granted to the department of personnel, or its successor, relating to personnel management concerning employees of the charter agency, subject to any restrictions on such authority as to employees of the charter agency covered by a collective bargaining agreement. The exclusive representative of employees of a charter agency may enter into agreements with the charter agency to grant the charter agency the authority described in this paragraph. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

5. PROCUREMENT AND GENERAL SERVICES. A charter agency may waive any administrative rule regarding procurement, fleet management, printing and copying, or maintenance of buildings and grounds, and may exercise the authority of the department of general services, or its successor, as it relates to the physical resources of the state. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

6. INFORMATION TECHNOLOGY. A charter agency may waive any administrative rule regarding the acquisition and use of information technology and may exercise the powers of the information technology department, or its successor, as it relates to information technology. A waiver of a rule pursuant to this subsection shall be indexed, filed, and made available for public inspection in the same manner as provided in section 17A.9A, subsection 4.

7. RULE FLEXIBILITY.

a. A charter agency may temporarily waive or suspend the provisions of any administrative rule if strict compliance with the rule impacts the ability of the charter agency requesting the waiver or suspension to perform its duties in a more cost-efficient manner and the requirements of this subsection are met.

b. The procedure for granting a temporary waiver or suspension of any administrative rule shall be as follows:

(1) The charter agency may waive or suspend a rule if the agency finds, based on clear and convincing evidence, all of the following:

(a) The application of the rule poses an undue financial hardship on the applicable charter agency.

(b) The waiver or suspension from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

(c) Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or suspension is requested.

⁹ See chapter 179, §86 herein

(d) The waiver or suspension would not result in a violation of due process, a violation of state or federal law, or a violation of the state or federal constitution.

(2) If a charter agency proposes to grant a waiver or suspension, the charter agency shall draft the waiver or suspension so as to provide the narrowest exception possible to the provisions of the rule and may place any condition on the waiver or suspension that the charter agency finds desirable to protect the public health, safety, and welfare. The charter agency shall then submit the waiver or suspension to the administrative rules review committee for consideration at the committee's next scheduled meeting.

(3) The administrative rules review committee shall review the proposed waiver or suspension at the committee's next scheduled meeting following submission of the proposal and may either take no action or affirmatively approve the waiver or suspension, or delay the effective date of the waiver or suspension in the same manner as for rules as provided in section 17A.4, subsection 5, and section 17A.8, subsection 9. If the administrative rules review committee either approves or takes no action concerning the proposed waiver or suspension, the waiver or suspension may become effective no earlier than the day following the meeting. If the administrative rules review committee delays the effective date of the waiver or suspension but no further action is taken to rescind the waiver or suspension, the proposed waiver or suspension may become effective no earlier than upon the conclusion of the delay. The administrative rules review committee shall notify the applicable charter agency of its action concerning the proposed waiver or suspension.

(4) Copies of the grant or denial of a waiver or suspension under this subsection shall be filed and made available to the public by the applicable charter agency.

c. A waiver or suspension granted pursuant to this subsection shall be for a period of time not to exceed twelve months or until June 30, 2008, whichever first occurs, and as determined by the applicable charter agency. A renewal of a temporary waiver or suspension granted pursuant to this section shall be granted or denied in the same manner as the initial waiver or suspension.

8. REPORTING REQUIREMENTS.

a. Each charter agency shall submit a written report to the general assembly by December 31 of each year summarizing the activities of the charter agency for the preceding fiscal year. The report shall include information concerning the expenditures of the agency and the number of filled full-time equivalent positions during the preceding fiscal year. The report shall include information relating to the actions taken by the agency pursuant to the authority granted by this section.

b. By January 15, 2008, the governor shall submit a written report to the general assembly on the operation and effectiveness of this chapter and the costs and savings associated with the implementation of this chapter. The report shall include any recommendations about extending the chapter's effectiveness beyond June 30, 2008.

9. DEPARTMENT OF MANAGEMENT REVIEW. Each proposed waiver or suspension of an administrative rule as authorized by this section shall be submitted to the department of management for review prior to the waiver or suspension becoming effective. The director of the department of management may disapprove the waiver or suspension if, based on clear and convincing evidence, the director determines that the suspension or waiver would result in an adverse financial impact on the state.

Sec. 33. NEW SECTION. 7J.2 CHARTER AGENCY LOAN FUND.

1. A charter agency loan fund is created in the state treasury under the control of the department of management for the purpose of providing funding to support innovation by those state agencies designated as charter agencies in accordance with section 7J.1. Innovation purposes shall include but are not limited to training, development of outcome measurement systems, management system modifications, and other modifications associated with transition of operations to charter agency status. Moneys in the fund are appropriated to the department of management for the purposes described in this subsection.

2. A charter agency requesting a loan from the fund shall complete an application process designated by the director of the department of management. Minimum loan requirements for charter agency requests shall be determined by the director.

3. In order for the fund to be self-supporting, the director of the department of management shall establish repayment schedules for each loan awarded. An agency shall repay the loan over a period not to exceed five years with interest, at a rate to be determined by the director.

4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the charter agency loan fund shall be credited to the charter agency loan fund. Notwithstanding section 8.33, moneys credited to the charter agency loan fund shall not revert to the fund from which appropriated at the close of a fiscal year.¹⁰

Sec. 34. NEW SECTION. 7J.3 REPEAL.

This chapter is repealed June 30, 2008.

Sec. 35. CHARTER AGENCY APPROPRIATIONS.

1. Notwithstanding any provision of law to the contrary, the total appropriations from the general fund of the state to those departments and agencies designated as charter agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, as provided by the appropriation to those agencies as enacted by the Eightieth General Assembly, 2003 Regular Session, shall be reduced by \$15,000,000. The department of management shall apply the appropriation reductions, with a target of a 10 percent reduction for each charter agency, as necessary to achieve the overall reduction amount and shall make this information available to the legislative fiscal committee and the legislative fiscal bureau. It is the intent of the general assembly that appropriations to a charter agency in subsequent fiscal years shall be similarly adjusted from the appropriation that would otherwise have been enacted.

2. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the charter agency loan fund created in section 7J.2:

..... \$ 3,000,000

3. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, if the actual amount of revenue received by a charter agency exceeds the revenue amount budgeted for that charter agency by the governor and the general assembly, the charter agency may consider the excess amount to be repayment receipts as defined in section 8.2.¹¹

Sec. 36. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XIII
HEALTH INSURANCE INCENTIVE

Sec. 37. STATE EMPLOYEE HEALTH INSURANCE COSTS — INCENTIVE PROGRAM.

The department of personnel, or its successor, may establish, with the approval of the executive council, an incentive program for state employees to encourage the reduction of health insurance costs for the fiscal year beginning July 1, 2003. If established, the incentive program shall provide that an amount equal to one-half of any savings realized through implementation of the program shall be distributed to applicable insured state employees in a manner established by the incentive program. The department shall provide the legislative government oversight committee with a copy of the proposed incentive program submitted to the executive council for approval. The department shall also submit a written update to the legislative government oversight committee by December 31, 2003, concerning its progress in implementing an incentive program.

¹⁰ See chapter 179, §87 herein

¹¹ See chapter 179, §139 herein

DIVISION XIV
AREA EDUCATION AGENCIES

**Sec. 38. AREA EDUCATION AGENCY SERVICE DELIVERY TASK FORCE.*

1. *The department of education shall establish a task force to study the delivery of media services, educational services, and special education support services by the area education agencies. The task force shall study issues including, but not limited to, all of the following:*

- a. *The potentiality of a fee for services, such as cooperative purchasing.*
- b. *The potential effects of allowing school districts to petition to join a noncontiguous area education agency.*
- c. *Opportunities for area education agencies to collaborate with community colleges and other higher education institutions, local libraries, and other community providers.*
- d. *Special education delivery by area education agencies and school districts, including the state's success in serving students identified as level I. This portion of the study shall also include a review of identification of students as level I; remediation, the success of preventative programs, including but not limited to, the early intervention block grant program; intensive instruction and tutoring; and appropriate reading instruction methodologies.*
- e. *Reduction of special education funding deficits, including a review of the use of state and federal funds for special education and related preventative programs.*

2. *The task force membership shall include all of the following:*

- a. *The director of the department of education or the director's designee.*
- b. *An area education agency administrator.*
- c. *A person representing the interests of special education students.*
- d. *A superintendent of a district with an enrollment of more than six hundred students.*
- e. *A superintendent of a district with an enrollment of six hundred or fewer students.*
- f. *A person from the private sector with experience in developing plans for cost savings.*
- g. *A person who is a private provider of special education services.*
- h. *An administrator of an accredited nonpublic school.*
- i. *Ten members of the general assembly, including five senators appointed by the president of the senate after consultation with the majority and minority leaders of the senate, and five representatives appointed by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.*

3. *The department shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education by December 15, 2003.**

Sec. 39. SPECIAL EDUCATION SUPPORT SERVICES BALANCE REDUCTION.

1. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, area education agency special education support services fund balances shall be reduced, with each area education agency remitting to the state the following designated amount:

a. Area Education Agency 1	\$	517,120
b. Area Education Agency 4	\$	221,604
c. Area Education Agencies 3 and 5, and their successor area education agency	\$	995,807
d. Area Education Agencies 2, 6, 7, and their successor area education agency	\$	913,710
e. Area Education Agency 9	\$	468,138
f. Area Education Agency 10	\$	964,357
g. Area Education Agency 11	\$	3,620,018
h. Area Education Agency 12	\$	512,949
i. Area Education Agency 13	\$	666,285
j. Area Education Agency 14	\$	405,065
k. Area Education Agency 15	\$	413,282
l. Area Education Agency 16	\$	301,664

* Item veto; see message at end of the Act

2. Notwithstanding the provisions of section 257.37, an area education agency may use the funds determined to be available under section 257.35 in a manner which it believes is appropriate to best maintain the level of required area education agency special education services. An area education agency may also use unreserved fund balances for media services or education services in a manner which it believes is appropriate to best maintain the level of required area education agency special education services.

Sec. 40. Section 257.35, subsection 2, Code 2003, is amended to read as follows:

2. Notwithstanding subsection 1, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for ~~each the fiscal year of the fiscal period beginning July 1, 2002, and ending June 30, 2004~~ beginning July 1, 2002, and each succeeding fiscal year, shall be reduced by the department of management by seven million five hundred thousand dollars. The reduction for each area education agency shall be equal to the reduction that the agency received in the fiscal year beginning July 1, 2001.

Sec. 41. Section 257.35, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be reduced by the department of management by ten million dollars. The department shall calculate a reduction such that each area education agency shall receive a reduction proportionate to the amount that it would otherwise have received under this section if the reduction imposed pursuant to this subsection did not apply.

Sec. 42. Section 257.37, subsection 6, Code 2003, is amended to read as follows:

6. For the budget ~~years year~~ beginning July 1, 2002, and July 1, 2003 each succeeding budget year, notwithstanding the requirements of this section for determining the budgets and funding of media services and education services, an area education agency may, within the limits of the total of the funds provided for the budget years pursuant to section 257.35, expend for special education support services an amount that exceeds the payment for special education support services pursuant to section 257.35 in order to maintain the level of required special education support services in the area education agency.

Sec. 43. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XV CHILD WELFARE SERVICES

Sec. 44. CHILD WELFARE SERVICES SYSTEM REDESIGN.

1. PURPOSE. The department of human services shall initiate a process for improving the outcomes for families in this state who become involved with the state system for child welfare and juvenile justice by implementing a system redesign to transition to an outcomes-based system for children identified in this section. The outcomes-based system shall be organized based upon the federal and state child welfare outcomes and expectations and shall address the following purposes for the children and families involved with the state system:

a. Safety.

(1) Children are, first and foremost, protected from abuse and neglect.

(2) Children are safely maintained in the children's homes with family, whenever possible.

b. Permanency.

(1) Children have permanency and stability in the children's living situations.

(2) The continuity of children's family relationships and community connections is preserved.

- c. Child and family well-being.
 - (1) Family capacity to provide for the needs of the children who are part of the family is enhanced.
 - (2) Children receive appropriate services to meet the children's educational needs.
 - (3) Children receive additional services that are appropriate to meet the children's physical and mental health needs.
 - (4) Youth who are becoming adults and leaving the service system for children will receive appropriate services to make the transition to become self-sufficient and contributing members of the community.
 - d. Public safety. Communities are protected from juvenile crime.
 - e. Accountability. Communities are made whole through completion of community service activities assigned to juvenile offenders.
 - f. Rehabilitation. Youth receive appropriate services and make measurable progress toward acquiring the skills that are essential to law-abiding, productive citizens.
2. CHILDREN INVOLVED. The service system redesign shall address the needs of children who are referred to the department of human services or juvenile court services, including but not limited to all of the following:
- a. Children adjudicated as a child in need of assistance under chapter 232.
 - b. Children adjudicated delinquent under chapter 232 or alleged to have committed a delinquent act and identified in a police report or other formal complaint received by juvenile court services.
 - c. Children subject to emergency removal under chapter 232 or placed for emergency care under section 232.20 or 232.21.
 - d. Children identified through a child abuse assessment conducted in accordance with section 232.71B as being at risk of harm from maltreatment due to child abuse.
3. DESIGN PRINCIPLES. The service system redesign shall incorporate all of the following design principles:
- a. Outcomes can be achieved in the most efficient and cost-effective manner possible.
 - b. The roles of public and private child welfare staff and the state institutions in the redesigned system's delivery model are clarified.
 - c. The financing structure maximizes state and federal funding with as much flexibility as possible and directs funds to services and other support based upon the needs of children and families.
 - d. The methodology for purchasing performance outcomes includes definitions of performance expectations, reimbursement provisions, financial incentives, provider flexibility provisions, and viable protection provisions for children, the state, and providers.
 - e. The regulatory and contract monitoring approaches are designed to assure effective oversight and quality and to address federal program and budget accountability expectations, with appropriate recognition of the need to balance the impact upon service providers.
 - f. The administrative aspects address system planning and support, data collection, management information systems, training, policy development, and budgeting.
4. DESIGN CONSIDERATIONS. The service system redesign shall address all of the following design considerations:
- a. Successful outcome and performance-based system changes made in other states and communities are incorporated.
 - b. Linkages are made with the existing community planning efforts and partnerships are promoted with parents, the courts, the department, and service providers. The redesign shall build upon successful Iowa programs such as community partnerships for protecting children, child welfare funding decategorization projects, and quality service reviews.
 - c. Federal program and budget accountability expectations are addressed.
 - d. Linkages with other critical service systems are effectively incorporated, including but not limited to the systems for mental health, domestic abuse, and substance abuse services, and the judicial branch.
 - e. Options are considered for implementation of an acuity-based, case rate system that

offers bonuses or other incentives for providers that achieve identified results and for providers that are able to develop strategic and collaborative relationships with other providers.

f. Policy options are developed to address the needs of difficult-to-treat children, such as no-object, no-reject time periods.

g. Implementation of evidence-based and continuous learning practices are promoted in the public and private sectors in order to measure and improve outcomes.

5. REDESIGN PLANNING PROCESS. The department of human services shall implement an inclusive process for the service system redesign utilizing a stakeholder panel to involve a broad spectrum of input into the redesign planning, design, implementation, and evaluation process. The stakeholder panel membership may include but is not limited to representation from all of the following:

a. Service consumers.

b. Judicial branch and justice system.

c. Service providers.

d. Community-based collaboration efforts such as child welfare decategorization projects and community partnership for child protection projects.

e. Foster and adoptive parents.

f. Advocacy groups.

g. Departmental staff.

h. Education and special education practitioners.

i. Others.

6. LEGISLATIVE MONITORING. A six-member legislative committee is established to monitor the service system redesign planning and implementation. The members shall be appointed as follows: two members by the senate majority leader, one member by the senate minority leader, two members by the speaker of the house of representatives, and one member by the minority leader of the house of representatives. The committee shall provide advice and consultation to the department and consider any legislative changes that may be needed for implementation.

7. IMPLEMENTATION. The following implementation provisions apply to the service system redesign:

a. Implementation of the redesign plan shall begin no later than January 1, 2004.

b. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section and the rules shall be effective immediately upon filing or on a later date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this paragraph shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this paragraph, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with this paragraph shall also be published as a notice of intended action as provided in section 17A.4.

c. The director of human services shall seek any federal waiver or federal plan amendment relating to funding provided under Title IV-B, IV-E, or XIX of the federal Social Security Act necessary to implement the service system redesign.

8. STATUTORY REQUIREMENTS. The requirements of sections 18.6¹² and 72.3 and the administrative rules implementing section 8.47 are not applicable to the services procurement process used to implement the outcomes-based service system redesign in accordance with this section. The department of human services may enter into competitive negotiations and proposal modifications with each successful contractor as necessary to implement the provisions of this section.

9. APPROPRIATIONS REDUCTION. The appropriations made from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in 2003 Iowa Acts, House File 667,¹³ if enacted, for services, staffing, and

¹² See chapter 179, §80 herein

¹³ Chapter 175 herein

support related to the service system redesign are reduced by \$10,000,000. The governor shall apply the appropriations reductions on or before January 1, 2004, following consultation with the director of human services, the council on human services, and the legislative monitoring committee established pursuant to this section. The appropriations subject to reduction shall include but are not limited to the appropriations made for child and family services, field operations, medical assistance program, and general administration. The appropriations reductions applied by the governor shall be reported to the general assembly on the date the reductions are applied. If the judicial branch reports a revision to the judicial branch budget for juvenile court services making a reduction as a result of the service system redesign, the amount of the reductions applied by the governor shall be reduced by the same amount.

Sec. 45. CHILD WELFARE SYSTEM REDESIGN. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For training of service providers and departmental employees in performance contracting, new service roles, and other skills and information related to the redesign of the child welfare service system, and for the development of a statewide information system for implementation of changes associated with the service system redesign:

..... \$ 1,200,000

2. For deposit in a provider loan fund, which shall be created in the office of the treasurer of state under the authority of the department of human services, to be used to assist child welfare service providers with short-term cash flow needs:

..... \$ 1,000,000

Moneys in the provider loan fund are appropriated to the department for use in accordance with this subsection. The department shall determine the length and interest rate for loans, if any. Loan repayment proceeds shall be credited to the provider loan fund and are appropriated to the department to be used for other loans.

Sec. 46. Section 2C.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any person providing child welfare or juvenile justice services under contract with an agency that is subject to investigation by the citizens' aide. The person shall be considered to be an agency for purposes of the citizens' aide's investigation.

DIVISION XVI DEPARTMENT OF HUMAN SERVICES REINVENTION

Sec. 47. APPROPRIATIONS REDUCTION. The appropriations made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁴ if enacted, are reduced by \$300,000 to reflect the anticipated savings from the electronic payment of benefits and billings implemented pursuant to this division of this Act. The governor shall apply the appropriations reductions on or before January 1, 2004, following consultation with the director of human services and the council on human services. The appropriations reductions applied by the governor shall be reported to the general assembly on the date the reductions are applied.

Sec. 48. SYSTEM EFFICIENCIES — ELECTRONIC BILLING AND PAYMENT — COMPATIBILITY — COMMUNICATIONS.

1. The department of human services shall develop a plan to provide all provider payments under the medical assistance program on an electronic basis by June 30, 2005.

2. The department of human services shall submit a plan to implement an electronic billing and payment system for child care providers to the governor and the general assembly by January 1, 2004.

¹⁴ Chapter 175 herein

3. In developing any billing, payment, or eligibility systems, the department of human services shall ensure that the systems are compatible.

4. The department of human services shall investigate measures to increase effective and efficient communications with clients, including but not limited to reducing duplicative mailings, and shall submit a report of recommendations to the governor and the general assembly by January 1, 2004.

Sec. 49. MEDICAL ASSISTANCE PROGRAM REDESIGN.

1. The department of human services shall establish a work group in cooperation with representatives of the insurance industry¹⁵ to develop a plan for the redesign of the medical assistance program. In developing the redesign plan, the work group shall consider all of the following:

a. Iowa's medical assistance program cannot be sustained in a manner that provides care for participants at the current rate of growth.

b. Iowans deserve a health care safety net that provides health care that is timely, effective, and responsive to individual needs.

c. Iowans would be better served, at a lower cost to taxpayers, if persons who are at risk of becoming medical assistance recipients due to their income, health, and insurance status could be identified and insured.

d. Iowa's children and families would benefit from the use of a medical home model that links children and families to an ongoing source of medical care that ensures access to and appropriate utilization of medical services including preventive services.

e. Iowa's senior population should have more options available to address the population's health care needs including home and community-based services and assisted living.

2. The redesign plan shall include measures such as providing state funding for health care spending accounts for families in the medical assistance program in order to provide incentives for effective health care cost management, providing an insurance-like benefit package for those individuals with extensive medical needs that emphasizes flexible and preventive care through case management, moving to an acuity-based reimbursement system for dually eligible seniors, and developing an evidence-based pharmaceutical program.

3. The department shall submit a progress report of the work group's recommendations for medical assistance program redesign to the governor and the general assembly by January 15, 2004.

Sec. 50. MEDICAL ASSISTANCE APPROPRIATION REDUCTION. The appropriation made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁶ if enacted, for medical assistance is reduced by \$7,500,000.

Sec. 51. HOSPITAL TRUST FUND — MEDICAL ASSISTANCE SUPPLEMENT.

1. Notwithstanding 2002 Iowa Acts, chapter 1003, Second Extraordinary Session, sections 150 and 151, as the sections relate to the hospital trust fund, moneys shall not be transferred from the hospital trust fund at the end of the fiscal year beginning July 1, 2003.

2. There is appropriated from the hospital trust fund to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary to be used for the purposes designated:

To supplement the medical assistance appropriation made in 2003 Iowa Acts, House File 667,¹⁷ if enacted:

..... \$ 14,000,000

The appropriation made in this subsection shall include moneys in the hospital trust fund that remain unencumbered or unobligated at the end of the fiscal year beginning July 1, 2002, and ending June 30, 2003.

Sec. 52. IOWA JUVENILE HOME. The appropriation made from the general fund of the

¹⁵ See chapter 179, §141 herein

¹⁶ Chapter 175 herein

¹⁷ Chapter 175 herein

state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁸ if enacted, for the Iowa juvenile home at Toledo, is reduced by \$410,540.

Sec. 53. STATE TRAINING SCHOOL. The appropriation made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,¹⁹ if enacted, for the state training school at Eldora is reduced by \$1,239,227.

Sec. 54. INDEPENDENCE MHI. The appropriation made from the general fund of the state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of human services in 2003 Iowa Acts, House File 667,²⁰ if enacted, for the state mental health institute at Independence, is reduced by \$544,192.

Sec. 55. NEW SECTION. 249A.32 PHARMACEUTICAL SETTLEMENT ACCOUNT — MEDICAL ASSISTANCE PROGRAM.

1. A pharmaceutical settlement account is created in the state treasury under the authority of the department of human services. Moneys received from settlements relating to provision of pharmaceuticals under the medical assistance program shall be deposited in the account.

2. Moneys in the account shall be used only as provided in appropriations from the account to the department for the purpose of technology upgrades under the medical assistance program.

3. The account shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the account shall not be considered revenue of the state, but rather shall be funds of the account. The moneys in the account are not subject to reversion to the general fund of the state under section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the account shall be credited to the account.

4. The treasurer of state shall provide a quarterly report of account activities and balances to the director.

Sec. 56. Section 256.7, subsection 10, Code 2003, is amended to read as follows:

10. Adopt rules pursuant to chapter 17A relating to educational programs and budget limitations for educational programs pursuant to sections ~~282.28~~, 282.29, 282.30, ~~and 282.31~~, and 282.33.

Sec. 57. Section 282.32, Code 2003, is amended to read as follows:

282.32 APPEAL.

An area education agency or local school district may appeal a decision made pursuant to section ~~282.28 or 282.31~~ to the state board of education. The decision of the state board is final.

Sec. 58. NEW SECTION. 282.33 FUNDING FOR CHILDREN RESIDING IN STATE MENTAL HEALTH INSTITUTES OR INSTITUTIONS.

1. A child who resides in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 5, 7, or 8, and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The institution in which the child resides shall submit a proposed program and budget based on the average daily attendance of the children residing in the institution to the department of education and the department of human services by January 1 for the next succeeding school year. The department of education shall review and approve or modify the proposed program and budget and shall notify the department of revenue and finance of its action by February 1. The department of revenue and finance shall pay the approved budget amount to the department of human services in monthly installments

¹⁸ Chapter 175 herein

¹⁹ Chapter 175 herein

²⁰ Chapter 175 herein

beginning September 15 and ending June 15 of the next succeeding school year. The installments shall be as nearly equal as possible as determined by the department of revenue and finance, taking into consideration the relative budget and cash position of the state's resources. The department of revenue and finance shall pay the approved budget amount for the department of human services from the moneys appropriated under section 257.16 and the department of human services shall distribute the payment to the institution. The institution shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. The department shall review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to section 256.7, subsection 10, and shall notify the department of revenue and finance of the approved accounting amount. The approved accounting amount shall be compared with any amounts paid by the department of revenue and finance to the department of human services and any differences added to or subtracted from the October payment made under this subsection for the next school year. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made.

2. Programs may be provided during the summer and funded under this section if the institution determines a valid educational reason to do so and the department of education approves the program in the manner provided in subsection 1.

Sec. 59. Section 282.28, Code 2003, is repealed.

Sec. 60. FY 2003-2004 FUNDING. For purposes of providing funding for educational programs provided to children residing in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 5, 7, or 8, the institution providing such programs to children residing in the institution shall submit an estimated proposed program and budget based on the estimated average daily attendance of children who will likely be provided educational programs during the fiscal year beginning July 1, 2003, and ending June 30, 2004, to the department of education and the department of human services by August 1, 2003. The budget for the institutions referred to in section 218.1, subsections 7 and 8, shall include funds to access services from the area education agency in the manner in which the services were accessed from the area education agency in the fiscal year beginning July 1, 2002. The department of education shall review and approve or modify the proposed program and budget and shall notify the department of revenue and finance of its action by September 1, 2003. The department of revenue and finance shall pay the approved budget amount, and the department of human services shall distribute payments, as provided in section 282.33.

Sec. 61. EFFECTIVE DATE. The section of this division of this Act relating to appropriation of moneys in the hospital trust fund, being deemed of immediate importance, takes effect upon enactment.

DIVISION XVII REINVENTION INVESTMENT

Sec. 62. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For investment in reinvention initiatives intended to produce ongoing savings, in addition

to funds appropriated for this purpose in 2003 Iowa Acts, House File 655,²¹ section 11, subsection 3, if enacted:

..... \$ 1,350,000

DIVISION XVIII
IOWA LOTTERY AUTHORITY²²

Sec. 63. NEW SECTION. 99G.1 TITLE.

This chapter may be cited as the "Iowa Lottery Authority Act".

Sec. 64. NEW SECTION. 99G.2 STATEMENT OF PURPOSE AND INTENT.

The general assembly finds and declares the following:

1. That net proceeds of lottery games conducted pursuant to this chapter should be transferred to the general fund of the state in support of a variety of programs and services.
2. That lottery games are an entrepreneurial enterprise and that the state should create a public instrumentality of the state in the form of a nonprofit authority known as the Iowa lottery authority with comprehensive and extensive powers to operate a state lottery in an entrepreneurial and businesslike manner and which is accountable to the governor, the general assembly, and the people of the state through a system of audits, reports, legislative oversight, and thorough financial disclosure as required by this chapter.
3. That lottery games shall be operated and managed in a manner that provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free from political influence.

Sec. 65. NEW SECTION. 99G.3 DEFINITIONS.

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

1. "Administrative expenses" includes, but is not limited to, personnel costs, travel, purchase of equipment and all other expenses not directly associated with the operation or sale of a game.
2. "Authority" means the Iowa lottery authority.
3. "Board" means the board of directors of the authority.
4. "Chief executive officer" means the chief executive officer of the authority.
5. "Game specific rules" means rules governing the particular features of specific games, including, but not limited to, setting the name, ticket price, prize structure, and prize claim period of the game.
6. "Instant lottery" or "instant ticket" means a game that offers preprinted tickets such that when a protective coating is scratched or scraped away, it indicates immediately whether the player has won.
7. "Lottery", "lotteries", "lottery game", "lottery games" or "lottery products" means any game of chance approved by the board and operated pursuant to this chapter and games using mechanical or electronic devices, provided that the authority shall not authorize a player-activated gaming machine that utilizes an internal randomizer to determine winning and non-winning plays and that upon random internal selection of a winning play dispenses coins, currency, or a ticket, credit, or token to the player that is redeemable for cash or a prize, and excluding gambling or gaming conducted pursuant to chapter 99B, 99D, or 99F.
8. "Major procurement contract" means a consulting agreement or a contract with a business organization for the printing of tickets or the purchase or lease of equipment or services essential to the operation of a lottery game.
9. "Net proceeds" means all revenue derived from the sale of lottery tickets or shares and all other moneys derived from the lottery, less operating expenses.
10. "On-line lotto" means a lottery game connected to a central computer via telecommunications in which the player selects a specified group of numbers, symbols, or characters out of a predetermined range.

²¹ Chapter 181 herein

²² See chapter 179, §142 herein

11. "Operating expenses" means all costs of doing business, including, but not limited to, prizes and associated prize reserves, computerized gaming system vendor expense, instant and pull-tab ticket expense, and other expenses directly associated with the operation or sale of any game, compensation paid to retailers, advertising and marketing costs, and administrative expenses.

12. "Pull-tab ticket" or "pull-tab" means a game that offers preprinted paper tickets with the play data hidden beneath a protective tab or seal that when opened reveals immediately whether the player has won.

13. "Retailer" means a person, licensed by the authority, who sells lottery tickets or shares on behalf of the authority pursuant to a contract.

14. "Share" means any intangible evidence of participation in a lottery game.

15. "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game.

16. "Vendor" means a person who provides or proposes to provide goods or services to the authority pursuant to a major procurement contract, but does not include an employee of the authority, a retailer, or a state agency or instrumentality thereof.

Sec. 66. NEW SECTION. 99G.4 IOWA LOTTERY AUTHORITY CREATED.

1. An Iowa lottery authority is created, effective September 1, 2003, which shall administer the state lottery. The authority shall be deemed to be a public authority and an instrumentality of the state, and not a state agency. However, the authority shall be considered a state agency for purposes of chapters 17A, 21, 22, 28E, 68B, 91B, 97B, 509A, and 669.

2. The income and property of the authority shall be exempt from all state and local taxes, and the sale of lottery tickets and shares issued and sold by the authority and its retail licensees shall be exempt from all state and local sales taxes.

Sec. 67. NEW SECTION. 99G.5 CHIEF EXECUTIVE OFFICER.

The chief executive officer of the authority shall be appointed by the governor subject to confirmation by the senate and shall serve a four-year term of office beginning and ending as provided in section 69.19. The chief executive officer shall be qualified by training and experience to manage a lottery. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office. Compensation and employment terms of the chief executive officer shall be set by the governor, taking into consideration the officer's level of education and experience, as well as the success of the lottery. The chief executive officer shall be an employee of the authority and shall direct the day-to-day operations and management of the authority and be vested with such powers and duties as specified by the board and by law.

Sec. 68. NEW SECTION. 99G.6 POWER TO ADMINISTER OATHS AND TAKE TESTIMONY — SUBPOENA.

The chief executive officer or the chief executive officer's designee if authorized to conduct an inquiry, investigation, or hearing under this chapter may administer oaths and take testimony under oath relative to the matter of inquiry, investigation, or hearing. At a hearing ordered by the chief executive officer, the chief executive officer or the designee may subpoena witnesses and require the production of records, paper, or documents pertinent to the hearing.

Sec. 69. NEW SECTION. 99G.7 DUTIES OF THE CHIEF EXECUTIVE OFFICER.

1. The chief executive officer of the authority shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the administrative rules, policies, and procedures adopted by the board. The chief executive officer shall do all of the following:

- a. Facilitate the initiation and supervise and administer the operation of the lottery games.
- b. Employ an executive vice president, who shall act as chief executive officer in the absence

of the chief executive officer, and employ and direct other such personnel as deemed necessary.

- c. Contract with and compensate such persons and firms as deemed necessary for the operation of the lottery.
 - d. Promote or provide for promotion of the lottery and any functions related to the authority.
 - e. Prepare a budget for the approval of the board.
 - f. Require bond from such retailers and vendors in such amounts as required by the board.
 - g. Report semiannually to the legislative government oversight committees regarding the operations of the authority.
 - h. Report quarterly and annually to the board, the governor, the auditor of state, and the general assembly a full and complete statement of lottery revenues and expenses for the preceding quarter, and with respect to the annual report, for the preceding year and transfer proceeds to the general fund within thirty days following the end of the quarter.
 - i. Perform other duties generally associated with a chief executive officer of an authority of an entrepreneurial nature.
2. The chief executive officer shall conduct an ongoing study of the operation and administration of lottery laws similar to this chapter in other states or countries, of available literature on the subject, of federal laws and regulations which may affect the operation of the lottery and of the reaction of citizens of this state to existing or proposed features of lottery games with a view toward implementing improvements that will tend to serve the purposes of this chapter.
 3. The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the administrative rules, policies, and procedures of the board.
 4. The chief executive officer or the chief executive officer's designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

Sec. 70. NEW SECTION. 99G.8 BOARD OF DIRECTORS.

1. The authority shall be administered by a board of directors comprised of five members appointed by the governor subject to confirmation by the senate. Board members appointed when the senate is not in session shall serve only until the end of the next regular session of the general assembly, unless confirmed by the senate.
2. Board members shall serve staggered terms of four years beginning and ending as provided in section 69.19. No more than three board members shall be from the same political party.
3. Board members may be removed by the governor for neglect of duty, misfeasance, or nonfeasance in office.
4. No officer or employee of the authority shall be a member of the board.
5. Board members shall be residents of the state of Iowa, shall be prominent persons in their respective businesses or professions, and shall not have been convicted of any felony offense. Of the members appointed, the governor shall appoint to the board an attorney admitted to the practice of law in Iowa, an accountant, a person who is or has been a law enforcement officer, and a person having expertise in marketing.
6. A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the authority.
7. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.
8. No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.
9. Board members shall be considered to hold public office and shall give bond as such as required in chapter 64.
10. Board members shall be entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual

and necessary expenses incurred in the performance of their official duties as members. No person who serves as a member of the board shall by reason of such membership be eligible for membership in the Iowa public employees' retirement system and service on the board shall not be eligible for service credit for any public retirement system.

11. The board shall meet at least quarterly and at such other times upon call of the chairperson or the president. Notice of the time and place of each board meeting shall be given to each member. The board shall also meet upon call of three or more of the board members. The board shall keep accurate and complete records of all its meetings.

12. Meetings of the board shall be governed by the provisions of chapter 21.

13. Board members shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the authority, including, but not limited to, an interest in a major procurement contract or a participating retailer.

14. The members shall elect from their membership a chairperson and vice chairperson.

15. The board of directors may delegate to the chief executive officer of the authority such powers and duties as it may deem proper to the extent such delegation is not inconsistent with the Constitution of this state.

Sec. 71. NEW SECTION. 99G.9 BOARD DUTIES.

The board shall provide the chief executive officer with private-sector perspectives of a large marketing enterprise. The board shall do all of the following:

1. Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the authority.

2. Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer.

3. Adopt policies and procedures and promulgate administrative rules pursuant to chapter 17A relating to the management and operation of the authority. The administrative rules promulgated pursuant to this subsection may include but shall not be limited to the following:

a. The type of games to be conducted.

b. The sale price of tickets or shares and the manner of sale, including but not limited to authorization of sale of tickets or shares at a discount for marketing purposes, provided, however, that a retailer may accept payment by cash, check, money order, debit card, or electronic funds transfer and shall not extend or arrange credit for the purchase of a ticket or share. As used in this section, "cash" means United States currency.

c. The number and amount of prizes, including but not limited to prizes of free tickets or shares in lottery games conducted by the authority and merchandise prizes. The authority shall maintain and make available for public inspection at its offices during regular business hours a detailed listing of the estimated number of prizes of each particular denomination that are expected to be awarded in any game that is on sale or the estimated odds of winning the prizes and, after the end of the claim period, shall maintain and make available a listing of the total number of tickets or shares sold in a game and the number of prizes of each denomination that were awarded.

d. The method and location of selecting or validating winning tickets or shares.

e. The manner and time of payment of prizes, which may include lump-sum payments or installments over a period of years.

f. The manner of payment of prizes to the holders of winning tickets or shares after performing validation procedures appropriate to the game and as specified by the board.

g. The frequency of games and drawings or selection of winning tickets or shares.

h. The means of conducting drawings, provided that drawings shall be open to the public and witnessed by an independent certified public accountant. Equipment used to select winning tickets or shares or participants for prizes shall be examined by an independent certified public accountant prior to and after each drawing.

i. The manner and amount of compensation to lottery retailers.

j. The engagement and compensation of audit services.²³

k. Any and all other matters necessary, desirable, or convenient toward ensuring the effi-

²³ See chapter 179, §108 herein

cient and effective operation of lottery games, the continued entertainment and convenience of the public, and the integrity of the lottery.

4. Adopt game specific rules. The promulgation of game specific rules shall not be subject to the requirements of chapter 17A. However, game specific rules shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the authority.

5. Perform such other functions as specified by this chapter.

Sec. 72. NEW SECTION. 99G.10 AUTHORITY PERSONNEL.

1. All employees of the authority shall be considered public employees.

2. Subject to the approval of the board, the chief executive officer shall have the sole power to designate particular employees as key personnel, but may take advice from the department of personnel in making any such designations. All key personnel shall be exempt from the merit system described in chapter 19A. The chief executive officer and the board shall have the sole power to employ, classify, and fix the compensation of key personnel. All other employees shall be employed, classified, and compensated in accordance with chapters 19A and 20.²⁴

3. The chief executive officer and the board shall have the exclusive power to determine the number of full-time equivalent positions, as defined in chapter 8, necessary to carry out the provisions of this chapter.

4. The chief executive officer shall have the sole responsibility to assign duties to all authority employees.

5. The authority may establish incentive programs for authority employees.

6. An employee of the authority shall not have a financial interest in any vendor doing business or proposing to do business with the authority. However, an employee may own shares of a mutual fund which may hold shares of a vendor corporation provided the employee does not have the ability to influence the investment functions of the mutual fund.

7. An employee of the authority with decision-making authority shall not participate in any decision involving a retailer with whom the employee has a financial interest.

8. A background investigation shall be conducted by the department of public safety, division of criminal investigation, on each applicant who has reached the final selection process prior to employment by the authority. For positions not designated as sensitive by the board, the investigation may consist of a state criminal history background check, work history, and financial review. The board shall identify those sensitive positions of the authority which require full background investigations, which positions shall include, at a minimum, any officer of the authority, and any employee with operational management responsibilities, security duties, or system maintenance or programming responsibilities related to the authority's data processing or network hardware, software, communication, or related systems. In addition to a work history and financial review, a full background investigation may include a national criminal history record check through the federal bureau of investigation. The screening of employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation. The results of background investigations conducted pursuant to this section shall not be considered public records under chapter 22.

9. A person who has been convicted of a felony or bookmaking or other form of illegal gambling or of a crime involving moral turpitude shall not be employed by the authority.

10. The authority shall bond authority employees with access to authority funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

Sec. 73. NEW SECTION. 99G.11 CONFLICTS OF INTEREST.

1. A member of the board, any officer, or other employee of the authority shall not directly or indirectly, individually, as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation have an interest in a business that contracts for the

²⁴ See chapter 179, §60, 84 herein

operation or marketing of the lottery as authorized by this chapter, unless the business is controlled or operated by a consortium of lotteries in which the authority has an interest.

2. Notwithstanding the provisions of chapter 68B, a person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of the lottery, an applicant for a license to sell tickets or shares in the lottery, or a retailer shall not offer a member of the board, any officer, or other employee of the authority, or a member of their immediate family a gift, gratuity, or other thing having a value of more than the limits established in chapter 68B, other than food and beverage consumed at a meal. For purposes of this subsection, "member of their immediate family" means a spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or step-parent of the board member, the officer, or other employee who resides in the same household in the same principal residence of the board member, officer, or other employee.

3. If a board member, officer, or other employee of the authority violates a provision of this section, the board member, officer, or employee shall be immediately removed from the office or position.

4. Enforcement of this section against a board member, officer, or other employee shall be by the attorney general who upon finding a violation shall initiate an action to remove the board member, officer, or employee.

5. A violation of this section is a serious misdemeanor.

Sec. 74. NEW SECTION. 99G.21 AUTHORITY POWERS, TRANSFER OF ASSETS, LIABILITIES, AND OBLIGATIONS.

1. Funds of the state shall not be used or obligated to pay the expenses or prizes of the authority.

2. The authority shall have any and all powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter which are not in conflict with the Constitution of this state, including, but without limiting the generality of the foregoing, the following powers:

- a. To sue and be sued and to complain and defend in all courts.
- b. To adopt and alter a seal.
- c. To procure or to provide insurance.
- d. To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto.
- e. To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this chapter and administrative rules, policies, and procedures adopted pursuant thereto.
- f. To enter into written agreements with one or more other states or territories of the United States, or one or more political subdivisions of another state or territory of the United States, or any entity lawfully operating a lottery outside the United States for the operation, marketing, and promotion of a joint lottery or joint lottery game. For the purposes of this subsection, any lottery with which the authority reaches an agreement or compact shall meet the criteria for security, integrity, and finance set by the board.
- g. To conduct such market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game, and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication.
- h. Subject to the provisions of subsection 3, to acquire or lease real property and make improvements thereon and acquire by lease or by purchase, personal property, including, but not limited to, computers; mechanical, electronic, and on-line equipment and terminals; and intangible property, including, but not limited to, computer programs, systems, and software.
- i. Subject to the provisions of subsection 3, to enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial bank or credit provider.
- j. To select and contract with vendors and retailers.

k. To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks.

l. To enter into contracts of any and all types on such terms and conditions as the authority may determine necessary.

m. To establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit.

n. To advertise and promote the lottery and lottery games.

o. To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise.

p. Notwithstanding any other provision of law to the contrary, to purchase meals for attendees at authority business meetings.

q. To exercise all powers generally exercised by private businesses engaged in entrepreneurial pursuits, unless the exercise of such a power would violate the terms of this chapter or of the Constitution of this state.

3. Notwithstanding any other provision of law, any purchase of real property and any borrowing of more than one million dollars by the authority shall require written notice from the authority to the legislative government oversight committees and the prior approval of the executive council.

4. The powers enumerated in this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter and no such powers limit or restrict any other powers of the authority.

5. Departments, boards, commissions, or other agencies of this state shall provide reasonable assistance and services to the authority upon the request of the chief executive officer.

Sec. 75. NEW SECTION. 99G.22 VENDOR BACKGROUND REVIEW.

1. The authority shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement contract. Before a major procurement contract is awarded, the division of criminal investigation of the department of public safety shall conduct a background investigation of the vendor to whom the contract is to be awarded. The chief executive officer and board shall consult with the division of criminal investigation and shall provide for the scope of the background investigation and due diligence to be conducted in connection with major procurement contracts. At the time of submitting a bid, proposal, or offer to the authority on a major procurement contract, the authority shall require that each vendor submit to the division of criminal investigation appropriate investigation authorization to facilitate this investigation, together with an advance of funds to meet the anticipated investigation costs. If the division of criminal investigation determines that additional funds are required to complete an investigation, the vendor will be so advised. The background investigation by the division of criminal investigation may include a national criminal history record check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation.²⁵

2. If at least twenty-five percent of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

3. A major procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in this section, and any contract with such a vendor is voidable at the option of the authority. Any contract with a vendor that does not comply with the requirements for periodically updating such disclosures during the tenure of the contract as may be specified in such contract may be terminated by the authority. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation

²⁵ See chapter 179, §61 herein

by the authority of the competence, integrity, background, and character of vendors for major procurements.

4. A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

5. A major procurement contract shall not be entered into with any vendor if such vendor has an ownership interest in an entity that had supplied consultation services under contract to the authority regarding the request for proposals pertaining to those particular goods or services.

6. If, based on the results of a background investigation, the board determines that the best interests of the authority, including but not limited to the authority's reputation for integrity, would be served thereby, the board may disqualify a potential vendor from contracting with the authority for a major procurement contract or from acting as a subcontractor in connection with a contract for a major procurement contract.

Sec. 76. NEW SECTION. 99G.23 VENDOR BONDING, TAX FILING, AND COMPETITIVE BIDDING.

1. The authority may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The authority may make procurements that integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the authority shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for state programs.

2. Each vendor shall, at the execution of the contract with the authority, post a performance bond or letter of credit from a bank or credit provider acceptable to the authority in an amount as deemed necessary by the authority for that particular bid or contract.

3. Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state.

4. All major procurement contracts must be competitively bid pursuant to policies and procedures approved by the board unless there is only one qualified vendor and that vendor has an exclusive right to offer the service or product.

Sec. 77. NEW SECTION. 99G.24 RETAILER COMPENSATION — LICENSING.

1. The general assembly recognizes that to conduct a successful lottery, the authority must develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

2. The board shall determine the compensation to be paid to licensed retailers. Compensation may include provision for variable payments based on sales volume or incentive considerations.

3. The authority shall issue a license certificate to each person with whom it contracts as a retailer for purposes of display as provided in this section. Every lottery retailer shall post its license certificate, or a facsimile thereof, and keep it conspicuously displayed in a location on the premises accessible to the public. No license shall be assignable or transferable. Once issued, a license shall remain in effect until canceled, suspended, or terminated by the authority.

4. A licensee shall cooperate with the authority by using point-of-purchase materials, posters, and other marketing material when requested to do so by the authority. Lack of cooperation is sufficient cause for revocation of a retailer's license.

5. The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and online retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The criteria shall include

but not be limited to the volume of expected sales and the sufficiency of existing licensees to serve the public convenience.

6. The applicant shall be current in filing all applicable tax returns to the state of Iowa and in payment of all taxes, interest, and penalties owed to the state of Iowa, excluding items under formal appeal pursuant to applicable statutes. The department of revenue and finance is authorized and directed to provide this information to the authority.

7. A person, partnership, unincorporated association, authority, or other business entity shall not be selected as a lottery retailer if the person or entity meets any of the following conditions:

- a. Has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction.
- b. Has been convicted of any illegal gambling activity, false statements, perjury, fraud, or a felony in this or any other jurisdiction.
- c. Has been found to have violated the provisions of this chapter or any regulation, policy, or procedure of the authority or of the lottery division unless either ten years have passed since the violation or the board finds the violation both minor and unintentional in nature.
- d. Is a vendor or any employee or agent of any vendor doing business with the authority.
- e. Resides in the same household as an officer of the authority.
- f. Is less than eighteen years of age.
- g. Does not demonstrate financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.
- h. Has not demonstrated that the applicant is the true owner of the business proposed to be licensed and that all persons holding at least a ten percent ownership interest in the applicant's business have been disclosed.
- i. Has knowingly made a false statement of material fact to the authority.

8. Persons applying to become lottery retailers may be charged a uniform application fee for each lottery outlet.

9. Any lottery retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the chief executive officer or the chief executive officer's designee if the retailer is found to have violated any provision of this chapter or objective criteria established by the board. Cause for suspension, revocation, or termination may include, but is not limited to, sale of tickets or shares to a person under the age of twenty-one and failure to pay for lottery products in a timely manner.

Sec. 78. NEW SECTION. 99G.25 LICENSE NOT ASSIGNABLE.

Any lottery retailer license certificate or contract shall not be transferable or assignable. The authority may issue a temporary license when deemed in the best interests of the state. A lottery retailer shall not contract with any person for lottery goods or services, except with the approval of the board.

Sec. 79. NEW SECTION. 99G.26 RETAILER BONDING.

The authority may require any retailer to post an appropriate bond, as determined by the authority, using a cash bond or an insurance company acceptable to the authority.

Sec. 80. NEW SECTION. 99G.27 LOTTERY RETAIL LICENSES — CANCELLATION, SUSPENSION, REVOCATION, OR TERMINATION.

1. A lottery retail license issued by the authority pursuant to this chapter may be canceled, suspended, revoked, or terminated by the authority, for reasons including, but not limited to, any of the following:

- a. A violation of this chapter, a regulation, or a policy or procedure of the authority.
- b. Failure to accurately or timely account or pay for lottery products, lottery games, revenues, or prizes as required by the authority.
- c. Commission of any fraud, deceit, or misrepresentation.
- d. Insufficient sales.

- e. Conduct prejudicial to public confidence in the lottery.
 - f. The retailer filing for or being placed in bankruptcy or receivership.
 - g. Any material change as determined in the sole discretion of the authority in any matter considered by the authority in executing the contract with the retailer.
 - h. Failure to meet any of the objective criteria established by the authority pursuant to this chapter.
 - i. Other conduct likely to result in injury to the property, revenue, or reputation of the authority.
2. A lottery retailer license may be temporarily suspended by the authority without prior notice if the chief executive officer or designee determines that further sales by the licensed retailer are likely to result in immediate injury to the property, revenue, or reputation of the authority.
 3. The board shall adopt administrative rules governing appeals of lottery retailer licensing disputes.

Sec. 81. NEW SECTION. 99G.28 PROCEEDS HELD IN TRUST.

All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the authority directly, through electronic funds transfer to the authority, or through the authority's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold products received but not paid for by a lottery retailer and cash proceeds of the sale of any lottery products net of allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers. Sales proceeds of pull-tab tickets shall include the sales price of the lottery product net of allowable sales commission and prizes contained in the product. Sales proceeds and unused instant tickets shall be delivered to the authority or its authorized collection representative upon demand.

Sec. 82. NEW SECTION. 99G.29 RETAILER RENTAL CALCULATIONS — LOTTERY TICKET SALES TREATMENT.

If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state-operated or state-managed lottery, only the compensation received by the lottery retailer from the authority may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

Sec. 83. NEW SECTION. 99G.30 TICKET SALES REQUIREMENTS — PENALTIES.

1. Lottery tickets or shares may be distributed by the authority for promotional purposes.
2. A ticket or share shall not be sold at a price other than that fixed by the authority and a sale shall not be made other than by a retailer or an employee of the retailer who is authorized by the retailer to sell tickets or shares. A person who violates a provision of this subsection is guilty of a simple misdemeanor.
3. A ticket or share shall not be sold to a person who has not reached the age of twenty-one. Any person who knowingly sells a lottery ticket or share to a person under the age of twenty-one shall be guilty of a simple misdemeanor. It shall be an affirmative defense to a charge of a violation under this section that the retailer reasonably and in good faith relied upon presentation of proof of age in making the sale. A prize won by a person who has not reached the age of twenty-one but who purchases a winning ticket or share in violation of this subsection shall be forfeited. This section does not prohibit the lawful purchase of a ticket or share for the purpose of making a gift to a person who has not reached the age of twenty-one. The board shall adopt administrative rules governing the payment of prizes to persons who have not reached the age of twenty-one.
4. Except for the authority, a retailer shall only sell lottery products on the licensed premises

and not through the mail or by technological means except as the authority may provide or authorize.

5. The retailer may accept payment by cash, check, money order, debit card, or electronic funds transfer. The retailer shall not extend or arrange credit for the purchase of a ticket or share. As used in this subsection, "cash" means United States currency.

6. Nothing in this chapter shall be construed to prohibit the authority from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

7. No elected official's name shall be printed on tickets.

Sec. 84. NEW SECTION. 99G.31 PRIZES.

1. The chief executive officer shall award the designated prize to the ticket or shareholder upon presentation of the winning ticket or confirmation of a winning share. The prize shall be given to only one person; however, a prize shall be divided between holders of winning tickets if there is more than one winning ticket.

2. The authority shall adopt administrative rules, policies, and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, subject to the following requirements:

a. The prize shall be given to the person who presents a winning ticket. A prize may be given to only one person per winning ticket. However, a prize shall be divided between holders of winning tickets if there is more than one winning ticket. Payment of a prize may be made to the estate of a deceased prize winner or to another person pursuant to an appropriate judicial order issued by an Iowa court of competent jurisdiction.

b. A prize shall not be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received, or not recorded by the authority within applicable deadlines; lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or not in compliance with such additional specific administrative rules, policies, and public or confidential validation and security tests of the authority appropriate to the particular lottery game involved.

c. No particular prize in any lottery game shall be paid more than once, and in the event of a determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

d. Unclaimed prize money for the prize on a winning ticket or share shall be retained for a period deemed appropriate by the chief executive officer, subject to approval by the board. If a valid claim is not made for the money within the applicable period, the unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions. Notwithstanding this subsection, the disposition of unclaimed prize money from multijurisdictional games shall be made in accordance with the rules of the multijurisdictional game.

e. No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of this section.

f. The authority is discharged of all liability upon payment of a prize pursuant to this section.

g. No ticket or share issued by the authority shall be purchased by and no prize shall be paid to any member of the board of directors; any officer or employee of the authority; or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person.

h. No ticket or share issued by the authority shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

i. The proceeds of any lottery prize shall be subject to state and federal income tax laws. An amount deducted from the prize for payment of a state tax, pursuant to section 422.16, subsection 1, shall be transferred by the authority to the department of revenue and finance on behalf of the prize winner.

Sec. 85. NEW SECTION. 99G.32 AUTHORITY LEGAL REPRESENTATION.

The authority shall retain the services of legal counsel to advise the authority and the board and to provide representation in legal proceedings. The authority may retain the attorney general or a full-time assistant attorney general in that capacity and provide reimbursement for the cost of advising and representing the board and the authority.

Sec. 86. NEW SECTION. 99G.33 LAW ENFORCEMENT INVESTIGATIONS.

The department of public safety, division of criminal investigation, shall be the primary state agency responsible for investigating criminal violations under this chapter. The chief executive officer shall contract with the department of public safety for investigative services, including the employment of special agents and support personnel, and procurement of necessary equipment to carry out the responsibilities of the division of criminal investigation under the terms of the agreement and this chapter.

Sec. 87. NEW SECTION. 99G.34 OPEN RECORDS — EXCEPTIONS.

The records of the authority shall be governed by the provisions of chapter 22, provided that, in addition to records that may be kept confidential pursuant to section 22.7, the following records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Marketing plans, research data, and proprietary intellectual property owned or held by the authority under contractual agreements.
2. Personnel, vendor, and player social security or tax identification numbers.
3. Computer system hardware, software, functional and system specifications, and game play data files.
4. Security records pertaining to investigations and intelligence-sharing information between lottery security officers and those of other lotteries and law enforcement agencies, the security portions or segments of lottery requests for proposals, proposals by vendors to conduct lottery operations, and records of the security division of the authority pertaining to game security data, ticket validation tests, and processes.
5. Player name and address lists, provided that the names and addresses of prize winners shall not be withheld.
6. Operational security measures, systems, or procedures and building plans.
7. Security reports and other information concerning bids or other contractual data, the disclosure of which would impair the efforts of the authority to contract for goods or services on favorable terms.
8. Information that is otherwise confidential obtained pursuant to investigations.

Sec. 88. NEW SECTION. 99G.35 SECURITY.

1. The authority's chief security officer and investigators shall be qualified by training and experience in law enforcement to perform their respective duties in support of the activities of the security office. The chief security officer and investigators shall not have sworn peace officer status. The lottery security office shall perform all of the following activities in support of the authority mission:

- a. Supervise ticket or share validation and lottery drawings, provided that the authority may enter into cooperative agreements with multijurisdictional lottery administrators for shared security services at drawings and game show events involving more than one participating lottery.
- b. Inspect at times determined solely by the authority the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract.
- c. Report any suspected violations of this chapter to the appropriate county attorney or the attorney general and to any law enforcement agencies having jurisdiction over the violation.

- d. Upon request, provide assistance to any county attorney, the attorney general, the department of public safety, or any other law enforcement agency.
 - e. Upon request, provide assistance to retailers in meeting their licensing contract requirements and in detecting retailer employee theft.
 - f. Monitor authority operations for compliance with internal security requirements.
 - g. Provide physical security at the authority's central operations facilities.
 - h. Conduct on-press product production surveillance, testing, and quality approval for printed scratch and pull-tab tickets.
 - i. Coordinate employee and retailer background investigations conducted by the department of public safety, division of criminal investigation.
2. The authority may enter into intelligence-sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.
 3. Records, documents, and information in the possession of the authority received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the authority with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to chapter 22 and shall not be released under any condition without the permission of the person or agency providing the record or information.

Sec. 89. NEW SECTION. 99G.36 FORGERY — FRAUD — PENALTIES.

1. A person who, with intent to defraud, falsely makes, alters, forges, utters, passes, redeems, or counterfeits a lottery ticket or share or attempts to falsely make, alter, forge, utter, pass, redeem, or counterfeit a lottery ticket or share, or commits theft or attempts to commit theft of a lottery ticket or share, is guilty of a class "D" felony.
2. Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a class "D" felony.
3. No person shall knowingly or intentionally make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board pursuant to the provisions of this chapter. Any person who violates the provisions of this section shall be guilty of a class "D" felony.

Sec. 90. NEW SECTION. 99G.37 COMPETITIVE BIDDING.

1. The authority shall enter into a major procurement contract pursuant to competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. The board shall adopt procedures for competitive bidding. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the authority, and the best service and products for the public.
2. In any bidding process, the authority may administer its own bidding and procurement or may utilize the services of the department of general services, or its successor,²⁶ or other state agency.

Sec. 91. NEW SECTION. 99G.38 AUTHORITY FINANCE — SELF-SUSTAINING.

1. The authority may borrow, or accept and expend, in accordance with the provisions of this chapter, such moneys as may be received from any source, including income from the authority's operations, for effectuating its business purposes, including the payment of the initial expenses of initiation, administration, and operation of the authority and the lottery.
2. The authority shall be self-sustaining and self-funded. Moneys in the general fund of the state shall not be used or obligated to pay the expenses of the authority or prizes of the lottery,

²⁶ See chapter 179, §62, 84 herein

and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the authority operating account.

3. The state of Iowa offset program, as provided in section 421.17,²⁷ shall be available to the authority to facilitate receipt of funds owed to the authority.

Sec. 92. NEW SECTION. 99G.39 ALLOCATION, APPROPRIATION, TRANSFER, AND REPORTING OF FUNDS.

1. Upon receipt of any revenue, the chief executive officer shall deposit the moneys in the lottery fund created pursuant to section 99G.40. At least fifty percent of the projected annual revenue accruing from the sale of tickets or shares shall be allocated for payment of prizes to the holders of winning tickets. After the payment of prizes, the following shall be deducted from the authority's revenue prior to disbursement:

a. An amount equal to three-tenths of one percent of the gross lottery revenue for the year shall be deposited in a gambling treatment fund in the office of the treasurer of state.

b. The expenses of conducting the lottery. Expenses for advertising production and media purchases shall not exceed four percent of the authority's gross revenue for the year.

2. The director of management shall not include lottery revenues in the director's fiscal year revenue estimates.

3. a. Notwithstanding subsection 1, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the vision Iowa fund and the school infrastructure fund during the fiscal year pursuant to section 8.57, subsection 5, paragraph "e", the difference shall be paid from lottery revenues prior to deposit of the lottery revenues in the general fund. If lottery revenues are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from lottery revenues in subsequent fiscal years as such revenues become available.

b. The treasurer of state shall, each quarter, prepare an estimate of the gaming revenues and lottery revenues that will become available during the remainder of the appropriate fiscal year for the purposes described in paragraph "a". The department of management and the department of revenue and finance shall take appropriate actions to provide that the amount of gaming revenues and lottery revenues that will be available during the remainder of the appropriate fiscal year is sufficient to cover any anticipated deficiencies.

Sec. 93. NEW SECTION. 99G.40 AUDITS AND REPORTS — LOTTERY FUND.

1. To ensure the financial integrity of the lottery, the authority shall do all of the following:

a. Submit quarterly and annual reports to the governor, state auditor, and the general assembly disclosing the total lottery revenues, prize disbursements, and other expenses of the authority during the reporting period. The fourth quarter report shall be included in the annual report made pursuant to this section. The annual report shall include a complete statement of lottery revenues, prize disbursements, and other expenses, and recommendations for changes in the law that the chief executive officer deems necessary or desirable. The annual report shall be submitted within one hundred twenty days after the close of the fiscal year. The chief executive officer shall report immediately to the governor, the treasurer of state, and the general assembly any matters that require immediate changes in the law in order to prevent abuses or evasions of this chapter or rules adopted or to rectify undesirable conditions in connection with the administration or operation of the lottery.

b. Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the authority.

c. The authority shall deposit in the lottery fund created in subsection 2 any moneys received by retailers from the sale of tickets or shares less the amount of any compensation due the retailers. The chief executive officer may require licensees to file with the authority reports of receipts and transactions in the sale of tickets or shares. The reports shall be in the form and contain the information the chief executive officer requires.

2. A lottery fund is created in the office of the treasurer of state and shall exist as the recipi-

²⁷ See chapter 179, §63, 84 herein

ent fund for authority receipts. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The chief executive officer shall certify quarterly that portion of the fund that has been transferred to the general fund of the state under this chapter and shall cause that portion to be transferred to the general fund of the state. However, upon the request of the chief executive officer and subject to the approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery fund. Prior to the quarterly transfer to the general fund of the state, the chief executive officer may direct that lottery revenue shall be deposited in the lottery fund and in interest-bearing accounts designated by the treasurer of state. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the general fund of the state in the same manner as other lottery revenue.

3. The chief executive officer shall certify before the last day of the month following each quarter that portion of the lottery fund resulting from the previous quarter's sales to be transferred to the general fund of the state.

4. For informational purposes only, the chief executive officer shall submit to the department of management by October 1 of each year a proposed operating budget for the authority for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be deposited into the general fund during the succeeding fiscal year. This budget shall be on forms prescribed by the department of management.

5. The authority shall adopt the same fiscal year as that used by state government and shall be audited annually.²⁸

Sec. 94. NEW SECTION. 99G.41 PRIZE OFFSETS — GARNISHMENTS.

1. Any claimant agency may submit to the authority a list of the names of all persons indebted to such claimant agency or to persons on whose behalf the claimant agency is acting. The full amount of the debt shall be collectable from any lottery winnings due the debtor without regard to limitations on the amounts that may be collectable in increments through garnishment or other proceedings. Such list shall constitute a valid lien upon and claim of lien against the lottery winnings of any debtor named in such list. The list shall contain the names of the debtors, their social security numbers if available, and any other information that assists the authority in identifying the debtors named in the list.

2. The authority is authorized and directed to withhold any winnings paid out directly by the authority subject to the lien created by this section and send notice to the winner. However, if the winner appears and claims winnings in person, the authority shall notify the winner at that time by hand delivery of such action. The authority shall pay the funds over to the agency administering the offset program.

3. Notwithstanding the provisions of section 99G.34 which prohibit disclosure by the authority of certain portions of the contents of prize winner records or information, and notwithstanding any other confidentiality statute, the authority may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the authority in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. Any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the authority.

5. Except as otherwise provided in this chapter, attachments, garnishments, or executions authorized and issued pursuant to law shall be withheld if timely served upon the authority.

6. The provisions of this section shall only apply to prizes paid directly by the authority and shall not apply to any retailers authorized by the board to pay prizes of up to six hundred dollars after deducting the price of the ticket or share.

²⁸ See chapter 179, §109 herein

Sec. 95. NEW SECTION. 99G.42 COMPULSIVE GAMBLERS — PRINTING ON TICKETS — INFORMATION AT RETAIL OUTLETS.

The authority shall cooperate with the gambling treatment program administered by the Iowa department of public health to incorporate information regarding the gambling treatment program and its toll-free telephone number in printed materials distributed by the authority.

Sec. 96. Section 7E.5, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. The department of revenue and finance, created in section 421.2, which has primary responsibility for revenue collection and revenue law compliance, and financial management and assistance, ~~and the Iowa lottery.~~

Sec. 97. Section 7E.6, subsection 3, Code 2003, is amended to read as follows:

3. Any position of membership on the ~~lottery board~~ of the Iowa lottery authority shall receive compensation of fifty dollars per day and expenses.

Sec. 98. Section 8.22A, subsection 5, paragraph a, Code 2003, is amended to read as follows:

a. The amount of lottery revenues for the following fiscal year to be available for disbursement following the deductions made pursuant to section ~~99E.10~~ 99G.39, subsection 1.

Sec. 99. Section 8.57, subsection 5, paragraph e, unnumbered paragraph 2, Code 2003, is amended to read as follows:

If the total amount of moneys directed to be deposited in the general fund of the state under sections 99D.17 and 99F.11 in a fiscal year is less than the total amount of moneys directed to be deposited in the vision Iowa fund and the school infrastructure fund in the fiscal year pursuant to this paragraph “e”, the difference shall be paid from lottery revenues in the manner provided in section ~~99E.10~~ 99G.39, subsection 3.

Sec. 100. Section 68B.35, subsection 2, paragraph e, Code 2003, is amended to read as follows:

e. Members of the banking board, the ethics and campaign disclosure board, the credit union review board, the economic development board, the employment appeal board, the environmental protection commission, the health facilities council, the Iowa finance authority, the Iowa public employees’ retirement system investment board, the ~~lottery board~~ of the Iowa lottery authority, the natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and gaming commission, the state board of regents, the tax review board, the transportation commission, the office of consumer advocate, the utilities board, the Iowa telecommunications and technology commission, and any full-time members of other boards and commissions as defined under section 7E.4 who receive an annual salary for their service on the board or commission.

Sec. 101. Section 99A.10, Code 2003, is amended to read as follows:

99A.10 MANUFACTURE AND DISTRIBUTION OF GAMBLING DEVICES PERMITTED.

A person may manufacture or act as a distributor for gambling devices for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is permitted pursuant to either chapter 99B or chapter ~~99E~~ 99G.

Sec. 102. Section 99B.1, subsection 17, Code 2003, is amended to read as follows:

17. “Merchandise” includes lottery tickets or shares sold or authorized under chapter ~~99E~~ 99G. The value of the ticket or share is the price of the ticket or share as established by the lottery division of the department of revenue and finance pursuant to chapter ~~99E~~ 99G.

Sec. 103. Section 99B.6, subsection 5, Code 2003, is amended to read as follows:

5. Lottery tickets or shares authorized pursuant to chapter ~~99E~~ 99G may be sold on the premises of an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3.

Sec. 104. Section 99B.7, subsection 1, paragraph 1, subparagraph (1), Code 2003, is amended to read as follows:

(1) No other gambling is engaged in at the same location, except that lottery tickets or shares issued by the lottery division of the department of revenue and finance²⁹ may be sold pursuant to chapter ~~99E~~ 99G.

Sec. 105. Section 99B.15, Code 2003, is amended to read as follows:

99B.15 APPLICABILITY OF CHAPTER — PENALTY.

It is the intent and purpose of this chapter to authorize gambling in this state only to the extent specifically permitted by a section of this chapter or chapter 99D, ~~99E~~, or 99F, or 99G. Except as otherwise provided in this chapter, the knowing failure of any person to comply with the limitations imposed by this chapter constitutes unlawful gambling, a serious misdemeanor.

Sec. 106. Section 99F.2, Code 2003, is amended to read as follows:

99F.2 SCOPE OF PROVISIONS.

This chapter does not apply to the pari-mutuel system of wagering used or intended to be used in connection with the horse-race or dog-race meetings as authorized under chapter 99D, lottery or lotto games authorized under chapter ~~99E~~ 99G, or bingo or games of skill or chance authorized under chapter 99B.

Sec. 107. Section 99F.11, subsection 3, Code 2003, is amended to read as follows:

3. Three-tenths of one percent of the adjusted gross receipts shall be deposited in the gambling treatment fund specified in section ~~99E.10~~ 99G.39, subsection 1, paragraph “a”.

Sec. 108. Section 123.49, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Knowingly permit any gambling, except in accordance with chapter 99B, 99D, ~~99E~~, or 99F, or 99G, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

Sec. 109. Section 321.19, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa state patrol vehicles shall bear the word “official” and the department shall keep a separate record. Registration plates issued for Iowa state patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer’s badge number. Registration plates issued for county sheriff’s patrol vehicles shall display one seven-pointed gold star followed by the letter “S” and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, disease investigators of the Iowa department of public health, the department of inspections and appeals, and the department of revenue and finance, who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying “official” state registration plates, persons in the Iowa

²⁹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §38 herein

lottery division of the department of revenue and finance authority whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates, and persons in the department of economic development who are regularly assigned duties relating to existing industry expansion or business attraction. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 110. Section 421.17, subsection 27, Code 2003, is amended by striking the subsection.

Sec. 111. Section 422.16, subsection 1, unnumbered paragraph 4, Code 2003, is amended to read as follows:

For the purposes of this subsection, state income tax shall be withheld on winnings in excess of six hundred dollars derived from gambling activities authorized under chapter 99B or ~~99E~~ 99G. State income tax shall be withheld on winnings in excess of one thousand dollars from gambling activities authorized under chapter 99D. State income tax shall be withheld on winnings in excess of twelve hundred dollars derived from slot machines authorized under chapter 99F.

Sec. 112. Section 422.43, subsection 2, Code 2003, is amended to read as follows:

2. There is imposed a tax of five percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, operated or conducted within the state, the tax to be collected from the operator in the same manner as for the collection of taxes upon the gross receipts of tickets or admission as provided in this section. ~~The tax shall also be imposed upon the gross receipts derived from the sale of lottery tickets or shares pursuant to chapter 99E. The tax on the lottery tickets or shares shall be included in the sales price and distributed to the general fund as provided in section 99E.10.~~

Sec. 113. Section 422B.8, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant

to chapter ~~99E~~ 99G and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 114. Section 422E.3, subsection 2, Code 2003, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter ~~99E~~ 99G and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 115. Section 537A.4, unnumbered paragraph 2, Code 2003, is amended to read as follows:

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase or redemption of a ticket or share in the state lottery in compliance with chapter ~~99E~~ 99G. This section does not apply to wagering under the excursion boat gambling method of wagering authorized by chapter 99F. This section does not apply to the sale, purchase, or redemption of any ticket or similar gambling device legally purchased in Indian lands within this state.

Sec. 116. Section 714B.10, subsection 1, Code 2003, is amended to read as follows:

1. Advertising by sponsors registered pursuant to chapter 557B, licensed pursuant to chapter 99B, or regulated pursuant to chapter 99D, ~~99E, or 99F, or 99G.~~

Sec. 117. Section 725.9, subsection 5, Code 2003, is amended to read as follows:

5. This chapter does not prohibit the possession of gambling devices by a manufacturer or distributor if the possession is solely for sale out of the state in another jurisdiction where

possession of the device is legal or for sale in the state or use in the state if the use is licensed pursuant to either chapter 99B or chapter ~~99E~~ 99G.

Sec. 118. Section 725.15, Code 2003, is amended to read as follows:

725.15 EXCEPTIONS FOR LEGAL GAMBLING.

Sections 725.5 to 725.10 and 725.12 do not apply to a game, activity, ticket, or device when lawfully possessed, used, conducted, or participated in pursuant to chapter 99B, ~~99E~~, or 99F, or 99G.

Sec. 119. Chapter 99E, Code 2003, is repealed.

Sec. 120. IOWA LOTTERY AUTHORITY — TRANSITION PROVISIONS.

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

a. "Iowa lottery authority" means the Iowa lottery authority as created in this Act pursuant to chapter 99G.

b. "Iowa lottery board" means the five-member board established pursuant to 1985 Iowa Acts, chapter 33, section 105.

c. "Lottery division" means the lottery division of the department of revenue and finance established pursuant to 1985 Iowa Acts, chapter 33, section 103.

2. The Iowa lottery authority shall be the legal successor to the lottery division and, as such, shall assume all rights, privileges, obligations, and responsibilities of the lottery division. The promulgated rules of the lottery division shall remain in full force and effect as the rules of the authority until amended or repealed by the authority. In addition, the Iowa lottery authority may continue the security practices and procedures utilized by the lottery division until amended or repealed by the authority.

3. The Iowa lottery authority is created effective at 12:01 a.m. on September 1, 2003, upon which date and time the authority shall become the legal successor to the lottery division. Until the aforesaid date and time, no business shall be conducted by the authority on behalf of the lottery, provided, however, that the Iowa lottery commissioner and Iowa lottery board shall implement such measures as are appropriate to ensure a smooth transition from the agency to the Iowa lottery authority as of the effective date of succession.

4. Notwithstanding any provision of chapter 99G, as created by this Act, to the contrary, the commissioner of the Iowa lottery established pursuant to 1985 Iowa Acts, chapter 33, section 103, as amended by 1986 Iowa Acts, chapter 1245, section 404, shall serve as the initial chief executive officer of the Iowa lottery authority. In addition, notwithstanding any provision of section 99G.9, as created by this Act, to the contrary, the term of office for the chief executive officer of the Iowa lottery authority as of September 1, 2003, shall end April 30, 2008.

5. Notwithstanding any provision of chapter 99G, as created by this Act, to the contrary, the initial board of directors of the Iowa lottery authority shall consist of the duly appointed and confirmed members of the Iowa lottery board serving at the date of succession. Said board members shall serve as members of the Iowa lottery authority's board of directors throughout the remainder of their respective Iowa lottery board terms, subject to earlier resignation or removal from office for cause as provided by this Act.

6. Personnel of the lottery division employed on September 1, 2003, shall transition to the Iowa lottery authority as the initial authority employees.

7. Whereas the lottery division was authorized only as a self-funded enterprise and except for an initial appropriation for start-up expenses, funds of the state have not been authorized for use or obligation to pay the expenses or prizes of the lottery division. The Iowa lottery authority shall function as the legal successor to the lottery division and shall assume all of the assets and obligations of the lottery division, and funds of the state shall not be used or obligated to pay the expenses or prizes of the authority or its predecessor, the lottery division.

8. In order to effect an immediate and efficient transition of the lottery from the lottery

division to the Iowa lottery authority, as soon as practicable, the Iowa lottery authority shall do all of the following:

a. Take such steps and enter into such agreements as the board of the Iowa lottery authority may determine are necessary and proper in order to effect the transfer, assignment, and delivery to the authority from the state of all the tangible and intangible assets constituting the lottery, including the exclusive right to operate the lottery and the assignment to and assumption by the authority of all agreements, covenants, and obligations of the lottery division and other agencies of the state, relating to the operation and management of the lottery.

b. Receive as transferee from the state of Iowa all of the tangible and intangible assets constituting the lottery including, without limitation, the exclusive authorization to operate a lottery in the state of Iowa and ownership of annuities and bonds purchased prior to the date of transfer and held in the name of the Iowa lottery for payment of lottery prizes, and shall assume and discharge all of the agreements, covenants, and obligations of the lottery division entered into and constituting part of the operation and management of the lottery. In consideration for such transfer and assumption, the Iowa lottery authority shall transfer to the state all net profits of the authority, at such times and subject to such financial transfer requirements as are provided in this Act.

c. Have perpetual succession as an instrumentality of the state and a public authority.

9. Notwithstanding any provision of chapter 99G, as created by this Act, to the contrary, the following provisions shall apply to the Iowa lottery authority:

a. Moneys appropriated from the lottery fund to the department of revenue and finance, for administration of the lottery for the fiscal year beginning July 1, 2003, and unexpended prior to September 1, 2003, shall be appropriated to the Iowa lottery authority for operation of the lottery.

b. Of the moneys collected by the lottery division and Iowa lottery authority for the fiscal year beginning July 1, 2003, fifty-four million eight hundred thousand dollars shall be transferred to the general fund of the state.

c. Any authority for establishing the budget of the Iowa lottery authority pursuant to chapter 99G, as created by this Act, shall only apply for the fiscal year beginning July 1, 2004, and each succeeding fiscal year.

Sec. 121. EFFECTIVE DATE. This division of this Act, creating the Iowa lottery authority, takes effect September 1, 2003.³⁰

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 453, an Act relating to state and local government financial and regulatory matters, making and reducing appropriations, providing a fee, increasing civil penalties, and providing applicability and effective dates.

I hereby approve Senate File 453 on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portions of Section 31, subsection 1. These items deal with the allocation of the reduction in appropriations to the three Regent universities. It is important that the Board of Regents have complete flexibility in making these reductions across their appropriations.

I am unable to approve the item designated as Section 31, subsection 2. This subsection sets up a legislative interim committee study on a policy option of levying charges for capital assets

³⁰ See chapter 179, §142 herein

against all state agencies. I have previously stated that I do not support this idea and, therefore, do not support the study.

I am unable to approve the item designated as Section 38 in its entirety. This section requires the Department of Education to establish a task force to conduct several studies regarding the structure, funding of area education agencies and the delivery of media services, educational services, and special education services. The section also requires a study of special education, including identification and remediation procedures, the early intervention block grant program, intensive instruction and tutoring, and reading instruction.

These studies would duplicate work already completed and are unnecessary. Thanks to the cooperative efforts of area education agencies, school districts, and the department of education, studies have already been undertaken and recommendations for improvement have been implemented. In addition an accreditation process has been established improving accountability and the efficient and quality services. One-third of the AEAs are in the process of merging next year and this will create additional efficiencies. I agree that resources needed for special education requires special attention and thus I am recommending that the department of education establish a task force to review special education finance.

At the beginning of this legislative session, it was clear that although our fiscal difficulties were not as severe as many other states, Iowa was facing a budget shortfall. Given that the budget must be balanced, we know that those tasked with the responsibility of balancing the budget would inevitably reduce aid to local government. We worked with legislative leaders to make sure that the reforms included in Senate File 453 would give real hope to Iowans that some services can be improved even as less money is spent.

Additionally, my office worked hard to ensure that the federal stimulus package included direct fiscal relief for states and cities to help lessen the burden imposed by Senate File 453. While the federal stimulus package passed last week included \$189 million in aid to Iowa, the Legislature has indicated it will not direct any of those vital dollars to cities and counties.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 453 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 179

**MISCELLANEOUS APPROPRIATIONS, REDUCTIONS,
REVENUE ADJUSTMENTS, AND OTHER MATTERS**

S.F. 458

AN ACT relating to public expenditure and regulatory matters, compensating public employees, making and reducing appropriations, modifying sales and use taxes, modifying the investment tax credits and premium taxes on mutual insurance associations, providing for related matters, making penalties applicable, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

MH/MR/DD ALLOWED GROWTH

Section 1. Section 426B.5, subsection 2, paragraph d, subparagraphs (1) and (6), Code 2003, are amended to read as follows:

(1) A county must apply to the board for assistance from the risk pool on or before ~~April 1~~ January 25 to cover an unanticipated net expenditure amount in excess of the county's current fiscal year budgeted net expenditure amount for the county's services fund. The risk pool board shall make its final decisions on or before February 25 regarding acceptance or rejection of the applications for assistance and the total amount accepted shall be considered obligated. For purposes of applying for risk pool assistance and for repaying unused risk pool assistance, the current fiscal year budgeted net expenditure amount shall be deemed to be the higher of either the budgeted net expenditure amount in the management plan approved under section 331.439 for the fiscal year in which the application is made or the prior fiscal year's net expenditure amount.

(6) The total amount of risk pool assistance shall be limited to the amount available in the risk pool for a fiscal year. If the total amount of eligible assistance exceeds the amount available in the risk pool the amount of assistance paid shall be prorated among the counties eligible for assistance. Moneys remaining unexpended or unobligated in the risk pool ~~at the close of a fiscal year shall remain available for distribution in the succeeding fiscal year~~ following the risk pool board's decisions made pursuant to subparagraph (1) shall be distributed to the counties eligible to receive funding from the allowed growth factor adjustment appropriation for the fiscal year using the distribution methodology applicable to that appropriation.

Sec. 2. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — FISCAL YEAR 2004-2005.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2004, and ending June 30, 2005, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, as provided in this section in lieu of the provisions of section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... \$ 23,738,749

2. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2004-2005, and is allocated as follows:

a. For distribution as provided by law:

..... \$ 21,738,749

b. For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2:

..... \$ 2,000,000

Sec. 3. 2002 Iowa Acts, chapter 1175, section 104, subsections 2, 4 and 5, as amended by 2003 Iowa Acts, House File 667,¹ section 41, are amended to read as follows:

2. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2003-2004 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

a. For calculation of an allowed growth factor adjustment amount for each county in accordance with the formula in section 331.438, subsection 2, paragraph "b":

..... \$ 12,000,000

b. For calculation of a distribution amount for eligible counties from the per capita expenditure target pool created in the property tax relief fund in accordance with the requirements in section 426B.5, subsection 1:

..... \$ 12,492,712
14,492,000

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in the appropriation made for the MH/DD community services fund for the fiscal year beginning July 1, 2003:

..... \$ 17,727,890

4. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 2 for purposes to produce preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2002, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 10 percent, a withholding factor of 0 percent. In addition to the county's adjusted distribution total, a county that is subject to this paragraph "a" shall receive an inflation adjustment equal to 2.6 percent of the gross expenditures reported for the county's services fund for that fiscal year.

b. For an ending balance percentage of 10 through 24 percent, a withholding factor of 25 percent.

c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 60 percent.

d. ~~For an ending balance percentage of 35 through 44 percent, a withholding factor of 85 percent.~~

~~e.~~ d. For an ending balance percentage of 45 ~~35~~ percent or more, a withholding factor of 100 percent.

5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of \$7,419,074 ~~and the appropriation enacted by the Eightieth General Assembly, 2003 Session, for the MH/DD community services fund shall be reduced by the amount necessary to attain the withholding target amount \$9,418,362.~~ If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor or the inflation adjustment percentage specified in subsection 4, paragraph "a".

¹ Chapter 175 herein

DIVISION II
STANDING APPROPRIATIONS — REDUCTIONS

Sec. 4. GENERAL ASSEMBLY. The appropriations made pursuant to section 2.12 for the expenses of the general assembly and legislative agencies for the fiscal year beginning July 1, 2003, and ending June 30, 2004, are reduced by the following amount:

..... \$ 2,000,000

Sec. 5. REBUILD IOWA INFRASTRUCTURE FUND. Notwithstanding section 8.56, subsection 4, there is appropriated from the cash reserve fund to the rebuild Iowa infrastructure fund created in section 8.57 for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 2,150,000

Sec. 6. ENVIRONMENT FIRST FUND. Notwithstanding the amount of the standing appropriation from the rebuild Iowa infrastructure fund under section 8.57A, subsection 4, there is appropriated from the rebuild Iowa infrastructure fund to the environment first fund, in lieu of the appropriation made in section 8.57A, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 18,445,000

Sec. 7. AT-RISK CHILDREN PROGRAMS. Notwithstanding the standing appropriation in section 279.51, subsection 1, the amount appropriated from the general fund of the state under section 279.51, subsection 1, to the department of education for the fiscal year beginning July 1, 2003, and ending June 30, 2004, is reduced by the following amount:

..... \$ 1,000,000

The amount of the reduction in this section shall be prorated among the programs specified in section 279.51, subsection 1, paragraphs “a”, “b”, and “c”.

Sec. 8. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. Notwithstanding section 312.2, subsection 14, the amount appropriated from the general fund of the state under section 312.2, subsection 14, to the state department of transportation for public transit assistance under chapter 324A for the fiscal year beginning July 1, 2003, and ending June 30, 2004, is reduced by the following amount:

..... \$ 1,298,675²

Sec. 9. Section 294A.25, subsection 1, Code 2003, is amended to read as follows:

1. For the fiscal year beginning July 1, 2000 ~~2003~~, and for each succeeding year, there is appropriated from the general fund of the state to the department of education the amount of ~~eighty five six~~ million eight hundred ninety-one thousand three hundred thirty-six dollars to be used to improve teacher salaries. The moneys shall be distributed as provided in this section.

Sec. 10. EFFECTIVE DATE. The sections of this division of this Act relating to the appropriations made to the rebuild Iowa infrastructure fund and environment first fund for the fiscal year beginning July 1, 2002, being deemed of immediate importance, take effect upon enactment.

DIVISION III
STANDING APPROPRIATIONS — LIMITATIONS

Sec. 11. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the amounts appropriated from the general fund of the state pursuant to those sections for the following designated purposes shall not exceed the following amounts:

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §9 herein

1. For compensation of officers and enlisted persons and their expenses while on state active duty as authorized in section 29A.27:	\$ 432,450
2. For payment for nonpublic school transportation under section 285.2:	\$ 7,799,550
If total approved claims for reimbursement for nonpublic school pupil transportation claims exceed the amount appropriated in this section, the department of education shall prorate the amount of each claim.	
3. For printing cigarette tax stamps under section 453A.7:	\$ 110,055
4. For the state's share of the cost of the peace officers' retirement benefits under section 411.20:	\$ 2,816,189
5. For payment of livestock production credit refunds under section 422.121:	\$ 1,815,735
6. For reimbursement for the homestead property tax credit under section 425.1:	\$ 105,585,004
7. For reimbursement for the agricultural land and family farm tax credits under section 426.1:	\$ 35,497,624
8. For reimbursement for the military service tax credit under section 426A.1A:	\$ 2,569,712
9. For administration expenses of the state unemployment compensation law under chapter 96:	\$ 450,000
10. For payment of certain interest costs due the federal government under the federal Cash Management and Improvement Act under section 421.31:	\$ 550,000
11. For funding the state's deferred compensation program established for state employees under section 509A.12:	\$ 56,501

Sec. 12. ELDERLY AND DISABLED CREDIT. Notwithstanding the standing appropriation in section 425.39, the amount appropriated from the general fund of the state under section 425.39, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, for purposes of implementing the elderly and disabled credit and reimbursement portion of the extraordinary property tax and reimbursement division of chapter 425, shall not exceed \$16,651,800. The director shall pay, in full, all claims to be paid during the fiscal year beginning July 1, 2003, for reimbursement of rent constituting property taxes paid. If the amount of claims for credit for property taxes due to be paid during the fiscal year beginning July 1, 2003, exceeds the amount remaining after payment to renters, the director of revenue and finance shall prorate the payments to the counties for the property tax credit. In order for the director to carry out the requirements of this section, notwithstanding any provision to the contrary in sections 425.16 through 425.39, claims for reimbursement for rent constituting property taxes paid filed before May 1, 2004, shall be eligible to be paid in full during the fiscal year ending June 30, 2004, and those claims filed on or after May 1, 2004, shall be eligible to be paid during the fiscal year beginning July 1, 2004, and the director is not required to make payments to counties for the property tax credit before June 15, 2004.

*Sec. 13. REDUCTION IN CREDITS NOT APPLICABLE. *The provision in section 25B.7 relating to the proration of the property tax credits does not apply with respect to the amount of state reimbursement for property tax credits under this division.**

* Item veto; see message at end of the Act

DIVISION IV
REVENUE ADJUSTMENTS — APPROPRIATIONS

Sec. 14. IOWA ECONOMIC EMERGENCY AND RESERVE FUNDS — EARNINGS. Notwithstanding section 8.55, subsection 4, and section 8.56, subsection 1, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the interest and earnings on moneys deposited in the Iowa economic emergency fund and the cash reserve fund shall be credited to the general fund of the state.

Sec. 15. USE OF REVERSIONS. Notwithstanding section 8.62, if on June 30, 2004, a balance of an operational appropriation, as defined in section 8.62, except for the balances of charter agencies, as defined in section 7J.1, if enacted by 2003 Iowa Acts, Senate File 453,³ remains unexpended or unencumbered, the balance shall revert to the general fund of the state as provided in section 8.33.

Sec. 16. KEEP IOWA BEAUTIFUL FUND. For the fiscal years beginning July 1, 2002, and July 1, 2003, moneys credited to the keep Iowa beautiful fund in accordance with section 422.12A are appropriated to the state department of transportation to be used for the purposes provided in section 314.28.

Sec. 17. ENDOWMENT FOR IOWA'S HEALTH. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, of the \$70,000,000 to be deposited in the endowment for Iowa's health account of the tobacco settlement trust fund under 2001 Iowa Acts, chapter 174, section 1, subsection 1, the following amount shall instead be deposited in the general fund of the state:
..... \$ 20,000,000

Sec. 18. JUNIOR OLYMPICS. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing assistance to a city or nonprofit organization hosting the national junior olympics:
..... \$ 50,000

Sec. 19. REBUILD IOWA INFRASTRUCTURE FUND. Notwithstanding section 8.57, subsection 5, there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57, subsection 5, to the general fund of the state during the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount:
..... \$ 10,000,000

Sec. 20. IOWA LAW ENFORCEMENT ACADEMY. 2003 Iowa Acts, Senate File 439,⁴ section 10, subsection 1, unnumbered paragraph 2, if enacted, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:
..... \$ 1,002,629
..... 1,047,629
..... FTEs 30.05

Sec. 21. MILITARY PAY DIFFERENTIAL. There is appropriated from the cash reserve fund to the department of revenue and finance or its successor agency for the period beginning March 19, 2003, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the purposes designated:

For a military pay differential program and health insurance retention program for individu-

³ Chapter 178, §32 herein

⁴ Chapter 174 herein

als activated for the armed services of the United States, for employees on the central payroll system:

..... \$ 1,810,000

Of the funds appropriated in this section, up to \$10,000 is transferred to the Iowa department of public health⁵ for allocation to community mental health centers to provide counseling services to persons who are members of the national guard and reservists activated but as yet not sent to combat zones and to the persons' family members. The sessions shall be provided on a first come, first served basis and shall be limited to three visits per family.

The department or agency receiving funds under this section shall report monthly to the fiscal committee of the legislative council on the use of the funds.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2003, from the appropriation made in this section shall not revert but shall remain available to be used for the purposes designated in the following fiscal year.

Sec. 22. ASSISTED LIVING PROGRAMS. Notwithstanding section 231C.6, any fees remaining on June 30, 2003, in the assisted living program fund created pursuant to section 231C.6 are appropriated to the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, to carry out the purposes of chapter 231C.

*Sec. 23. COUNTY HOSPITALS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purpose designated:

For support of operational expenses of county hospitals in counties having a population of two hundred twenty-five thousand or more:

..... \$ 312,000*

Sec. 24. WORKFORCE DEVELOPMENT. There is appropriated from the general fund of the state to the Iowa department of workforce development for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purpose designated:

For salaries and support and for the following full-time equivalent positions:

..... \$ 250,000
..... FTEs 5.00

The appropriation in this section shall be used for four OSHA inspectors and one workers' compensation compliance officer. The appropriation in this section is contingent upon the enactment of 2003 Iowa Acts, Senate File 344,⁶ by the Eightieth General Assembly, 2003 Regular Session.

Sec. 25. UNEMPLOYMENT TRUST FUND. There is appropriated from moneys transferred to the state on March 13, 2002, pursuant to section 903(d) of the federal Social Security Act, as amended, to the department of workforce development, the following amount, to be deposited, under the direction of the department of workforce development, in the unemployment compensation fund for the payment of unemployment benefits and for the establishment of the unemployment compensation reserve fund:

..... \$ 40,000,000

Sec. 26. UNEMPLOYMENT TAX AND CLAIM SYSTEM. There is appropriated from moneys transferred to the state on March 13, 2002, pursuant to section 903(d) of the federal Social Security Act, as amended, to the department of workforce development, the following amount for purposes of automation and technology for the unemployment tax and claim system:

..... \$ 20,000,000

Sec. 27. ENHANCED SERVICES TO CLAIMANTS. There is appropriated from moneys

⁵ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §30 herein

* Item veto; see message at end of the Act

⁶ Not enacted

transferred to the state on March 13, 2002, pursuant to section 903(d) of the federal Social Security Act, as amended, to the department of workforce development the following amount for purposes of infrastructure improvements and the administrative and technology costs associated with enhanced services to unemployment benefit claimants for workforce and labor exchange services:

..... \$ 20,700,000

Sec. 28. FEDERAL FISCAL RELIEF FUNDING. If the one hundred eighth United States Congress enacts an economic stimulus package that includes the provision of discretionary funding to the state to provide state or local government fiscal relief, the funding shall be deposited in the fund created by section 8.41.

Sec. 29. Section 8.55, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. Notwithstanding paragraph "a", any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of each fiscal year and after the appropriate amount has been transferred pursuant to paragraph "b", shall not be transferred to the general fund of the state but shall be transferred to the senior living trust fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed ~~forty-one~~ one hundred eighteen million ~~five hundred thousand~~ dollars.

Sec. 30. Section 8.55, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. Notwithstanding paragraph "a", any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of each fiscal year and after the appropriate amounts have been transferred pursuant to paragraphs "b" and "c" shall not be transferred to the general fund of the state but shall be transferred to the endowment for Iowa's health account of the tobacco settlement trust fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed the difference between ~~sixty one hundred one~~ million ~~five seven~~ hundred ~~fifty-one~~ thousand dollars and the amounts transferred to the endowment for Iowa's health account to repay the amounts transferred or appropriated from the endowment for Iowa's health account in 2002 Iowa Acts, chapter 1165, 2002 Iowa Acts, chapter 1166, 2002 Iowa Acts, chapter 1167, ~~and~~ 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, ~~and~~ 2003 Iowa Acts, House File 685.⁷

Sec. 31. Section 8.57, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 2001, as enacted by⁸ 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, section 28, is amended to read as follows:

The "cash reserve goal percentage" for fiscal years beginning on or after July 1, ~~2003~~ 2004, is seven and one-half percent of the adjusted revenue estimate. For each fiscal year beginning ~~on or after July 1, 2003~~, in which the appropriation of the surplus existing in the general fund of the state at the conclusion of the prior fiscal year pursuant to paragraph "b" was not sufficient for the cash reserve fund to reach the cash reserve goal percentage for the current fiscal year, there is appropriated from the general fund of the state an amount to be determined as follows:

Sec. 32. Section 96.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 8. UNEMPLOYMENT COMPENSATION RESERVE FUND.

a. A special fund to be known as the unemployment compensation reserve fund is created in the state treasury. The reserve fund is separate and distinct from the unemployment compensation fund. All moneys collected as reserve contributions, as defined in paragraph "b", shall be deposited in the reserve fund. The moneys in the reserve fund may be used for the payment of unemployment benefits and shall remain available for expenditure in accordance with the provisions of this subsection. The treasurer of state shall be the custodian of the re-

⁷ Chapter 183 herein

⁸ As "amended by" probably intended

serve fund and shall disburse the moneys in the reserve fund in accordance with this subsection and the directions of the director of the department of workforce development.

b. If the balance in the reserve fund on July 1 of the preceding calendar year for calendar year 2004 and each year thereafter is less than one hundred fifty million dollars, a percentage of contributions, as determined by the director, shall be deemed to be reserve contributions for the following calendar year. If the percentage of contributions, termed the reserve contribution tax rate, is not zero percent as determined pursuant to this subsection, the combined tax rate of contributions to the unemployment compensation fund and to the unemployment compensation reserve fund shall be divided so that a minimum of fifty percent of the combined tax rate equals the unemployment contribution tax rate and a maximum of fifty percent of the combined tax rate equals the reserve contribution tax rate except for employers who are assigned a combined tax rate of five and four-tenths. For those employers, the reserve contribution tax rate shall equal zero and their combined tax rate shall equal their unemployment contribution rate. When the reserve contribution tax rate is determined to be zero percent, the unemployment contribution rate for all employers shall equal one hundred percent of the combined tax rate. The reserve contributions collected in any calendar year shall not exceed fifty million dollars. The provisions for collection of contributions under section 96.14 are applicable to the collection of reserve contributions. Reserve contributions shall not be deducted in whole or in part by any employer from the wages of individuals in its employ. All moneys collected as reserve contributions shall not become part of the unemployment compensation fund but shall be deposited in the reserve fund created in this subsection.

c. Moneys in the reserve fund shall only be used to pay unemployment benefits to the extent moneys in the unemployment compensation fund are insufficient to pay benefits during a calendar quarter.

d. The interest earned on the moneys in the reserve fund shall be deposited in and credited to the reserve fund.

e. Moneys from interest earned on the unemployment compensation reserve fund shall be used by the department only upon appropriation by the general assembly and only for purposes contained in section 96.7, subsection 12, for department of workforce development rural satellite offices, and for administrative costs to collect the reserve contributions.

Sec. 33. Section 256D.4, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

~~For each fiscal year in the fiscal period beginning July 1, 2001, and ending June 30, 2003, moneys~~ Moneys appropriated pursuant to section 256D.5, subsection 3, shall be allocated to school districts as follows:

Sec. 34. Section 256D.5, subsection 3, Code 2003, is amended to read as follows:

3. For each fiscal year of the fiscal period beginning July 1, 2001, and ending June 30, ~~2003~~ 2004, the sum of thirty million dollars.

Sec. 35. Section 260G.4B, subsection 1, Code 2003, is amended to read as follows:

1. The total amount of program job credits from all employers which shall be allocated for all accelerated career education programs in the state in any one fiscal year shall not exceed the sum of three million dollars in the fiscal year beginning July 1, 2000, three million dollars in the fiscal year beginning July 1, 2001, three million dollars in the fiscal year beginning July 1, 2002, four million dollars in the fiscal year beginning July 1, 2003, and six million dollars in the fiscal year beginning July 1, ~~2003~~ 2004, and every fiscal year thereafter. Any increase in program job credits above the six-million-dollar limitation per fiscal year shall be developed, based on recommendations in a study which shall be conducted by the department of economic development of the needs and performance of approved programs in the fiscal years beginning July 1, 2000, and July 1, 2001. The study's findings and recommendations shall be submitted to the general assembly by the department by December 31, 2002. The study shall

include but not be limited to an examination of the quality of the programs, the number of program participant placements, the wages and benefits in program jobs, the level of employer contributions, the size of participating employers, and employer locations. A community college shall file a copy of each agreement with the department of economic development. The department shall maintain an annual record of the proposed program job credits under each agreement for each fiscal year. Upon receiving a copy of an agreement, the department shall allocate any available amount of program job credits to the community college according to the agreement sufficient for the fiscal year and for the term of the agreement. When the total available program job credits are allocated for a fiscal year, the department shall notify all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. Once program job credits have been allocated to a community college, the full allocation shall be received by the community college throughout the fiscal year and for the term of the agreement even if the statewide program job credit maximum amount is subsequently allocated and used.

Sec. 36. Section 294A.25, subsection 10, Code 2003, is amended to read as follows:

10. For ~~the each~~ fiscal year ~~beginning July 1, 2001, and ending June 30, 2002,~~ to the department of education ~~from phase III moneys~~ the amount of forty-seven thousand dollars for the Iowa mathematics and science coalition.

Sec. 37. Section 427B.19A, subsection 1, as amended by 2003 Iowa Acts, Senate File 453,⁹ if enacted, is amended to read as follows:

1. The industrial machinery, equipment and computers property tax replacement fund is created. For the fiscal year beginning July 1, 1996, through the fiscal year ending June 30, 2004, there is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the industrial machinery, equipment and computers property tax replacement fund, an amount sufficient to implement this division. However, for the fiscal year beginning July 1, 2003, the amount appropriated to the department of revenue and finance to be credited to the industrial machinery, equipment and computers tax replacement fund is ~~ten~~ eleven million two hundred eighty-one thousand six hundred eighty-five dollars.

Sec. 38. 2001 Iowa Acts, chapter 174, section 1, subsection 2, as amended by 2002 Iowa Acts, chapter 1174, section 8, is amended to read as follows:

2. There is appropriated from the general fund of the state to the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12, for the designated fiscal years, the following amounts, to be used for the purposes specified in section 12E.12 for the endowment for Iowa's health account:

FY 2001-2002	\$	7,248,000
FY 2003-2004	\$	28,251,000
		<u>0</u>
FY 2004-2005	\$	29,785,000
FY 2005-2006	\$	29,562,000
FY 2006-2007	\$	17,773,000

Sec. 39. 2002 Iowa Acts, chapter 1173, section 18, is amended to read as follows:

SEC. 18. POOLED TECHNOLOGY FUNDING — PRIOR ALLOCATIONS — NONREVERSION. Notwithstanding section 8.33, moneys appropriated and allocated in 2001 Iowa Acts, chapter 189, section 5, subsection 1, which remain unobligated or unexpended at the close of the fiscal year for which they were appropriated shall not revert, but shall remain available for expenditure for the purposes for which they were appropriated and allocated, for the fiscal year period beginning July 1, 2002, and ending June 30, ~~2003~~ 2004.

⁹ See chapter 178, §7 herein

Sec. 40. 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, section 33, is amended to read as follows:

SEC. 33. EFFECTIVE DATE — APPLICABILITY. The amendments to the following designated Code provisions in this division of this Act take effect July 1, ~~2003~~ 2004:

- 1. Section 8.55, subsection 2, paragraph “a”.
- 2. Section 8.56, subsection 4, paragraph “b”.
- 3. Section 8.57, subsection 1, paragraph “a”.

Sec. 41. FRANCHISE TAX REVENUE ALLOCATION. There is appropriated from the franchise tax revenues deposited in the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 2003, and ending June 30, 2004, \$8,800,000 to be allocated as follows:

- 1. Sixty percent to the general fund of the city from which the tax is collected.
- 2. Forty percent to the county from which the tax is collected.

If the financial institution maintains one or more offices for the transaction of business, other than its principal office, a portion of its franchise tax shall be allocated to each office, based upon a reasonable measure of the business activity of each office. The director of revenue and finance shall prescribe, for each type of financial institution, a method of measuring the business activity of each office. Financial institutions shall furnish all necessary information for this purpose at the request of the director. The allocation shall be distributed quarterly.

Sec. 42. 2003 Iowa Acts, Senate File 453,¹⁰ section 28, if enacted, is repealed.

RACING AND GAMING COMMISSION

Sec. 43. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 9, subsection 1, is amended to read as follows:

1. RACETRACK REGULATION

There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the regulation of pari-mutuel racetracks, and for not more than the following full-time equivalent positions:	\$	2,083,762
.....		<u>2,163,762</u>
.....	FTEs	24.78

Of the funds appropriated in this subsection, \$85,576 shall be used to conduct an extended harness racing season.

Sec. 44. 2003 Iowa Acts, House File 655,¹¹ section 24, if enacted, is amended to read as follows:

SEC. 24. READY TO WORK PROGRAM COORDINATOR. There is appropriated from ~~the surplus funds in the long-term disability reserve fund and the workers' compensation trust fund~~ to the department of personnel for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator:	\$	89,416
.....		

~~The moneys appropriated pursuant to this section shall be taken in equal proportions from the long-term disability reserve fund and the workers' compensation trust fund.~~

¹⁰ Chapter 178 herein

¹¹ Chapter 181 herein

Sec. 45. 2003 Iowa Acts, House File 655,¹² section 34, if enacted, is amended to read as follows:

SEC. 34. READY TO WORK PROGRAM COORDINATOR. There is appropriated from the ~~surplus funds in the long-term disability reserve fund and the workers' compensation trust fund~~ to the department of administrative services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator:

..... \$ 89,416

~~The moneys appropriated pursuant to this section shall be taken in equal proportions from the long-term disability reserve fund and the workers' compensation trust fund.~~

Sec. 46. CONTINGENT CASH RESERVE APPROPRIATION.

1. There is appropriated from the cash reserve fund to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, for the purposes of reducing or preventing any overdraft on or deficit in the general fund of the state, an amount not to exceed \$50,000,000.

2. The appropriation made in subsection 1 is contingent upon all of the following having occurred:

a. The revenue estimating conference estimate of general fund receipts made during the last quarter of the fiscal year was or the actual fiscal year receipts and accruals were at least one-half of one percent less than the comparable estimate made during the third quarter of the fiscal year.

b. The governor has implemented the uniform reductions in appropriations required in section 8.31 as a result of paragraph "a" and such reduction was insufficient to prevent an overdraft on or deficit in the general fund of the state or the governor did not implement uniform reductions in appropriations because of the lateness of the estimated or actual receipts and accruals under paragraph "a".

c. The balance of the general fund of the state at the end of the fiscal year prior to the appropriation made in subsection 1 was negative.

d. The governor has issued an official proclamation and has notified the cochairpersons of the fiscal committee of the legislative council and the legislative services agency that the contingencies in paragraphs "a" through "c" have occurred and the reasons why the uniform reductions specified in paragraph "b" were insufficient or were not implemented to prevent an overdraft on or deficit in the general fund of the state.

3. If an appropriation is made pursuant to subsection 1 for a fiscal year, there is appropriated from the general fund of the state to the cash reserve fund for the following fiscal year, the amount of the appropriation made pursuant to subsection 1.

Sec. 47. EFFECTIVE DATE. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section appropriating moneys from the keep Iowa beautiful fund.

2. The section amending 2002 Iowa Acts, chapter 1173, section 18, relating to the nonreversion of pooled technology funding.

3. The section appropriating moneys from the cash reserve fund for the military pay differential program. This section applies retroactively to March 19, 2003.

4. The section appropriating moneys from the assisted living program fund.

5. The section making the contingent appropriation from the cash reserve fund.

6. The section amending 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 9, relating to racetrack regulation.

7. The amendment to section 96.9.

¹² Chapter 181 herein

DIVISION V
COMPENSATION AND BENEFITS¹³

Sec. 48. COLLECTIVE BARGAINING AGREEMENTS FUNDED — GENERAL FUND. There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, and to the state board of regents for those persons employed at the state school for the deaf and the Iowa braille and sight saving school, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the amount of \$28,000,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:¹⁴

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.
2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.
3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.
4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.
5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.
6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.
7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.
8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.
9. The collective bargaining agreements negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining units.
10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.
11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.
12. The annual pay adjustments, related benefits, and expense reimbursements referred to in the sections of this division of this Act for employees not covered by a collective bargaining agreement.

Of the amount appropriated in this section, \$2,668,000 shall be allocated to the judicial branch for the purpose of funding annual pay adjustments, expense reimbursements, and related benefits implemented for judicial branch employees.¹⁵ In distributing the remainder of the amount appropriated in this section, the department of management, in order to address essential public protection functions and recognizing the availability of funds appropriated in other Acts of the general assembly and other sources, shall give priority, in descending order, to the department of corrections, department of human services, and department of public safety, and then to the remaining state departments, boards, commissions, councils, and agencies to which the appropriation is applicable.¹⁶

Sec. 49. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2003, the maximum salary levels of all pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 2003, shall be increased by 2 percent for the pay period beginning June 20, 2003, and any additional changes in the pay plans shall be approved by the governor.
- b. For the fiscal year beginning July 1, 2003, employees may receive a step increase or the equivalent of a step increase.

¹³ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §2 herein

¹⁴ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §1 herein

¹⁵ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §2 herein

¹⁶ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §1 herein

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the department of revenue and finance's centralized payroll system shall be increased in the same manner as provided in subsection 1, and any additional changes in any executive branch pay plans shall be approved by the governor. However, commencing July 1, 2003, the consumer advocate shall receive an annual salary in the same salary range as the chairperson and members of the utilities board.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly in statute, salaries of appointed state officers set by the governor, other persons designated, employees designated under section 19A.3, subsection 5, and employees covered by 581 IAC 4.6(3).

4. The pay plans for the bargaining eligible employees of the state shall be increased in the same manner as provided in subsection 1, and any additional changes in such executive branch pay plans shall be approved by the governor. As used in this section, "bargaining eligible employee" means an employee who is eligible to organize under chapter 20, but has not done so.

5. The policies for implementation of this section shall be approved by the governor.

Sec. 50. STATE EMPLOYEES — STATE BOARD OF REGENTS.

1. Funds from the appropriation made in this division of this Act from the general fund of the state to the salary adjustment fund shall be allocated by the department of management to the state board of regents for the purposes of providing increases for state board of regents employees at the state school for the deaf and the Iowa braille and sight saving school who are addressed by that appropriation and employees of the schools who are not covered by a collective bargaining agreement.

2. The state board of regents office and the state university of Iowa, Iowa state university of science and technology, and the university of northern Iowa shall provide from available sources pay adjustments, expense reimbursements, and related benefits to fully fund the following:

a. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

b. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

c. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.

d. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.

e. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa hospital and clinics tertiary health care bargaining unit.

f. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

g. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

h. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

i. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.

j. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

k. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

l. The annual pay adjustments, related benefits, and expense reimbursements referred to in the sections of this division of this Act for employees not covered by a collective bargaining agreement.

Sec. 51. APPROPRIATIONS FROM ROAD FUNDS.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:
..... \$ 3,000,000

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:
..... \$ 12,000,000

3. Except as otherwise provided in this division of this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursements, and related benefits for public employees as provided in this division of this Act.

Sec. 52. SPECIAL FUNDS — AUTHORIZATION. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax fund, for which the general assembly has established an operating budget, a supplemental expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this division of this Act.

Sec. 53. GENERAL FUND SALARY MONEYS. Funds appropriated from the general fund of the state in this division of this Act relate only to salaries supported from general fund appropriations of the state except for employees of the state board of regents at the state school for the deaf and the Iowa braille and sight saving school. The funds appropriated from the general fund of the state for employees at the state school for the deaf and the Iowa braille and sight saving school of the state board of regents shall exclude general university indirect costs and general university federal funds.

Sec. 54. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this division of this Act which are received and may be expended for purposes of this division of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 55. STATE TROOPER MEAL ALLOWANCE. The sworn peace officers in the department of public safety who are not covered by a collective bargaining agreement negotiated pursuant to chapter 20 shall receive the same per diem meal allowance as the sworn peace officers in the department of public safety who are covered by a collective bargaining agreement negotiated pursuant to chapter 20.

Sec. 56. SALARY MODEL COORDINATOR. Of the funds appropriated in this division of this Act from the general fund of the state, \$126,767 for the fiscal year beginning July 1, 2003, is allocated to the department of management for salary and support of the salary model coordinator who shall work in conjunction with the legislative fiscal bureau to maintain the state's salary model used for analyzing, comparing, and projecting state employee salary and benefit information, including information relating to employees of the state board of regents. The department of revenue and finance, the department of personnel, the five institutions under the jurisdiction of the state board of regents, the eight judicial district departments of correctional services, and the state department of transportation shall provide salary data to the department of management and the legislative fiscal bureau to operate the state's salary model. The format and frequency of provision of the salary data shall be determined by the department of management and the legislative fiscal bureau. The information shall be used in collective bargaining processes under chapter 20 and in calculating the funding needs contained within the annual salary adjustment legislation. A state employee organization as

defined in section 20.3, subsection 4, may request information produced by the model, but the information provided shall not contain information attributable to individual employees.

DIVISION VI
CORRECTIVE PROVISIONS

Sec. 57. Section 8A.202, subsection 2, paragraph e, if enacted by 2003 Iowa Acts, House File 534,¹⁷ is amended by striking the paragraph and inserting in lieu thereof the following:

e. Developing and maintaining an electronic repository for public access to reference copies of agency mandated reports, newsletters, and publications in conformity with section 304B.10, subsection 1, paragraph "h". The department shall develop technical standards for an electronic repository in consultation with the state librarian and the state archivist.

Sec. 58. 2003 Iowa Acts, House File 289,¹⁸ section 1, is amended by striking the section and inserting in lieu thereof the following:

SECTION 1. Section 12C.1, subsection 2, paragraph e, Code 2003, as amended by 2003 Iowa Acts, Senate File 395,¹⁹ is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Moneys placed in a depository for the purpose of completing an electronic financial transaction pursuant to section 8A.222 or 331.427.

Sec. 59. Section 99E.9, subsection 2, Code 2003, as amended by 2003 Iowa Acts, House File 171,²⁰ section 31, is amended to read as follows:

2. Subject to the approval of the board, the commissioner may enter into contracts for the operation and marketing of the lottery, except that the board may by rule designate classes of contracts other than major procurements which do not require prior approval by the board. A major procurement shall be as the result of competitive bidding with the contract being awarded to the responsible vendor submitting the lowest and best proposal. However, before a contract for a major procurement is awarded, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the vendor to whom the contract is to be awarded. The commissioner and board shall consult with the division of criminal investigation and shall provide, by rule, for the scope of the thorough background investigations and due diligence with regard to the background investigations to be conducted in connection with major procurements. The vendor shall submit to the division of criminal investigation appropriate investigation authorizations to facilitate this investigation. The background investigation by the division of criminal investigation may include a national criminal history record check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history repository to the federal bureau of investigation. As used in this subsection, "major procurement" means consulting agreements and the major procurement contract with a business organization for the printing of tickets, or for purchase or lease of equipment or services essential to the operation of a lottery game.

Sec. 60. Section 99G.10, subsection 2, if enacted by 2003 Iowa Acts, Senate File 453,²¹ section 72, is amended to read as follows:

2. Subject to the approval of the board, the chief executive officer shall have the sole power to designate particular employees as key personnel, but may take advice from the department of personnel in making any such designations. All key personnel shall be exempt from the merit system described in ~~chapter 19A 8A, article 4~~. The chief executive officer and the board shall have the sole power to employ, classify, and fix the compensation of key personnel. All other employees shall be employed, classified, and compensated in accordance with ~~chapters 19A chapter 8A, article 4, and chapter 20~~.

¹⁷ See chapter 145, §18 herein

¹⁸ Chapter 18 herein

¹⁹ See chapter 48, §1 herein

²⁰ Chapter 108 herein

²¹ Chapter 178 herein

Sec. 61. Section 99G.22, subsection 1, if enacted by 2003 Iowa Acts, Senate File 453,²² is amended to read as follows:

1. The authority shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement contract. Before a major procurement contract is awarded, the division of criminal investigation of the department of public safety shall conduct a background investigation of the vendor to whom the contract is to be awarded. The chief executive officer and board shall consult with the division of criminal investigation and shall provide for the scope of the background investigation and due diligence to be conducted in connection with major procurement contracts. At the time of submitting a bid, proposal, or offer to the authority on a major procurement contract, the authority shall require that each vendor submit to the division of criminal investigation appropriate investigation authorization to facilitate this investigation, together with an advance of funds to meet the anticipated investigation costs. If the division of criminal investigation determines that additional funds are required to complete an investigation, the vendor will be so advised. The background investigation by the division of criminal investigation may include a national criminal history record check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation.

Sec. 62. Section 99G.37, subsection 2, if enacted by 2003 Iowa Acts, Senate File 453,²³ section 90, is amended to read as follows:

2. In any bidding process, the authority may administer its own bidding and procurement or may utilize the services of the department of ~~general administrative services, or its successor,~~ or other state agency.

Sec. 63. Section 99G.38, subsection 3, if enacted by 2003 Iowa Acts, Senate File 453,²⁴ section 91, is amended to read as follows:

3. The state of Iowa offset program, as provided in section ~~421.17~~ 8A.504, shall be available to the authority to facilitate receipt of funds owed to the authority.

Sec. 64. Section 135.150, subsection 3, as enacted by 2003 Iowa Acts, House File 396,²⁵ section 1, is amended to read as follows:

3. "Director" means the director ~~or the director's designee~~ of public health or the director's designee.

Sec. 65. Section 135.154, subsection 7, as enacted by 2003 Iowa Acts, House File 396,²⁶ section 5, is amended to read as follows:

7. Treat or order that individuals exposed to or infected with disease receive treatment or prophylaxis. Treatment or prophylaxis shall be administered by any qualified person authorized to do so by the department. Treatment or prophylaxis shall not be provided or ordered if the treatment or prophylaxis is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this division of this chapter, any individual who is unable or unwilling to undergo treatment or prophylaxis pursuant to this section.

Sec. 66. Section 170.6, subsection 1, paragraph b, if enacted by 2003 Iowa Acts, House File 624,²⁷ is amended to read as follows:

b. Failed to provide notice or access to the department of natural resources and the department of agriculture and land stewardship as required by section 170.5.

²² See chapter 178, §75 herein

²³ Chapter 178 herein

²⁴ Chapter 178 herein

²⁵ Chapter 33 herein

²⁶ Chapter 33 herein

²⁷ See chapter 149, §9 herein

Sec. 67. Section 231.56A, if enacted by 2003 Iowa Acts, Senate File 416,²⁸ section 1, is amended to read as follows:

231.56A ELDER ABUSE INITIATIVE, EMERGENCY SHELTER, AND SUPPORT SERVICES PROJECTS.

1. Through the state's service contract process adopted pursuant to section 8.47, the department shall identify area agencies on aging that have demonstrated the ability to provide a collaborative response to the immediate needs of elders in the area agency on aging service area for the purpose of implementing elder abuse initiative, emergency shelter, and support services projects. The projects shall be implemented only in the counties within an area agency on aging service area that have a multidisciplinary team established pursuant to section 235B.1.

2. The target population of the projects shall be any elder residing in the service area of an area agency on aging who meets both of the following conditions:

- a. Is the subject of a report of suspected dependent adult abuse pursuant to chapter 235B.
- b. Is not receiving assistance under a county management plan approved pursuant to section 331.439.

3. The area agencies on aging implementing the projects shall identify allowable emergency shelter and support services, state funding, outcomes, reporting requirements, and approved community resources from which services may be obtained under the projects. The area agency on aging shall identify at least one provider of case management services for the project area.

4. The area agencies on aging shall implement the projects and shall coordinate the provider network through the use of referrals or other engagement of community resources to provide services to elders.

5. The department shall award funds to the area agencies on aging in accordance with the state's service contract process. Receipt and expenditures of moneys under the projects are subject to examination, including audit, by the department.

6. This section shall not be construed and is not intended as, and shall not imply, a grant of entitlement for services to individuals who are not otherwise eligible for the services or for utilization of services that do not currently exist or are not otherwise available.

Sec. 68. Section 232.71B, subsection 7A, if enacted by 2003 Iowa Acts, House File 558,²⁹ section 1, is amended to read as follows:

7A. PROTECTIVE DISCLOSURE. If the department determines that disclosure is necessary for the protection of a child, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph "a", that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

Sec. 69. Section 235B.3, subsection 6A, if enacted by 2003 Iowa Acts, House File 558,³⁰ section 2, is amended to read as follows:

6A. If the department determines that disclosure is necessary for the protection of a dependent adult, the department may disclose to a subject of a dependent adult abuse report referred to in section 235B.6, subsection 2, paragraph "a", that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

Sec. 70. Section 304B.3, subsections 4, 8, and 9, if enacted by 2003 Iowa Acts, House File 648,³¹ section 6, are amended to read as follows:

4. The director of revenue ~~and finance~~.
8. The director of the department of general administrative services.
9. ~~The director of the information technology department.~~

²⁸ Chapter 98 herein

²⁹ Chapter 123 herein

³⁰ Chapter 123 herein

³¹ Chapter 92 herein

Sec. 71. Section 321.69, subsection 9, as amended by 2003 Iowa Acts, House File 502,³² section 3, is amended to read as follows:

9. ~~This Except for subsection 9A, this~~ section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than nine model years old, motorcycles, motorized bicycles, and special mobile equipment. This section does apply to motor homes. The requirement in subsection 1 that the new certificate of title and registration receipt shall state on the face of the title the total cumulative dollar amount of damage does not apply to a vehicle with a certificate of title bearing a designation that the vehicle was previously titled on a salvage certificate of title pursuant to section 321.52, subsection 4, paragraph "b", or to a vehicle with a certificate of title bearing a "REBUILT" or "SALVAGE" designation pursuant to section 321.24, subsection 4 or 5. ~~This Except for subsection 9A, this~~ section does not apply to new motor vehicles with a true mileage, as defined in section 321.71, of one thousand miles or less, unless such vehicle has incurred damage as defined in subsection 2.

Sec. 72. Section 356.7, subsection 1, as amended by 2003 Iowa Acts, House File 650,³³ section 1, if enacted, is amended to read as follows:

1. The county sheriff, or a municipality operating a temporary municipal holding facility or jail, may charge a prisoner who is eighteen years of age or older and who has been convicted of a criminal offense or sentenced for contempt of court for violation of a domestic abuse order for the actual administrative costs relating to the arrest and booking of that prisoner, and for room and board provided to the prisoner while in the custody of the county sheriff or municipality. Moneys collected by the sheriff or municipality under this section shall be credited ~~respectfully~~ respectively to the county general fund or the city general fund and distributed as provided in this section. If a prisoner who has been convicted of a criminal offense or sentenced for contempt of court for violation of a domestic abuse order fails to pay for the administrative costs and the room and board, the sheriff or municipality may file a room and board reimbursement claim with the district court as provided in subsection 2. The county attorney may file the reimbursement claim on behalf of the sheriff and the county or the municipality. The attorney for the municipality may also file a reimbursement claim on behalf of the municipality. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

Sec. 73. Section 459.401, subsection 2, paragraph a, subparagraph (3A), if enacted by 2003 Iowa Acts, House File 644,³⁴ section 18, is amended to read as follows:

(3A) A commercial manure service license fee as provided in section ~~359.316~~ 459.316.

Sec. 74. Section 505A.1, article V, section 2, paragraph a, subparagraph (3), if enacted by 2003 Iowa Acts, House File 647,³⁵ section 54, is amended to read as follows:

(3) Four members from those compacting states with less than two percent of the market, based on the premium volume described in subparagraph (1), with one selected from each of the four zone regions of the national association of insurance commissioners as provided in the bylaws.

Sec. 75. Section 508.31A, subsection 2, paragraph b, Code 2003, as amended by 2003 Iowa Acts, House File 647,³⁶ section 7, if enacted, is amended to read as follows:

b. A funding agreement issued pursuant to paragraph "a", subparagraph (1), (2), or (3), shall be for a total amount of not less than one million dollars.

Sec. 76. Section 692A.13, subsection 9, if enacted by 2003 Iowa Acts, House File 558,³⁷ section 3, is amended to read as follows:

9. If the department of human services determines that disclosure is necessary for the

³² Chapter 56 herein

³³ Chapter 113 herein

³⁴ Chapter 163 herein

³⁵ Chapter 91 herein

³⁶ Chapter 91 herein

³⁷ Chapter 123 herein

protection of a child or a dependent adult, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph “a”, or to a subject of a dependent adult abuse report referred to in section 235B.6, subsection 2, paragraph “a”, that an individual is listed in the child or dependent adult abuse registry or is required to register under this chapter.

Sec. 77. Section 901.5, subsection 7A, paragraph d, as enacted by 2003 Iowa Acts, House File 404,³⁸ section 1, is amended to read as follows:

d. Violation of a no-contact order issued under this section is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this subsection shall be held not less than five days and not more than fifteen days after the issuance of a rule to show cause, as set by the court, unless the defendant is already in custody at the time of the alleged violation in which case the hearing shall be held not less than five days and not more than forty-five days after the issuance of the rule to show cause.

Sec. 78. 2003 Iowa Acts, Senate File 155,³⁹ section 26, is repealed.

Sec. 79. 2003 Iowa Acts, Senate File 155,⁴⁰ section 56, is repealed.

Sec. 80. 2003 Iowa Acts, Senate File 453,⁴¹ section 44, subsection 8, if enacted, is amended to read as follows:

8. STATUTORY REQUIREMENTS. The requirements of sections ~~18.6~~ 8A.311 and 72.3 and the administrative rules implementing section 8.47 are not applicable to the services procurement process used to implement the outcomes-based service system redesign in accordance with this section. The department of human services may enter into competitive negotiations and proposal modifications with each successful contractor as necessary to implement the provisions of this section.

Sec. 81. 2003 Iowa Acts, House File 601,⁴² section 2, is amended by striking the section and inserting in lieu thereof the following:

SEC. 2. Section 56.5, subsection 2, paragraph d, Code 2003, is amended by striking the paragraph.

Sec. 82. 2003 Iowa Acts, House File 624,⁴³ section 22, if enacted, is amended to read as follows:

SEC. 22. HUNTING PRESERVES AND GAME BREEDERS — AUTOMATIC CERTIFICATION. ~~Any A fence enclosing~~ farm deer kept on land which is owned by a person licensed pursuant to section 484B.5 or 481A.61 ~~and which is enclosed with a fence~~ on the effective date of this Act shall be deemed to comply with construction requirements of section 170.4 and shall be automatically certified by the department of agriculture and land stewardship without ~~submitting~~ submission of an application. The landowner is not required to notify the department of natural resources concerning removal of whitetail as otherwise required pursuant to section 170.5.

Sec. 83. 2003 Iowa Acts, House File 648,⁴⁴ section 1, if enacted, is repealed.

Sec. 84. CONTINGENT EFFECTIVE DATES.

1. The section of this division of this Act amending section 8A.202, subsection 2, if enacted by 2003 Iowa Acts, House File 534,⁴⁵ takes effect if House File 648,⁴⁶ relating to the manage-

³⁸ Chapter 109 herein

³⁹ Chapter 44 herein

⁴⁰ Chapter 44 herein

⁴¹ Chapter 178 herein

⁴² Chapter 40 herein

⁴³ Chapter 149 herein

⁴⁴ Chapter 92 herein

⁴⁵ Chapter 145 herein

⁴⁶ Chapter 92 herein

ment of state archives and records, is enacted by the Eightieth General Assembly, 2003 Regular Session.

2. The sections of this division of this Act amending sections 12C.1, 99G.10, 99G.37, and 99G.38 take effect only if House File 534⁴⁷ is enacted by the Eightieth General Assembly, 2003 Regular Session.

3. The sections of this division of this Act amending section 304B.3, if enacted by 2003 Iowa Acts, House File 648,⁴⁸ and repealing 2003 Iowa Acts, House File 648,⁴⁹ section 1, if enacted, take effect if House File 534,⁵⁰ establishing a department of administrative services, is enacted by the Eightieth General Assembly, 2003 Regular Session.

4. The section of this division of this Act repealing 2003 Iowa Acts, Senate File 155,⁵¹ section 26, takes effect if 2003 Iowa Acts, House File 614,⁵² relating to elections, is enacted by the Eightieth General Assembly, 2003 Regular Session.

DIVISION VII MISCELLANEOUS PROVISIONS

Sec. 85. Section 7J.1, subsection 1, if enacted by 2003 Iowa Acts, Senate File 453,⁵³ is amended to read as follows:

7J.1 CHARTER AGENCIES.

1. DESIGNATION OF CHARTER AGENCIES — PURPOSE. The governor may, by executive order, designate ~~up to five~~ state departments or agencies, as described in section 7E.5,⁵⁴ other than the department of administrative services, if the department is established in law, or the department of management, as a charter agency by July 1, 2003. The designation of a charter agency shall be for a period of five years which shall terminate as of June 30, 2008. The purpose of designating a charter agency is to grant the agency additional authority as provided by this chapter while reducing the total appropriations to the agency.

Sec. 86. Section 7J.1, subsection 3, paragraph a, if enacted by 2003 Iowa Acts, Senate File 453,⁵⁵ is amended to read as follows:

a. It is the intent of the general assembly that state general fund operating appropriations to a charter agency for any the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be reduced, with a target reduction of ten percent for each charter agency, from the appropriation that would otherwise have been enacted for that charter agency which, along with any additional generated revenue to the general fund of the state attributed to the reinvention process as determined by the department of management, over that already committed to the general fund of the state by a charter agency, will achieve an overall target of fifteen million dollars.

Sec. 87. Section 7J.2, if enacted by 2003 Iowa Acts, Senate File 453,⁵⁶ is amended to read as follows:

7J.2 CHARTER AGENCY ~~LOAN~~ GRANT FUND.

1. A charter agency ~~loan~~ grant fund is created in the state treasury under the control of the department of management for the purpose of providing funding to support innovation by those state agencies designated as charter agencies in accordance with section 7J.1. Innovation purposes shall include but are not limited to training, development of outcome measurement systems, management system modifications, and other modifications associated with transition of operations to charter agency status. Moneys in the fund are appropriated to the department of management for the purposes described in this subsection.

⁴⁷ Chapter 145 herein

⁴⁸ Chapter 92 herein

⁴⁹ Chapter 92 herein

⁵⁰ Chapter 145 herein

⁵¹ Chapter 44 herein

⁵² Vetoed by the governor

⁵³ Chapter 178, §32 herein

⁵⁴ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §14 herein

⁵⁵ Chapter 178, §32 herein

⁵⁶ Chapter 178, §33 herein

2. A charter agency requesting a loan grant from the fund shall complete an application process designated by the director of the department of management. ~~Minimum loan requirements for charter agency requests shall be determined by the director.~~

3. ~~In order for the fund to be self-supporting, the director of the department of management shall establish repayment schedules for each loan awarded. An agency shall repay the loan over a period not to exceed five years with interest, at a rate to be determined by the director.~~

4. ~~3.~~ Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the charter agency loan grant fund shall be credited to the charter agency loan grant fund. Notwithstanding section 8.33, moneys credited to the charter agency loan grant fund shall not revert to the fund from which appropriated at the close of a fiscal year.

Sec. 88. Section 8.23, subsection 1, paragraph a, Code 2003, is amended by striking the paragraph.

Sec. 89. Section 8.31, Code 2003, is amended to read as follows:

8.31 QUARTERLY REQUISITIONS — ALLOTMENTS OF APPROPRIATIONS — EXCEPTIONS — MODIFICATIONS.

1. a. ~~Before an appropriation for administration, operation and maintenance of any department or establishment shall become becomes available, there shall be submitted the department or establishment shall submit to the director of the department of management, not less than twenty days before the beginning of each quarter of each fiscal year, a requisition for an allotment of the amount estimated to be necessary to carry on its work appropriation according to dates identified in the requisition during the ensuing quarter fiscal year by which portions of the appropriation will be needed. The department or establishment shall submit the requisition by June 1, prior to the start of a fiscal year or by another date identified by the director.~~ The requisition shall contain details of proposed expenditures as may be required by the director of the department of management subject to review by the governor.

b. The director of the department of management shall approve the allotments subject to review by the governor, unless it is found that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full, in which event such allotments may be modified to the extent the governor may deem necessary in order that there shall be no overdraft or deficit in the several funds of the state at the end of the fiscal year, and the director shall submit copies of the allotments thus approved or modified to the head of the department or establishment concerned, who shall set up such allotments on the books and be governed accordingly in the control of expenditures.

Allotments of appropriations made for equipment, land, permanent improvements, and other capital projects may, however, be allotted in one amount by major classes or projects for which they are expendable without regard to quarterly periods. ~~For fiscal years beginning on or after July 1, 1989, allotments of appropriations for equipment, land, permanent improvements, and other capital projects, except where contracts have been entered into with regard to the acquisition or project prior to July 1, 1989, shall not be allotted in one amount but shall be allotted at quarterly periods as provided in this section.~~

2. Allotments thus made in accordance with subsection 1 may be subsequently modified by the director of the department of management at the direction of the governor either upon the written request of the head of the department or establishment concerned, or in the event the governor finds that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full, upon the governor's own initiative to the extent the governor may deem necessary in order that there shall be no overdraft or deficit in the several funds of the state at the end of the fiscal year; and the head of the department or establishment shall be given notice of a modification in the same way as in the case of original allotments.

3. ~~Provided, however, that the~~ The allotment requests of all departments and establishments collecting governmental fees and other revenue which supplement a state appropriation shall attach to the summary of requests a statement showing how much of the proposed

allotments are to be financed from ~~(1)~~ state appropriations, ~~(2)~~ stores, and ~~(3)~~ repayment receipts.

4. The procedure to be employed in controlling the expenditures and receipts of the state fair board and the institutions under the state board of regents, whose collections are not deposited in the state treasury, is that outlined in section 421.31, subsection 6.

5. If the governor determines that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full, the reductions shall be uniform and prorated between all departments, agencies and establishments upon the basis of their respective appropriations.

6. Allotments from appropriations for the foreign trade offices of the department of economic development, if the appropriations are described by line item in the department's appropriation Act or another Act, may be made ~~without regard to quarterly periods~~ as is necessary to take advantage of the most favorable foreign currency exchange rates.

Sec. 90. Section 8.57, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. The amount appropriated in this section is not subject to the provisions of section 8.31, relating to ~~quarterly~~ requisitions and allotment, or to section 8.32, relating to conditional availability of appropriations.

Sec. 91. Section 12B.10, subsection 6, paragraph d, subparagraph (4), Code 2003, is amended to read as follows:

(4) For investments of short-term operating funds, the funds shall not be invested in investments having effective maturities exceeding sixty-three months.

Sec. 92. Section 12B.10A, subsection 6, paragraph d, subparagraph (4), Code 2003, is amended to read as follows:

(4) For investments of short-term operating funds, the funds shall not be invested in investments having effective maturities exceeding sixty-three months.

Sec. 93. Section 12C.27, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

12C.27 FAILURE TO MAINTAIN REQUIRED COLLATERAL.

If the treasurer of state determines that a bank fails to comply with chapter 12C.22, subsections 2 and 3, the treasurer of state may restrict that bank from accepting uninsured public funds and shall notify the office of thrift supervision, the office of the comptroller of the currency, or the superintendent as applicable, who may take such action against the bank, its board of directors and officers as permitted by law.

Sec. 94. Section 12E.12, subsection 8, Code 2003, is amended to read as follows:

8. With respect to the payment of certain debt service, the debt service to be paid shall be those installments of debt service on bonds selected by the treasurer of state and identified in the authority's tax certificate delivered at the time of the issuance of the bonds issued pursuant to this chapter, or as otherwise selected by the treasurer of state. Once the bonds and the installments of debt service thereon are so selected, that debt service and bonds shall not be paid, or provided to be paid, from any other source including the state or any of its departments or agencies. Provided, however, that if funds are not appropriated to pay debt service on such bonds when due, the issuing agency shall pay ~~such the~~ debt service from any available source as provided in the bond covenants ~~for such bonds~~. To the extent that this section does not allow proceeds of previously issued refunding bonds to be applied for the purpose of the refunding, the issuing agency may expend such proceeds to improve, remodel, or repair buildings or other infrastructure upon authorization of the issuing agency's authority.

Sec. 95. Section 15E.42, subsection 3, Code 2003, is amended to read as follows:

3. "Investor" means an individual making a cash investment in a qualifying business or an

individual taxed on income from a revocable trust's cash investment in a qualifying business or a person making a cash investment in a community-based seed capital fund. "Investor" does not include a person which is a current or previous owner, member, or shareholder in a qualifying business.

Sec. 96. Section 15E.43, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, division II, for a portion of an individual taxpayer's equity investment, as provided in subsection 2, in a qualifying business. An individual shall not claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. However, an individual receiving income from a revocable trust's investment in a qualified business may claim a tax credit under this paragraph against the taxes imposed in chapter 422, division II, for a portion of the revocable trust's equity investment, as provided in subsection 2, in a qualified business.

Sec. 97. Section 15E.43, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. In the case of a tax credit allowed against the taxes imposed in chapter 422, division II, where the taxpayer died prior to redeeming the entire tax credit, the remaining credit can be redeemed on the decedent's final income tax return.

Sec. 98. Section 15E.45, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. The fund has no fewer than ten ~~individual~~ investors who are not affiliates, with no single investor and affiliates of that investor together owning a total of more than twenty-five percent of the ownership interests outstanding in the fund.

Sec. 99. Section 15E.51, subsection 4, Code 2003, is amended to read as follows:

4. A taxpayer shall not claim a tax credit under this section if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds created in section 15E.65 or an investor that receives a tax credit for ~~an~~ the same investment in a community-based seed capital fund as defined in 2002 Iowa Acts, House File 2271.

Sec. 100. Section 15E.193B, subsection 4, Code 2003, is amended to read as follows:

4. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business becoming ineligible and subject to the repayment requirements and penalties enumerated in subsection 7. The department may extend the prescribed two-year completion period for any⁵⁷ project which has not been completed if the department determines that completion within the two-year period is impossible or impractical as a result of a substantial loss caused by flood, fire, earthquake, storm, or other catastrophe. For purposes of this subsection, "substantial loss" means damage or destruction in an amount in excess of thirty percent of the project's expected eligible basis as set forth in the eligible housing business's application.

Sec. 101. NEW SECTION. 16.181 HOUSING TRUST FUND.

1. a. A housing trust fund is created within the authority. The moneys in the housing trust fund are annually appropriated to the authority to be used for the development and preservation of affordable housing for low-income people in the state. Payment of interest, recaptures of awards, or other repayments to the housing trust fund shall be deposited in the fund. Notwithstanding section 12C.7, interest or earnings on moneys in the housing trust fund or appropriated to the fund shall be credited to the fund. Notwithstanding section 8.33, unencumbered

⁵⁷ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §15 herein

and unobligated moneys remaining in the fund at the close of each fiscal year shall not revert but shall remain available for expenditure for the same purposes in the succeeding fiscal year.

b. Assets in the housing trust fund shall consist of all of the following:

(1) Any assets received by the authority from the Iowa housing corporation.

(2) Any assets transferred by the authority for deposit in the housing trust fund.

(3) Any other moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the authority for placement in the housing trust fund.

c. The authority shall create the following programs within the housing trust fund:

(1) Local housing trust fund program. Sixty percent of available moneys in the housing trust fund shall be allocated for the local housing trust fund program. Any moneys remaining in the local housing trust fund program on April 1 of each fiscal year which have not been awarded to a local housing trust fund may be transferred to the project-based housing program at any time prior to the end of the fiscal year.

(2) Project-based housing program. Forty percent of the available moneys in the housing trust fund shall be allocated to the project-based housing program.

2. a. In order to be eligible to apply for funding from the local housing trust fund program, a local housing trust fund must be approved by the authority and have all of the following:

(1) A local governing board recognized by the city, county, council of governments, or regional officials as the board responsible for coordinating local housing programs.

(2) A housing assistance plan approved by the authority.

(3) Sufficient administrative capacity in regard to housing programs.

(4) A local match requirement approved by the authority.

b. An award from the local housing trust fund program shall not exceed ten percent of the balance in the program at the beginning of the fiscal year plus ten percent of any deposits made during the fiscal year.

c. By December 31 of each year, a local housing trust fund receiving moneys from the local housing trust fund program shall submit a report to the authority itemizing expenditures of the awarded moneys.

3. In an area where no local housing trust fund exists, a person may apply for moneys from the project-based housing program.

4. The authority shall adopt rules pursuant to chapter 17A necessary to administer this section.

Sec. 102. Section 25.1, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding subsections 1 and 2, and section 25.2, the state appeal board shall not consider claims for refund of the unused portion of vehicle registration fees collected under section 321.105.

*Sec. 103. Section 28.9, subsection 2, Code 2003, is amended to read as follows:

2. a. A school ready children grants account is created in the Iowa empowerment fund under the authority of the director of the department of education. Moneys credited to the account shall be distributed by the department of education in the form of grants to community empowerment areas pursuant to criteria established by the Iowa board in accordance with law.

b. The distribution formula utilized by the Iowa board for school ready children grants in the fiscal year beginning July 1, 2004, and for each succeeding fiscal year, shall specifically incorporate the following components:

(1) A minimum statewide performance baseline shall be established for the core indicators of performance identified pursuant to section 28.8, subsection 1, paragraph "a".

(2) A community empowerment area must maintain its designated status in good standing and must have received continued approval of its school ready children grant plan.

(3) The community empowerment area must identify how the core indicators of performance will be addressed by the area and select two or more of the core indicators that will achieve a minimum percentage of improvement identified by the area, subject to approval by the Iowa board. The community empowerment area's data for the calendar year preceding the

* Item veto; see message at end of the Act

year in which the area initially received a school ready children grant shall be used as the area's baseline year.

(4) If an area achieves the identified percentage level of improvement in the preceding calendar year, the area's minimum grant amount shall be the annualized grant amount received in the area's initial year of funding. The Iowa board may implement provisions for averaging the performance levels over two or more years and other approaches to apply the requirements of this paragraph "b" in an equitable manner.

(5) If an area does not achieve the identified percentage level of improvement in the preceding calendar year, the area shall receive a reduction from the area's minimum grant amount. If the identified percentage level of improvement is achieved in the next succeeding calendar year, the area's minimum grant amount shall be restored.*

Sec. 104. Section 29C.8, subsection 3, Code 2003, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. (1) Approve and support the development and ongoing operations of an urban search and rescue team to be deployed as a resource to supplement and enhance emergency and disaster operations.

(2) A member of an urban search and rescue team acting under the authority of the administrator or pursuant to a governor's disaster proclamation as provided in section 29C.6 shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21. Disability, workers' compensation, and death benefits for team members working under the authority of the administrator or pursuant to the provisions of section 29C.6 shall be paid by the state in a manner consistent with the provisions of chapter 85, 410, or 411 as appropriate, depending on the status of the member.

NEW PARAGRAPH. g. Develop, implement, and support a uniform incident command system to be used by state agencies to facilitate efficient and effective assistance to those affected by emergencies and disasters. This system shall be consistent with the requirements of the United States occupational safety and health administration and a national incident management system.

Sec. 105. Section 29C.20, subsection 1, Code 2003, is amended to read as follows:

1. a. A contingent fund is created in the state treasury for the use of the executive council which may be expended for the purpose of paying following purposes:

(1) Paying the expenses of suppressing an insurrection or riot, actual or threatened, when state aid has been rendered by order of the governor, and for repairing,

(2) Repairing, rebuilding, or restoring state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, and for repairing,

(3) Repairing, rebuilding, or restoring state property which that is fiberoptic cable and which that is injured or destroyed by a wild animal, and for aid to,

(4) Paying the expenses incurred by and claims of an urban search and rescue team when acting under the authority of the administrator and the provisions of section 29C.6 and disaster medical assistance teams when acting under the provisions of section 135.153.

(5) (a) Aiding any governmental subdivision in an area declared by the governor to be a disaster area due to natural disasters or to expenditures necessitated by the governmental subdivision toward averting or lessening the impact of the potential disaster, where the effect of the disaster or action on the governmental subdivision is the immediate financial inability to meet the continuing requirements of local government.

(b) Upon application by a governmental subdivision in such an area, accompanied by a showing of obligations and expenditures necessitated by an actual or potential disaster in a form and with further information the executive council requires, the aid may be made in the discretion of the executive council and, if made, shall be in the nature of a loan up to a limit of seventy-five percent of the showing of obligations and expenditures. The loan, without interest, shall be repaid by the maximum annual emergency levy authorized by section 24.6, or by the appropriate levy authorized for a governmental subdivision not covered by section 24.6.

* Item veto; see message at end of the Act

The aggregate total of loans shall not exceed one million dollars during a fiscal year. A loan shall not be for an obligation or expenditure occurring more than two years previous to the application.

b. When a state department or agency requests that moneys from the contingent fund be expended to repair, rebuild, or restore state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, or to repair, rebuild, or restore state property ~~which that~~ is fiber optic cable and ~~which that~~ is injured or destroyed by a wild animal, or for payment of the expenses incurred by and claims of an urban search and rescue team when acting under the authority of the administrator and the provisions of section 29C.6, the executive council shall consider the original source of the funds for acquisition of the property before authorizing the expenditure. If the original source was other than the general fund of the state, the department or agency shall be directed to utilize moneys from the original source if possible. The executive council shall not authorize the repairing, rebuilding, or restoring of the property from the disaster aid contingent fund if it determines that moneys from the original source are available to finance the project.

**Sec. 106. Section 80B.5, Code 2003, is amended to read as follows:*

80B.5 ADMINISTRATION.

*The administration of the Iowa law enforcement academy and council Act shall be vested in the office of the governor. A director of the academy and such staff ~~Staff~~ as may be necessary for ~~the law enforcement academy~~ to function shall be employed pursuant to the Iowa merit system.**

**Sec. 107. NEW SECTION. 80B.5A DIRECTOR.*

*The governor shall appoint the director of the Iowa law enforcement academy, subject to senate confirmation, to a four-year term beginning and ending as provided in section 69.19.**

Sec. 108. Section 99G.9, subsection 3, paragraph j, if enacted by 2003 Iowa Acts, Senate File 453,⁵⁸ is amended by striking the paragraph.

Sec. 109. Section 99G.40, subsection 5, if enacted by 2003 Iowa Acts, Senate File 453,⁵⁹ is amended to read as follows:

5. The authority shall adopt the same fiscal year as that used by state government and shall be audited annually by the auditor of state or a certified public accounting firm appointed by the auditor. The auditor of state or a designee conducting an audit under this chapter shall have access and authority to examine any and all records of licensees necessary to determine compliance with this chapter and the rules adopted pursuant to this chapter. The cost of audits and examinations conducted by the auditor of state or a designee shall be paid for by the authority.

**Sec. 110. NEW SECTION. 174.24 LIABILITY OF COUNTY FAIR SOCIETY.*

*A society, as defined in section 174.1, shall be immune from liability for any damages incurred at a county fair held by the society if the damages were incurred on or at an exhibit, leased facility, amusement ride, or an activity not under the control of the society, if the county fair requires the vendor in control of the exhibit, leased facility, amusement ride, or other activity to obtain liability insurance of at least three hundred thousand dollars. An officer or employee of a society, as defined in section 174.1, shall not be held liable for punitive damages as a result of acts in the performance of the officer's or employee's duties, unless reckless misconduct is proven.**

Sec. 111. Section 257.11, subsection 5, paragraph b, Code 2003, is amended to read as follows:

b. A school district which establishes a regional academy shall be eligible to assign its resident pupils attending classes at the academy a weighting of one-tenth of the percentage of the

* Item veto; see message at end of the Act

⁵⁸ See chapter 178, §71 herein

⁵⁹ See chapter 178, §93 herein

pupil's school day during which the pupil attends classes at the regional academy. For the purposes of this subsection, "regional academy" means an educational institution established by a school district to which multiple schools send pupils in grades ~~seven~~ nine through twelve, and may include a virtual academy. A regional academy shall include in its curriculum advanced-level courses and may include in its curriculum vocational-technical ~~programs~~ courses. The maximum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to fifteen additional pupils. The minimum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to ten additional pupils if the academy provides both advanced-level courses and vocational-technical courses. However, if the sum of the funding amount calculated for all districts operating regional academies under this subsection exceeds one million dollars for the school year beginning July 1, 2004, and each succeeding fiscal year, the director of the department of management shall prorate the amount calculated for each district. The proration shall be based upon the amount calculated for each district when compared to the sum of the amount for all districts.

Sec. 112. Section 260C.14, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 20. Adopt a policy to offer not less than the following options to a student who is a member of the Iowa national guard or reserve forces of the United States and who is ordered to active state service or federal service or duty:

a. Withdraw from the student's entire registration and receive a full refund of tuition and mandatory fees.

b. Make arrangements with the student's instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the student's registration shall remain intact and tuition and mandatory fees shall be assessed for the courses in full.

c. Make arrangements with only some of the student's instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the registration for those courses shall remain intact and tuition and mandatory fees shall be assessed for those courses. Any course for which arrangements cannot be made for grades or incompletes shall be considered dropped and the tuition and mandatory fees for the course refunded.

Sec. 113. Section 261.9, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

"Accredited private institution" means an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state, except for county hospitals as provided in paragraph "c" of this subsection, and which meets at least one of the criteria in paragraphs "a" through "c" and all of the criteria in paragraphs "d" through "f" "g":

Sec. 114. Section 261.9, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Adopts a policy to offer not less than the following options to a student who is a member of the Iowa national guard or reserve forces of the United States and who is ordered to active state service or federal service or duty:

(1) Withdraw from the student's entire registration and receive a full refund of tuition and mandatory fees.

(2) Make arrangements with the student's instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the student's registration shall remain intact and tuition and mandatory fees shall be assessed for the courses in full.

(3) Make arrangements with only some of the student's instructors for grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made,

the registration for those courses shall remain intact and tuition and mandatory fees shall be assessed for those courses. Any course for which arrangements cannot be made for grades or incompletes shall be considered dropped and the tuition and mandatory fees for the course refunded.

Sec. 115. Section 262.9, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 29. Direct the institutions of higher education under its control to adopt a policy to offer not less than the following options to a student who is a member of the Iowa national guard or reserve forces of the United States and who is ordered to active state service or federal service or duty:

a. Withdraw from the student's entire registration and receive a full refund of tuition and mandatory fees.

b. Make arrangements with the student's instructors for course grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the student's registration shall remain intact and tuition and mandatory fees shall be assessed for the courses in full.

c. Make arrangements with only some of the student's instructors for grades, or for incompletes that shall be completed by the student at a later date. If such arrangements are made, the registration for those courses shall remain intact and tuition and mandatory fees shall be assessed for those courses. Any course for which arrangements cannot be made for grades or incompletes shall be considered dropped and the tuition and mandatory fees for the course refunded.

Sec. 116. Section 284.13, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. For each fiscal year in the fiscal year period beginning July 1, ~~2001~~ 2003, and ending June 30, ~~2002~~ 2005, the department shall reserve up to ~~one million~~ five hundred thousand dollars of any moneys appropriated for purposes of this chapter. For each fiscal year in which moneys are appropriated by the general assembly for purposes of team-based variable pay pursuant to section 284.11, the amount of moneys allocated to school districts shall be in the proportion that the basic enrollment of a school district bears to the sum of the basic enrollments of all participating school districts for the budget year. However, the per pupil amount distributed to a school district under the pilot program shall not exceed one hundred dollars.

Sec. 117. Section 284.13, subsection 1, paragraph g, unnumbered paragraph 1, Code 2003, is amended to read as follows:

For each fiscal year in which funds are appropriated for purposes of this chapter, the moneys remaining after distribution as provided in paragraphs "a" through "f" and "h" shall be allocated to school districts for salaries and career development in accordance with the following formula:

Sec. 118. Section 294A.25, subsection 6, Code 2003, is amended by striking the subsection.

Sec. 119. Section 294A.25, subsections 7, 8, and 9, Code 2003, are amended to read as follows:

7. ~~For~~ Except as otherwise provided in this section, for the fiscal year beginning July 1, ~~1990~~ 2003, and succeeding fiscal years, the remainder of moneys appropriated in subsection 1 to the department of education shall be deposited in the educational excellence fund to be allocated in an amount to meet the ~~minimum salary~~ requirements of this chapter for phase I, ~~in an amount to meet the requirements for~~ and phase II, ~~and the remainder of the appropriation for phase III.~~

8. Commencing with the fiscal year beginning July 1, ~~1997~~ 2003, the amount of two hundred thirty thousand dollars for a kindergarten to grade twelve management information system ~~from additional funds transferred from phase I to phase III.~~

9. For the fiscal year beginning July 1, ~~2000~~ 2003, and for each succeeding fiscal year, the amount of one hundred seventy thousand dollars to the state board of regents for distribution in the amount of sixty-eight thousand dollars to the Iowa braille and sight saving school and in the amount of one hundred two thousand dollars to the Iowa state school for the deaf from ~~phase III moneys~~.

Sec. 120. Section 321J.2, subsection 2, paragraph a, subparagraph (3), subparagraph subdivisions (a) and (b), as enacted by 2003 Iowa Acts, House File 65,⁶⁰ section 2, are amended to read as follows:

(a) A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

(b) A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

Sec. 121. Section 321J.4, subsection 1, paragraphs a and b, as enacted by 2003 Iowa Acts, House File 65,⁶¹ section 3, are amended to read as follows:

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

Sec. 122. Section 321J.4, subsection 3, paragraphs a and b, as enacted by 2003 Iowa Acts, House File 65,⁶² section 3, are amended to read as follows:

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident

⁶⁰ Chapter 60 herein

⁶¹ Chapter 60 herein

⁶² Chapter 60 herein

resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

Sec. 123. Section 321J.12, subsection 2, paragraphs a and b, as enacted by 2003 Iowa Acts, House File 65,⁶³ section 5, are amended to read as follows:

a. A person whose driver's license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

Sec. 124. Section 331.605C, subsections 1 and 2, if enacted by 2003 Iowa Acts, Senate File 453,⁶⁴ are amended to read as follows:

1. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the recorder shall collect a fee of five dollars for each recorded transaction, regardless of the number of pages, for which a fee is paid pursuant to section 331.604 to be used for the purposes of planning and implementing electronic recording and electronic transactions in each county and developing county and statewide internet websites to provide electronic access to records and information.

2. Beginning July 1, 2004, the recorder shall collect a fee of one dollar for each recorded transaction, regardless of the number of pages, for which a fee is paid pursuant to section 331.604 to be used for the purpose of paying the county's ongoing costs of maintaining the systems developed and implemented under subsection 1.

Sec. 125. Section 331.605C, subsection 4, if enacted by 2003 Iowa Acts, Senate File 453,⁶⁵ is amended to read as follows:

4. The ~~state~~ local electronic government ~~electronic~~ transaction fund is established in the office of the treasurer of state under the control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the ~~state~~ local electronic government ~~electronic~~ transaction fund shall be credited to the fund. Moneys in the ~~state~~ local electronic government ~~electronic~~ transaction fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this subsection. The treasurer of state shall enter into a contract with the Iowa state association of counties affiliate representing county recorders to ~~develop, implement, and maintain~~ hold the fund for the development, implementation, and maintenance of a statewide internet website for purposes of providing electronic access to records and information recorded or filed by county recorders. On a monthly basis, the county treasurer shall

⁶³ Chapter 60 herein

⁶⁴ See chapter 178, §25 herein

⁶⁵ See chapter 178, §25 herein

pay one dollar of each fee collected pursuant to subsection 1 to the treasurer of state for deposit into the ~~state local electronic~~ government ~~electronic~~ transaction fund. Moneys credited to the ~~state local electronic~~ government ~~electronic~~ transaction fund are appropriated to the treasurer of state to be used for contract costs. This subsection is repealed June 30, 2004.

Sec. 126. Section 422.45, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 64. The gross receipts from noncustomer point of sale or noncustomer automated teller machine access or service charges assessed by a financial institution. For purposes of this subsection, “financial institution” means the same as defined in section 527.2.

Sec. 127. Section 423.4, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 9A. Vehicles subject to registration which are transferred from a corporation that is primarily engaged in the business of leasing vehicles subject to registration to a corporation that is primarily engaged in the business of leasing vehicles subject to registration when the transferor and transferee corporations are part of the same controlled group for federal income tax purposes.

Sec. 128. Section 435.26A, subsections 2 and 5, as enacted by 2003 Iowa Acts, Senate File 134,⁶⁶ section 7, are amended to read as follows:

2. Upon receipt of a certificate of title from a manufactured home owner, a county treasurer shall notify the department of transportation that the certificate of title has been surrendered, remove the registration of title from the county treasurer’s records, and destroy the certificate of title.

The manufactured home owner or the owner’s representative shall provide to the county recorder the identifying data of the manufactured home, including the owner’s name, the name of the manufacturer, the model name, the year of manufacture, and the serial number of the home, along with the legal description of the real estate on which the manufactured home is located. In addition, evidence shall be provided of the surrender of the certificate of title. After the surrender of the certificate of title of a manufactured home under this section, conveyance of an interest in the manufactured home shall not require transfer of title so long as the manufactured home remains on the same real estate site.

5. An owner of a manufactured home who has surrendered a certificate of title under this section and requires another certificate of title for the manufactured home is required to apply for a bonded certificate of title under ~~chapter 321~~ section 321.42.⁶⁷ If supporting documents for the reissuance of a title are not available or sufficient, the procedure for the reissuance of a title specified in the rules of the department of transportation shall be used.

Sec. 129. Section 452A.2, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 20A. “Nonterminal storage facility” means a facility where motor fuel or special fuel, other than liquefied petroleum gas, is stored that is not supplied by a pipeline or a marine vessel. “Nonterminal storage facility” includes a facility that manufactures products such as alcohol, biofuel, blend stocks, or additives which may be used as motor fuel or special fuel, other than liquefied petroleum gas, for operating motor vehicles or aircraft.

Sec. 130. Section 453A.2, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 5B. A tobacco compliance employee training fund is created in the office of the treasurer of state. The fund shall consist of civil penalties assessed by the Iowa department of public health under section 453A.22, for violations of this section. Moneys in the fund are appropriated to the alcoholic beverages division of the department of commerce and shall be used to develop and administer the tobacco compliance employee training program under section 453A.2A. Moneys deposited in the fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection. Notwithstanding section 8.33, any unexpended balance in the fund at the end of the fiscal year shall be retained in the fund.

⁶⁶ Chapter 24 herein

⁶⁷ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §26, 43 herein

Sec. 131. Section 453C.1, subsection 10, Code 2003, is amended to read as follows:

10. "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs or roll-your-own tobacco containers ~~bearing the excise tax stamp of the state.~~ The department of revenue and finance shall adopt rules as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Sec. 132. Section 453C.2, subsection 2, paragraph b, subparagraph (2), Code 2003, is amended to read as follows:

(2) To the extent that a tobacco product manufacturer establishes that the amount the manufacturer was required to place into escrow on account of units sold in the state in a particular year was greater than ~~the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement~~ the master settlement agreement payments, as determined pursuant to section IX(i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had such manufacturer been a participating manufacturer, ~~as such payments are determined pursuant to section IX(i)(2) of the master settlement agreement and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment,~~ the excess shall be released from escrow and revert back to such tobacco product manufacturer.

Sec. 133. Section 455D.9, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 1A. Yard waste may be accepted by a sanitary landfill for land disposal if the sanitary landfill operates an active methane collection system that produces electricity.

Sec. 134. Section 476.33, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 5. a. The board shall adopt rules that require the board, in a rate regulatory proceeding under sections 476.3 and 476.6, to consider both of the following for inclusion in rates:

(1) Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

(2) Cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to section 476.53.

b. This subsection is repealed effective July 1, 2007. However, any utilities board proceeding that is pending on July 1, 2007, that is being conducted pursuant to section 476.3 or 476.6 shall be completed as if this section had not been repealed. Upon repeal, the board may still consider the adjustments addressed in this subsection, but shall not be required to consider them.

Sec. 135. Section 505.7, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 9. The commissioner may retain funds collected during the fiscal year beginning July 1, 2003, pursuant to any settlement, enforcement action, or other legal action authorized under federal or state law for the purpose of reimbursing costs and expenses of the division.

Sec. 136. Section 518.18, unnumbered paragraph 2, Code 2003, is amended to read as follows:

1. ~~Two~~ The applicable percent of the gross amount of premiums received during the preceding calendar year, after deducting the amount returned upon the canceled policies, certificates, and rejected applications; and after deducting premiums paid for windstorm or hail

* Item veto; see message at end of the Act

reinsurance on properties specifically reinsured; provided, however, that, ~~However,~~ the reinsurer of such windstorm or hail risks shall pay ~~two the applicable~~ percent of the gross amount of reinsurance premiums received upon such risks after deducting the amounts returned upon canceled policies, certificates, and rejected applications. For purposes of this section, "applicable percent" means the same as specified in section 432.1, subsection 4.

2. Except as provided in subsection 3, the premium tax shall be paid on or before March 1 of the year following the calendar year for which the tax is due. The commissioner of insurance may suspend the certificate of authority of a county mutual insurance association that fails to pay its premium tax on or before the due date.

3. a. Each county mutual insurance association transacting business in this state whose Iowa premium tax liability for the preceding calendar year was one thousand dollars or more shall remit on or before June 1, on a prepayment basis, an amount equal to one-half of the premium tax liability for the preceding calendar year.

b. In addition to the prepayment amount in paragraph "a", each association shall remit on or before June 30, on a prepayment basis, an additional amount equal to the following percent of the premium tax liability for the preceding calendar year as follows:

(1) For prepayment in the 2003 and 2004 calendar years, eleven percent.

(2) For prepayment in the 2005 calendar year, twenty-six percent.

(3) For prepayment in the 2006 and subsequent calendar years, fifty percent.

c. The sums prepaid by a county mutual insurance association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The commissioner of insurance may suspend the certificate of authority of an association that fails to make a prepayment on or before the due date.

Sec. 137. Section 518A.35, Code 2003, is amended to read as follows:

518A.35 ANNUAL TAX.

1. A state mutual insurance association doing business under this chapter shall on or before the first day of March, each year, pay to the director of revenue and finance, or a depository designated by the director, a sum equivalent to ~~two the applicable~~ percent of the gross receipts from premiums and fees for business done within the state, including all insurance upon property situated in the state without including or deducting any amounts received or paid for reinsurance. However, a company reinsuring windstorm or hail risks written by county mutual insurance associations is required to pay a ~~two the applicable~~ percent tax on the gross amount of reinsurance premiums received upon such risks, but after deducting the amount returned upon canceled policies and rejected applications covering property situated within the state, and dividends returned to policyholders on property situated within the state. For purposes of this section, "applicable percent" means the same as specified in section 432.1, subsection 4.

2. Except as provided in subsection 3, the premium tax shall be paid on or before March 1 of the year following the calendar year for which the tax is due. The commissioner of insurance may suspend the certificate of authority of a state mutual insurance association that fails to pay its premium tax on or before the due date.

3. a. Each state mutual insurance association transacting business in this state whose Iowa premium tax liability for the preceding calendar year was one thousand dollars or more shall remit on or before June 1, on a prepayment basis, an amount equal to one-half of the premium tax liability for the preceding calendar year.

b. In addition to the prepayment amount in paragraph "a", each association shall remit on or before June 30, on a prepayment basis, an additional amount equal to the following percent of the premium tax liability for the preceding calendar year as follows:

(1) For prepayment in the 2003 and 2004 calendar years, eleven percent.

(2) For prepayment in the 2005 calendar year, twenty-six percent.

(3) For prepayment in the 2006 and subsequent calendar years, fifty percent.

c. The sums prepaid by a state mutual insurance association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The commissioner of insurance may suspend the certificate of authority of an association that fails to make a prepayment on or before the due date.

Sec. 138. 2003 Iowa Acts, Senate File 453,⁶⁸ section 30, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 30. CHARGE FOR RENT. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of administrative services, if established in 2003 Iowa Acts, House File 534,⁶⁹ shall transfer \$900,000 to the general fund of the state from the rent fund if established under section 8A.123 in 2003 Iowa Acts, House File 534.⁷⁰

Sec. 139. 2003 Iowa Acts, Senate File 453,⁷¹ section 35, if enacted, is amended to read as follows:

SEC. 35. CHARTER AGENCY APPROPRIATIONS.

1. Notwithstanding any provision of law to the contrary, the total operating appropriations reductions as allowed under section 7J.1 from the general fund of the state to those departments and agencies designated as charter agencies and additional revenue to the general fund of the state attributed to the reinvention process as determined by the department of management above that already committed to the general fund of the state generated for the fiscal year beginning July 1, 2003, and ending June 30, 2004, as provided by the appropriation to those agencies as enacted by the Eightieth General Assembly, 2003 Regular Session, shall ~~be reduced by total~~ \$15,000,000. The department of management shall apply the appropriation reductions, with a target of a 10 percent reduction for each charter agency, as necessary to which along with additional generated revenue shall achieve the overall reduction amount and shall make this information available to the legislative fiscal committee and the legislative fiscal bureau. ~~It is the intent of the general assembly that appropriations to a charter agency in subsequent fiscal years shall be similarly adjusted from the appropriation that would otherwise have been enacted.~~

2. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the charter agency loan grant fund created in section 7J.2:

..... \$ 3,000,000

3. ~~For the fiscal year beginning July 1, 2003, and ending June 30, 2004, if the actual amount of revenue received by a charter agency exceeds the revenue amount budgeted for that charter agency by the governor and the general assembly, the charter agency may consider the excess amount to be repayment receipts as defined in section 8.2.~~

Sec. 140. Notwithstanding section 8.33, unencumbered and unobligated funds remaining from the appropriation made in 1996 Iowa Acts, chapter 1218, section 13, subsection 2, paragraph "a", subparagraph (2), as amended by 1997 Iowa Acts, chapter 215, section 3, and from the appropriation made in 1997 Iowa Acts, chapter 215, section 4, subsection 1, shall not revert but shall be available for the purposes designated in those provisions until the close of the fiscal year beginning July 1, 2003.⁷²

Sec. 141. 2003 Iowa Acts, Senate File 453,⁷³ section 49, subsection 1, unnumbered paragraph 1, if enacted, is amended to read as follows:

The department of human services shall establish a work group in cooperation with repre-

⁶⁸ Chapter 178 herein

⁶⁹ Chapter 145 herein

⁷⁰ See chapter 145, §13 herein

⁷¹ Chapter 178 herein

⁷² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §47 herein

⁷³ Chapter 178 herein

sentatives of the insurance industry and members of the medical assistance advisory council to develop a plan for the redesign of the medical assistance program. In developing the redesign plan, the work group shall consider all of the following:

Sec. 142. 2003 Iowa Acts, Senate File 453,⁷⁴ section 121, if enacted, is amended to read as follows:

SEC. 121. EFFECTIVE DATE. This division of this Act, creating the Iowa lottery authority, takes effect ~~September~~ July 1, 2003.

Sec. 143. Sections 266.8, 266.24, 266.25, and 266.26, Code 2003, are repealed.

Sec. 144. REPORT ON FEDERAL ELECTION LAW IMPLEMENTATION. The state committee, if formed, shall develop a plan for compliance with the federal Help America Vote Act, Pub. L. No. 107-252, and the state committee, in conjunction with the state commissioner of elections, shall provide quarterly updates to the Senate and House of Representatives standing committees on government oversight on the status of the implementation of Pub. L. No. 107-252.

**Sec. 145. SALE OF DEPARTMENT OF CORRECTIONS' REAL PROPERTY.*

1. *Immediately after the effective date of this section, the department of corrections shall develop a plan to sell, at market value, the twenty-acre tract of undeveloped land adjacent to the Iowa correctional institution for women to any municipality with a population of less than twenty thousand persons. The plan shall include the sale of the tract of land within a commercially reasonable time. The sale shall be negotiated by the department and shall be handled in a manner that is financially beneficial to the department. The department shall as a condition of the sale to the municipality require that the land not be sold by the municipality for a period of ninety-nine years unless the land is resold back to the state. Appraisals conducted by the department of the value of the land shall be made available to the public immediately following the sale of the tract of land. If the department is unable to negotiate a financially beneficial sale, the tract of land shall not be sold, and the department shall provide the legislative fiscal bureau with the reasons the sale did not occur.*

2. *The proceeds from the sale of the property as provided in subsection 1 shall be retained by the department of corrections to be used for correctional facilities. The costs incident to the sale of the tract of land including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from the proceeds of the sale or from moneys appropriated for support and maintenance to the institution at which the real estate is located.*

3. *The provisions of section 904.317 shall not apply to the sale of the tract of land sold in accordance with this section.**

**Sec. 146. SALES AND USE TAX REFUND.*

1. *Notwithstanding the one-year application period provided for in section 422.45, subsection 7, paragraph "b", an application by a city with a population between 550 and 625 located entirely in a county with a population between 39,750 and 41,750 for a refund of sales, services, or use tax paid upon any goods, wares, or merchandise, or services rendered, furnished, or performed and used in the performance of contracts involving a street construction project and a sewer project is considered timely filed under section 422.45, subsection 7, if the application for refund is filed with the department of revenue and finance on or before August 1, 2003.*

2. *Notwithstanding the amount applied for under subsection 1, the amount of a refund paid under this section shall not exceed \$15,000.**

**Sec. 147. SCHOOL DISTRICT REIMBURSEMENT CLAIM.*

1. *Any school district located in a county with a population between 11,550 and 12,000 is authorized to refile a claim for state reimbursement of the costs of providing vocational education*

⁷⁴ Chapter 178 herein

* Item veto; see message at end of the Act

programs at the secondary level in its district notwithstanding the denial of its previously filed claim with the state appeal board if the claim is filed by October 1, 2003. Such claim shall be considered timely filed notwithstanding any provision of law.

2. If the claim filed pursuant to subsection 1 is a valid claim for state reimbursement, the claim shall be paid subject to the following:

- a. The amount of costs reimbursed shall not exceed 6.5 percent.
- b. Any amount reimbursed pursuant to any previously filed claim relating to the same costs shall not be included.
- c. The total amount reimbursed under this section shall not exceed \$6,000.*

Sec. 148. COORDINATION OF PUBLIC TRANSPORTATION STUDY. The state department of transportation shall conduct a study and prepare a report pertaining to administrative efficiencies that may be gained by the coordination of transit management and maintenance systems in the areas of school transportation, public transit, and other forms of public transportation. The report shall be provided to the general assembly by December 31, 2003.

Sec. 149. SUPPLEMENTAL PAYMENT ADJUSTMENTS FOR PHYSICIAN SERVICES. To the extent that, pursuant to law enacted by the Eightieth General Assembly, 2003 Session, supplemental payment adjustments are implemented for physician services provided to medical assistance program participants at publicly owned acute care hospitals, the department of human services shall not, directly or indirectly, recoup the supplemental payment adjustments for any reason, unless an amount equivalent to the amount of adjustment funds that were transferred to the department by the state university of Iowa college of medicine is transferred by the department to the qualifying physicians.⁷⁵

Sec. 150. UTILITIES BOARD REVIEW. The utilities board shall initiate and coordinate a review of current ratemaking procedures to determine whether different procedures would be cost-effective and would result in rates that more accurately reflect a utility's cost of providing service to its customers in Iowa. The board shall allow the consumer advocate division of the department of justice, the rate-regulated utilities, and other interested persons to participate in its review. The board shall report the results of its review to the general assembly, with recommendations as appropriate, on or before January 5, 2004.

Sec. 151. USE OF TEAM-BASED VARIABLE PAY MONEYS FOR FY 2003-2004. Notwithstanding section 284.13, subsection 1, paragraph a, of the moneys reserved for purposes of team-based variable pay for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the sum of two hundred thousand dollars shall be used for purposes of the reading instruction pilot program established pursuant to 2003 Iowa Acts, House File 549, if enacted.

Sec. 152. FULL-SIZE OFF-HIGHWAY VEHICLE REGISTRATION PROGRAM — PLAN. The department of natural resources and the state department of transportation, in consultation with the Iowa association of four wheel drive clubs, shall develop a plan for the establishment of a registration program for full-size off-highway vehicles for the purposes of regulating the recreational use of full-size off-highway vehicles and establishing a full-size off-highway vehicle recreation area in the state. The plan shall include an analysis of the number of full-size off-highway vehicles expected to be registered prior to the establishment of a full-size off-highway vehicle recreation area and the number of registrations expected after the establishment of such a facility. The plan shall also include optimum locations for a full-size off-highway vehicle recreation area, estimated costs, if any, for maintenance of the area, and any other issues the departments and the association deem to be of importance in the planning process. The plan, which shall include any proposed legislation for implementation of the plan, shall be submitted to the legislative services agency and the general assembly no later than January 1, 2004.

* Item veto; see message at end of the Act

⁷⁵ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §31 herein

Sec. 153. ELIMINATION OF POSITION — IOWA LAW ENFORCEMENT ACADEMY DIRECTOR. The merit position of director of the Iowa law enforcement academy referred to in section 80B.5, Code 2003, is eliminated effective April 30, 2004.

Sec. 154. SEVERABILITY.

1. If this entire Act or any portion of section 453C.2, subsection 2, paragraph “b”, subparagraph (2), as amended in this Act, is held by a court of competent jurisdiction to be unconstitutional, section 453C.2, subsection 2, paragraph “b”, subparagraph (2), is repealed in its entirety.

2. If section 453C.2, subsection 2, paragraph “b”, subparagraph (2), is repealed pursuant to subsection 1 and a court of competent jurisdiction subsequently finds that section 453C.2, subsection 2, paragraph “b”, is unconstitutional due to such repeal, section 453C.2, subsection 2, paragraph “b”, subparagraph (2), Code 2003, shall be restored.

3. Any holding of unconstitutionality or any repeal of section 453C.2, subsection 2, paragraph “b”, subparagraph (2), as amended in this Act, or of section 453C.2, subsection 2, paragraph “b”, subparagraph (2), Code 2003, shall not affect, impair, or invalidate any other portion of section 453C.2 or the application of that section to any other person or circumstance, and the remaining portions of section 453C.2, shall continue in full force and effect.

Sec. 155. FEDERAL HOUSING MONEYS. Any federal moneys received by the department of economic development for the community development block grant program that are allocated for housing and any federal moneys received for the HOME investment partnership program shall be coordinated with projects within the housing trust fund established in section 16.181, if enacted.

Sec. 156. SMALLPOX VACCINATIONS. It is the intent of the general assembly that public safety workers, smallpox response teams, and others who will be required to be vaccinated pursuant to the federal Homeland Security Act be protected from both health-related and other results of the federally required vaccination. The emergency management division of the Iowa department of public defense and local governments should work with employees in the public safety areas or response teams to achieve the following:

1. Vaccinations should be given only on a voluntary basis.

2. Extensive screening should be employed to protect those workers who would be at risk from current health conditions if vaccinated.

3. Reprisals or discrimination for workers not voluntarily receiving vaccinations should be prohibited.

4. Public employers should protect employees from loss of income or seniority as a result of side effects from vaccinations. Homeland security moneys received by the emergency management division of the Iowa department of public defense from the federal government should include a set-aside to purchase supplemental insurance for public safety or response employees to cover those reactions not covered by traditional employer-provided health insurance.

5. Disability or long-term reactions from vaccinations should be considered a work-related injury and should be covered by local or state policies governing disability.

6. Vaccinations should be scheduled at staggered times to allow for normal loss of staff time because of vaccination-related illnesses without seriously hampering public safety service.

7. Vaccinations administered in Iowa should meet the requirements of the federal Needlestick Safety and Prevention Act of 2000 that requires safety features in the use of needles to administer medicine.

8. The emergency management division of the Iowa department of public defense should coordinate efforts to ensure adequate supplies of vaccinia immune globulin and cidofovir and other appropriate medical care and pharmaceuticals to protect those employees who suffer reactions to vaccinations.

* Item veto; see message at end of the Act

Sec. 157. CODE EDITOR DIRECTIVE. The Code editor shall change the name of the department of public defense, emergency management division, to the department of public defense, homeland security and emergency management division, in chapter 29C and elsewhere throughout the Code, including references to the division made in law enacted by the Eightieth General Assembly, 2003 Regular Session and other enactments.

Sec. 158. RECORDING AND TRANSACTION FEE REPORT. The treasurer of state shall submit a report to the governor and general assembly on or before December 1, 2003, detailing the amount of fees collected statewide pursuant to section 331.604 in each fiscal year of the period beginning July 1, 2000, and ending June 30, 2003, and the amount of electronic transaction fees collected statewide for the period beginning July 1, 2003, and ending September 30, 2003, pursuant to section 331.605C, if enacted by 2003 Iowa Acts, Senate File 453,⁷⁶ section 25.

Sec. 159. EFFECTIVE DATES. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The amendments to sections 8.23, 8.31, and 8.57 which are first applicable to appropriations made for the fiscal year beginning July 1, 2003.
2. The amendment to section 12E.12.
3. The amendments to sections 15E.42, 15E.43, 15E.45, and 15E.51, which apply retroactively to January 1, 2002, for tax years beginning on or after that date.
4. The amendment to section 15E.193B.
5. The amendment to section 435.26A.
6. The amendment to section 453A.2, which shall only take effect if 2003 Iowa Acts, Senate File 401,⁷⁷ is enacted by the Eightieth General Assembly, 2003 Regular Session.
7. The amendments to sections 453C.1 and 453C.2 and the related severability provision.
8. The amendments to sections 518.18 and 518A.35.
9. The section directing the department of corrections to develop a plan for selling certain land.
10. The section relating to the sales and use tax refund.
11. The section relating to the school district reimbursement claim.

The sections of this division of this Act amending section 80B.5 and enacting section 80B.5A are applicable to the appointment of the director of the Iowa law enforcement academy for the term beginning May 1, 2004.

Section 29C.8, subsection 3, paragraph "f", as enacted in this division of this Act, and the amendment to section 29C.20, subsection 1, as enacted in this division of this Act, take effect July 1, 2004.⁷⁸

DIVISION VIII MEDICAL ASSISTANCE PROGRAM

Sec. 160. Section 135C.31A, if enacted by 2003 Iowa Acts, House File 619,⁷⁹ section 2, is amended to read as follows:

135C.31A ASSESSMENT OF RESIDENTS — PROGRAM ELIGIBILITY.

Beginning July 1, 2003, a health care facility receiving reimbursement through the medical assistance program under chapter 249A shall assist the Iowa commission of veterans affairs in ~~determining, prior to the initial~~ identifying, upon admission of a resident, the prospective resident's eligibility for benefits through the federal department of veterans affairs. The health care facility shall also assist the Iowa commission of veterans affairs in determining such eligibility for residents residing in the facility on July 1, 2003. The department of inspections and appeals, in cooperation with the department of human services, shall adopt rules to administer this section, including a provision that ensures that if a resident is eligible for benefits through the federal department of veterans affairs or other third-party payor, the payor of last resort for reimbursement to the health care facility is the medical assistance program. This section

⁷⁶ Chapter 178 herein

⁷⁷ Chapter 26 herein

⁷⁸ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §43, 47 herein

⁷⁹ Chapter 112 herein

shall not apply to the admission of an individual to a state mental health institute for acute psychiatric care.

Sec. 161. Section 249A.20A, if enacted by 2003 Iowa Acts, House File 619,⁸⁰ section 3, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The department shall adopt rules to provide a procedure under which the department and the pharmaceutical and therapeutics committee may disclose information relating to the prices manufacturers or wholesalers charge for pharmaceuticals. The procedures established shall comply with 42 U.S.C. § 1396r-8 and with chapter 550.

Sec. 162. Section 249A.20B, if enacted by 2003 Iowa Acts, House File 619,⁸¹ section 4, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The department of human services shall provide a reimbursement to nursing facilities under this section. The reimbursement amount shall be calculated as a per patient day amount and shall be paid to nursing facilities in addition to the reimbursement payment specified in 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c".

Sec. 163. 2003 Iowa Acts, House File 619,⁸² section 5, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 5. CASE MANAGEMENT PROGRAM FOR FRAIL ELDERS.

1. The general assembly finds that the existing case management program for frail elders administered by the department of elder affairs is an important component of the long-term care system in this state. The program emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.

2. The purposes of the case management program for frail elders include all of the following:

- a. To provide planning, policy development, coordination, and administrative oversight.
- b. To provide assistance in the form of assessment and care coordination under circumstances in which an elder or the elder's caregiver is experiencing diminished functional capacity or other conditions that require the provision of services by professional service providers.
- c. To maintain a system that focuses on the delivery of home and community-based services that emphasize individual independence, individual needs and desires, and consumer-driven quality of services.

3. It is the intent of the general assembly that the department of elder affairs in collaboration with the department of human services, area agencies on aging, advocacy groups, industry representatives, and consumers submit recommendations to the general assembly by October 1, 2003, regarding the redesigning of the case management program for the frail elderly including preadmission screening methodologies, level of care determinations and ongoing methodologies for the coordination, provision, and delivery of home and community-based services.

4. It is also the intent of the general assembly that the department of elder affairs and the department of human services coordinate efforts to resolve issues relating to level of care determinations no later than October 1, 2003.

Sec. 164. 2003 Iowa Acts, House File 619,⁸³ section 7, subsection 4, paragraph b, if enacted, is amended to read as follows:

b. Pharmacies and providers that are enrolled in the medical assistance program shall make available drug acquisition cost information, product availability information, and other information deemed necessary by the department for the determination of reimbursement rates and the efficient operation of the pharmacy benefit. Pharmacies and providers shall produce and submit the requested information in the manner and format requested by the department or its designee at no cost to the department or designee. Pharmacies and providers shall submit information to the department or its designee within thirty days following receipt of a

⁸⁰ Chapter 112 herein

⁸¹ Chapter 112 herein

⁸² Chapter 112 herein

⁸³ Chapter 112 herein

request for information unless the department or its designee grants an extension upon written request of the pharmacy or provider. Notwithstanding the required provision of information by pharmacies and providers under this paragraph, if the department is able to obtain any of the information required to be provided under this paragraph in an alternative manner, through which the department is ensured of the validity and accuracy of the information and of the timely submission of the information, the department may instead obtain the information in the alternative manner. Chapter 550 shall apply to the information provided by pharmacies and providers under this paragraph.

Sec. 165. 2003 Iowa Acts, House File 619,⁸⁴ section 9, if enacted, is amended to read as follows:

SEC. 9. NURSING FACILITY REIMBURSEMENT. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c", and subsection 3, paragraph "a", subparagraph (2), if projected state fund expenditures for reimbursement of nursing facilities for the fiscal year beginning July 1, 2003, in accordance with the reimbursement rate specified in 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c", ~~exceeds~~ exceeds \$147,252,856, the department shall adjust the inflation factor of the reimbursement rate calculation to provide reimbursement within the amount ~~projected~~ specified in this section. The department, in consultation with nursing facility representatives, shall review the projections on a quarterly basis to determine if an interim adjustment is necessary in order to provide reimbursement within the amount specified in this section. In reviewing the projections, the department shall consider the savings from the reduction in bed hold payments, elimination of crossover claims, and increases in Medicare part A utilization.

Sec. 166. 2003 Iowa Acts, House File 619,⁸⁵ section 12, subsections 2 and 3, if enacted, are amended to read as follows:

2. The department of human services, in cooperation with the department's fiscal agent and in consultation with a chronic care ~~management resource group~~ consortium, shall profile medical assistance recipients within a select number of disease diagnosis categories. The assessment shall focus on those diagnosis areas that present the greatest opportunity for impact to improved care and cost reduction.

3. The department of human services, in consultation with a chronic care ~~management resource group~~ consortium, shall conduct a chronic disease management pilot project for a select number of individuals who are participants in the medical assistance program. The project shall focus on a select number of chronic diseases which may include congestive heart failure, diabetes, and asthma. The initial pilot project shall be implemented by October 1, 2003.

Sec. 167. 2003 Iowa Acts, House File 619,⁸⁶ section 12, subsection 4, if enacted, is amended by striking the subsection and inserting in lieu thereof the following:

4. The department of human services may procure a sole source contract with a vendor to manage individuals with select chronic diseases following the conclusion of the profiling of medical assistance recipients. The management of chronic diseases for individuals under this subsection may be coordinated with the pilot project established in subsection 3.

Sec. 168. 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 110, is amended by adding the following new paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, up to \$2,400,000 of the funds appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available in the succeeding fiscal year to be used for additional field operations, full-time equivalent positions and general administration. Four hundred thousand dollars of this amount shall be used for eight full-time equivalent positions to provide a case manager in each of the judicial districts to provide coordination of services for families that have a history of methamphetamine abuse and \$400,000 of this amount shall be used for general administration.

⁸⁴ Chapter 112 herein

⁸⁵ Chapter 112 herein

⁸⁶ Chapter 112 herein

Sec. 169. VETERANS — DIRECTIVE. The commission of veterans affairs shall work with the commandant of the Iowa veterans home, the department of human services, and the department of inspections and appeals to identify the residents of health care facilities who may be eligible for benefits through the federal department of veterans affairs pursuant to section 135C.31A, if enacted by 2003 Iowa Acts, House File 619.⁸⁷

Sec. 170. The section of this division of this Act amending 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, section 110, relating to certain federal temporary assistance for needy families block grant funding, takes effect upon enactment.

DIVISION IX

**Sec. 171. PURPOSE AND DEFINITIONS.*

1. *PURPOSE.* The general assembly finds that the Iowa communications network is a valuable state asset that has served the people of the state well, but which requires significant ongoing financial support from the state in the form of annual appropriations. The operation of a telecommunications network is a function that can be and generally is conducted by private enterprise. It is in the public interest to sell the Iowa communications network to a qualified private business enterprise that will commit to provide the same secure low-cost high-quality service to state and federal agencies and military installations now provided by the network. Through such a sale, the state would eliminate the need for ongoing annual appropriations while preserving the key benefits enjoyed by the state under the present state ownership of the network. The state also expects to obtain sufficient proceeds from such a sale to cover existing obligations and to realize additional proceeds above the level of such obligations. Given the current depressed state of the telecommunications industry, the state can reasonably be expected to maximize sales proceeds by allowing a purchaser a period of time in which to assemble financing for its purchase. During the interim between enactment of this division of this Act and completion of a sale, the services of a private-enterprise manager with experience operating telecommunications networks can reasonably be expected to reduce the costs of operating the Iowa communications network, thereby lowering annual appropriations.

2. *DEFINITIONS.* As used in this division of this Act, unless the context otherwise requires:

- a. "Board" means the state network privatization board.
- b. "Commission" means the Iowa telecommunications and technology commission established in section 8D.3 to oversee the operations of the network.
- c. "Management contract" means an agreement between the board and the manager for services to oversee and operate the network on behalf of the state.
- d. "Manager" means the private entity selected by the board to oversee and operate the network on behalf of the state.
- e. "Network" means the Iowa or state communications network as defined in section 8D.2.
- f. "Out-of-pocket expenses" means moneys paid to an unaffiliated third party for engineering, legal, consulting, or other services or goods by a manager or purchaser.
- g. "Purchaser" means the entity that is selected by the board to purchase the network from the state.
- h. "Required third-party approval" means any consent, conveyance, approval, or waiver that must be granted by a private, governmental, or quasi-governmental third party in order for the purchaser to receive clear title to all network assets and the right to use the network assets free of adverse claims. Required third-party approvals include but are not limited to all of the following:
 - (1) Approvals of assignments to the purchaser of the state's rights under leases or contracts between the state and the third party.
 - (2) Conveyance to the purchaser of property that the third party currently leases to the state on a term with less than fifteen years remaining.
 - (3) Release of restrictions in contracts that require that the state operate the network.

⁸⁷ Chapter 112, §2 herein

* Item veto; see message at end of the Act

i. "Sales contract" means the contract between the state as seller, represented by the board, and the purchaser, for sale of the network to the purchaser.*

**Sec. 172. STATE NETWORK PRIVATIZATION BOARD CREATED — DUTIES.*

1. A state network privatization board is created. The board shall consist of the following members:

a. A chairperson member appointed by the legislative council, subject to confirmation by the senate.

b. A member, who shall not be of the same political party as the chairperson, appointed by the governor subject to confirmation by the senate.

c. The adjutant general or the adjutant general's designee.

2. The board shall do all of the following:

a. Issue a request for proposals from qualified entities interested in serving as the manager of the network. This request for proposals shall be issued by July 1, 2004, and responses to the request for proposals shall be due by August 1, 2004.

b. Select a manager and enter into a management contract with the manager by October 1, 2004. The management contract shall provide for the continuation of all services currently being provided to state and federal agencies and military installations pursuant to chapter 8D, at the rates specified therein, for the duration of the contract. The contract shall also specify the manager's authority in relation to the duties of the commission during the period between execution of the management contract and closing of the sale of the network. The commission shall establish a dispute resolution process regarding rate increases, quality of service issues, and other areas of dispute involving network subscribers. The commission shall also make recommendations regarding imposition of an ongoing dispute resolution and appeals process commencing with the closing of the sale of the network.

c. Issue a request for proposals from qualified entities for the purchase of the network. This request for proposals shall be issued by January 1, 2005, and responses to the request for proposals shall be due by May 1, 2005.

d. Utilizing the criteria set forth in sections 173 and 174 of this Act, select a purchaser and enter into a sales contract with the purchaser by October 1, 2005.

e. Immediately upon execution of the management contract and the sales contract by the majority of the board, transmit the executed contract to the general assembly and to the governor. The board shall have full authority to enter into the management contract and the sales contract on behalf of the state, provided that the general assembly by legislation enacted regarding the specific purchase and approved by the governor, within thirty days after transmittal to the general assembly and the governor in the case of the management contract, and within sixty days after transmittal to the general assembly and the governor in the case of the sales contract, may disapprove the board's action, in which case the disapproved contract shall have no force and effect. In the event of such disapproval, the state shall pay the manager or the purchaser, as the case may be, reasonable out-of-pocket expenses incurred in preparing a proposal and performing prior to disapproval, but such expenses shall not exceed two hundred thousand dollars in the case of disapproval of the management contract and five hundred thousand dollars in the case of disapproval of the sales contract.

f. Cause the sales contract to require closing by October 1, 2007, allowing time for the state to obtain third-party approvals as required by section 176 of this Act, including the filing of any necessary eminent domain actions, and for the purchaser to secure financing.

g. Execute all necessary documents relating to the closing of the sale of the network. The board may direct any other applicable official to assist in the execution of necessary documents relating to the closing.

h. Require by written directive that all state officials provide information and records concerning the network to the board, to the manager, or to a person submitting a proposal to purchase the network, whenever the board requires such provision of such records and other information.

* Item veto; see message at end of the Act

i. Take all other steps necessary and proper as needed to carry out its responsibilities enumerated in this subsection. The board may adopt necessary rules pursuant to chapter 17A to administer this division of this Act.*

**Sec. 173. MINIMUM QUALIFICATIONS OF PURCHASER. The purchaser shall meet the following requirements:*

1. The principal place of business of the purchaser and any parent of the purchaser shall be located in the state of Iowa.
2. For national security reasons, and because of the extensive military use of the network, the purchaser shall possess national security approval.*

**Sec. 174. CRITERIA FOR SELECTION OF PURCHASER. After issuing a request for proposals for the purchase of the network and considering the proposals received, the board shall select the highest and best offer for purchase of the network from those persons submitting proposals which meet all of the following criteria:*

1. Satisfy the minimum qualifications of this division of this Act.
2. Submit a proposal in compliance with the request for proposals.
3. Demonstrate a likelihood of being able to obtain any financing necessary to close the transaction. However, the board shall not require that the purchaser have a commitment for financing to award the contract, but shall allow the purchaser at least one year to obtain any necessary financing. The board may also in its discretion consider proposals involving financing of the sale by the state.
4. Agree to continue all services currently being provided to state and federal agencies and military installations for the next ten years, with any annual rate increase not to exceed five percent per year, provided that the purchaser shall not be required to supply at such restricted prices a quantity or quality of service greater than that provided by the network as of execution of the contract for sale of the network.*

Sec. 175. CLOSING OF SALE. Any debt of the state related to the network or other liens against network assets shall be discharged out of the state's proceeds of closing, so that the purchaser receives marketable title to the network. The purchaser shall receive bills of sale, in the case of personal property, and deeds, in the case of real property, transferring all network assets to the purchaser. The state shall also transfer its interest in right-of-way and leases and easements for uses of rights-of-way.

**Sec. 176. THIRD-PARTY APPROVALS.*

1. The state shall exercise all reasonable efforts to obtain each required third-party approval, including where necessary by use of eminent domain proceedings. To the extent feasible, the state may pay the costs of obtaining required third-party approvals out of the proceeds of sale rather than from the general fund of the state. In the event the state fails to obtain a required third-party approval, the purchaser may terminate the sales contract without penalty and shall be reimbursed by the state for reasonable out-of-pocket expenses incurred in preparing its proposal and fulfilling its obligations under the sales contract, not to exceed two million dollars.
2. The board and the purchaser shall develop a list of required third-party approvals and persons who may have claims that would constitute required third-party approvals if valid. The board shall mail to each person on the list at their last known address a notice that provides a description of the sale and invites the recipient to submit a claim on a form developed by the board by a deadline set by the board. The claim or interest of any person who fails to timely file a claim shall be deemed discharged and forfeited, and such person shall be forever barred and estopped from taking any action against the state or purchaser that would in any way interfere with the purchaser's use of the network. In addition, the board shall publish the notice in newspapers of general circulation in the state of Iowa, and failure to file a timely claim shall bar all persons whose rights could constitutionally be affected by such notice, just as if such person had been mailed notice.

* Item veto; see message at end of the Act

3. Any eminent domain or other proceeding to obtain a required third-party approval shall be promptly filed by the attorney general at the request of the board and shall be added to the calendar of any trial or appellate court of this state so that the deadline in section 172 of this Act for closing the sale can be met.*

Sec. 177. REMOVAL OF RESTRICTIONS — REPEAL OF CHAPTER 8D. Chapter 8D is repealed, effective as of the date of the closing of the sale of the network under this division of this Act, as certified by the chairperson of the board to the governor.

*Sec. 178. ASSISTANCE OF OTHER STATE AGENCIES.

1. The attorney general shall provide legal advice to the board.
2. All other state agencies shall provide whatever assistance may reasonably be required by the board in carrying out its duties under this division of this Act.*

DIVISION X
GOVERNMENT ORGANIZATION REVIEW COMMITTEE

*Sec. 179. Section 331.264, subsection 1, unnumbered paragraph 1, and paragraphs a through d, if enacted by 2003 Iowa Acts, Senate File 390, section 25, are amended to read as follows:

A local government organization review committee may be created in a county having a population in excess of one hundred thousand. The committee shall be composed of the following members:

- a. Three city council members appointed by the city council of each participating city with a population of twenty-five thousand or more.
- b. Three county supervisors appointed by the county board of supervisors.
- c. One city council member appointed by each participating city with a population of less than twenty-five thousand.
- d. One member shall be appointed by each state legislator whose legislative district is located in the county if a majority of the constituents of that legislative district reside in the county. However, if a county does not have a state representative's legislative district which has a majority of a state representative's constituency residing in the county, the state representative having the largest plurality of constituents residing in the county shall appoint a member. The member appointed by each state legislator shall be a person who is not holding elected office and who is a resident of the legislative district of the state legislator. ~~If any portion~~ more than one-half of the population of a legislative district is in the unincorporated area of the county, the member appointed by that legislator shall be a resident of the unincorporated area of the county.*

Sec. 180. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 458, an Act relating to public expenditure and regulatory matters, compensating public employees, making and reducing appropriations, modifying sales and use taxes, modifying the investment tax credits and premium taxes on mutual insurance associations, providing for related matters, making penalties applicable, and providing effective dates.

* Item veto; see message at end of the Act

Senate File 458 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 13 in its entirety. This section prohibits local governments from prorating state funded property tax credits to taxpayers based upon the amount of the appropriations available in relation to total credit claims. I am concerned that this provision would further reduce funding for local governments, beyond the significant reductions that have already been made.

I am unable to approve the item designated as Section 23 in its entirety. This language creates a new funding stream for a single county hospital. I am sympathetic to the struggle of a hospital providing services to the poor and needy. However, creating an inequity is no way to properly help a struggling hospital. Appropriate Medicare reimbursement is a more appropriate remedy for the ills of a struggling hospital.

I am unable to approve the item designated as Section 103 in its entirety. This section places sanctions based on the performance, or lack of performance, on outcomes for young children. This appears to set the stage for increased pressure of inappropriate assessment of young children as well as unrealistic expectations on Community Empowerment Areas to show a percent of improvement. In addition, the language regarding penalties by a reduction in funds for not meeting an established percent improvement does not support the purpose or intent of Community Empowerment.

I am unable to approve the items designated as Sections 106, 107, and 153 in their entirety. This language would change the merit status of the Iowa Law Enforcement Academy's director. This change is punitive and unnecessarily would destabilize the position and the work of the director.

I am unable to approve the item designated as Section 110 in its entirety. American justice requires that those wrongly injured by the negligence of others have the right to fully recover any damages for their injuries. No system of justice can reverse the physical effects of an injury, but justice can be served when an injured party is made financially whole. Section 110 creates a privileged class of wrongdoers — those who hurt and injure attendees at a county fair. Efforts to create such a special class of wrongdoers that is immune from suit in a budget bill adds insult to injury.

I am unable to approve the item designated as Section 133 in its entirety, which will allow the sanitary landfills with an active methane collection system to accept yard waste. This action will be a major step backwards for integrated solid waste management creating a need for communities to expand existing facilities or find new property for landfills. Yard waste is best managed at a composting facility and is one of the keys in improving Iowa's water quality. Collecting methane from landfills is still relatively inefficient. As urged by numerous recycling groups who support integrated solid waste management, pollution is best prevented by not disposing of yard waste at a landfill.

I am unable to approve the item designated as Section 145 in its entirety. This proposed language undermines the existing process that already exists in Code of Iowa (904.317), authority to sell land. This process can be utilized for any possible land purchases and must be maintained to ensure the security needs and future long-term needs of the department that may arise.

I am unable to approve the item designated as Section 146 in its entirety. This language directs the Department of Revenue and Finance to pay a claim that has been denied. An appeal was heard and a decision rendered denying the claim. The integrity of the State Appeal Board must not and will not be compromised.

I am unable to approve the item designated as Section 147 in its entirety. This language directs the State Appeal Board to pay a claim that had been denied. The Department of Education previously denied the claim. No appeal was filed and the time expired to do so. The integrity of the State claims process must not and will not be compromised. This section appears to infringe on the authority of the executive branch and State Appeal Board.

I am unable to approve the item designated as Section 151. This section provides funding from team-based variable pay moneys for a reading instruction pilot program. This proposed program would duplicate current efforts under the federally funded reading program, Reading First, and take critical funding away from the team-based variable pay program.

I am unable to approve the item designated as Division VII, Section 156, subsections 4, 7, and 8 in their entirety. These subsections deal with smallpox vaccinations. Subsection 4 would require a set aside of Homeland Security federal funds for an unauthorized purpose. Subsection 7 requires vaccinations to be administered by a specific process which at this time is not approved by the FDA. Subsection 8 gives inappropriate duties and responsibilities for the coordination of vaccines and pharmaceuticals to the Emergency Management Division. Such supplies should emanate from the Center for Disease Control to the Health Department.

I am unable to approve the item designated as Division IX of Senate File 458, Sections 171 through 178, which provides a process for the privatization of the Iowa Communications Network (ICN), in its entirety. The design and implementation of the ICN does not easily support privatization. Careful study of a plan to privatize the network should be done with consideration of the network architecture, critical facilities, as well as the impact to education and homeland security.

Education has been and continues to be one of the highest priorities of this administration. I do not believe that potential adverse impacts on our State's education system were given adequate, if any, consideration. All levels of education depend upon the ICN for provision of education throughout Iowa. The ICN also plays a vital role in our state's homeland security. All homeland security functions would need to be maintained. In some cases, this would require new federal waivers and new agreements involving federal departments. These may not be easily forthcoming.

An issue of the magnitude of the State's fiber optic network should be worked through the legislative process as a separate bill, receiving full consideration by committees and adequate information for full debate. This amendment was attached during the final hours of the legislative session and left inadequate time for the public including authorized users, the Commission or ICN staff to provide information to policy makers in order for them to make a fully informed decision.

I am unable to approve the item designated as Section 179 in its entirety. This section limits the creation of a local government organization review committee to only counties with a population in excess of 100,000. Creating one process for large urban counties and not allowing small rural counties unnecessarily discriminates between local governments located in urban and rural areas. We are and should always be one Iowa. This important value is compromised in Section 179.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 458 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 180**EDUCATION — ADMINISTRATION, REGULATION,
AND OTHER RELATED MATTERS***H.F. 549*

AN ACT relating to the duties and operations of the department of education, the board of educational examiners, the state board of regents and its universities, and school boards, and to property tax school reorganization incentives; requiring the establishment of a reading instruction pilot program; and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 256.5A, Code 2003, is amended to read as follows:
256.5A NONVOTING MEMBER.

The governor shall appoint the one nonvoting student member of the state board for a term of one year beginning and ending as provided in section 69.19. The nonvoting student member shall be appointed from a list of names submitted by the state board of education. Students enrolled in either grade ten or eleven in a public school may apply to the state board to serve as a nonvoting student member. The department shall develop an application process that requires the consent of the student's parent or guardian if the student is a minor, initial application approval by the school district in which the student applicant is enrolled, and submission of approved applications by a school district to the department. The nonvoting student member's school district of enrollment shall notify the student's parents if the student's grade point average falls during the period in which the student is a member of the state board. The state board shall adopt rules under chapter 17A specifying criteria for the selection of applicants whose names shall be submitted to the governor. Criteria shall include, but are not limited to, academic excellence, participation in extracurricular and community activities, and interest in serving on the board. Rules adopted by the state board shall also require, if the student is a minor, supervision of the student by the student's parent or guardian while the student is engaged in authorized state board business at a location other than the community in which the student resides, unless the student's parent or guardian submits to the state board a signed release indicating the parent or guardian has determined that supervision of the student by the parent or guardian is unnecessary. The nonvoting student member ~~shall be appointed without regard to political affiliation~~ ~~appointment is not subject to section 69.16 or 69.16A.~~ The nonvoting student member shall have been enrolled in a public school in Iowa for at least one year prior to the member's appointment. A nonvoting student member who will not graduate from high school prior to the end of a second term may apply to the state board for submission of candidacy to the governor for a second one-year term. A nonvoting student member shall be paid a per diem as provided in section 7E.6 and the student and the student's parent or guardian shall be reimbursed for actual and necessary expenses incurred in the performance of the student's duties as a nonvoting member of the state board. A vacancy in the membership of the nonvoting student member shall not be filled until the expiration of the term.

Sec. 2. Section 256.7, subsection 21, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Develop and adopt rules ~~by July 1, 1999,~~ incorporating accountability for, and reporting of, student achievement into the standards and accreditation process described in section 256.11. The rules shall provide for all of the following:

Sec. 3. Section 256.9, subsection 50, Code 2003, is amended to read as follows:

50. Develop core knowledge and skill criteria ~~models,~~ based upon the Iowa teaching standards, for the evaluation, the advancement, and for teacher career development purposes

pursuant to chapter 284. The model criteria shall further define the characteristics of quality teaching as established by the Iowa teaching standards. The director, in consultation with the board of educational examiners, shall also develop a transition plan for implementation of the career development standards developed pursuant to section 256.7, subsection 25, with regard to licensure renewal requirements. The plan shall include a requirement that practitioners be allowed credit for career development completed prior to implementation of the career development standards developed pursuant to section 256.7, subsection 25.

Sec. 4. Section 256.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 52. Develop and implement a comprehensive management information system designed for the purpose of establishing standardized electronic data collections and reporting protocols that facilitate compliance with state and federal reporting requirements, improve school-to-school and district-to-district information exchanges, and maintain the confidentiality of individual student and staff data. The system shall provide for the electronic transfer of individual student records between schools, districts, postsecondary institutions, and the department. The director may establish, to the extent practicable, a uniform coding and reporting system, including a statewide uniform student identification system.

*Sec. 5. Section 256.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 53. Develop and implement a statewide program of educational assessment reporting. The director shall provide information needed to improve public schools by collecting and disseminating data and information resulting from assessments made of public school students, to aid in the development and evaluation of educational programs and policies by school districts, and to inform parents of the educational progress of their children in the public schools. Information collected under the department's statewide program of educational assessment reporting shall be utilized as part of the state report card on school performance and on statewide progress by the state in accordance with implementation of the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110. The program shall include the assignment of a unique student identifier to each student attending kindergarten through grade twelve.

a. Not later than July 1, 2004, the department shall maintain an internet site that reports the following:

(1) Iowa tests of basic skills scores for each school district that administers the test and for each attendance center within the school district for grades three through eight. Each school district administering the Iowa test of basic skills shall provide a report to the department relating to each attendance center's test score averages and a longitudinal analysis of student progress as specified in paragraph "c".

The report shall contain attendance-center-level test results for the Iowa test of basic skills in the areas of reading, social studies, mathematics, and science. The report shall include, but shall not be limited to the number of students tested, the number of test results used to compute the averages, average standard score, the corresponding grade equivalent score, average stanine score for the group, and the normal curve equivalent of average standard scores, and percentile ranks based on student norms, as well as measures of student progress as specified in paragraph "c".

(2) Iowa test of educational development scores for each school district that administers the test and for each attendance center within the school district for grades nine through eleven. Each school district administering the Iowa test of educational development shall provide a report to the department relating to each attendance center's test score averages and a longitudinal analysis of student progress as specified in paragraph "c".

b. Scores required to be reported under paragraph "a", subparagraphs (1) and (2), shall be presented in percentiles that allow for comparisons between participating schools. The internet site shall include background information regarding the tests, including guidance for interpreting test scores and the number of students that did not participate in the tests and the reasons the students did not participate.

* Item veto; see message at end of the Act

c. The department shall approve the use of a single value-added system to calculate annually the amount of academic growth for each student, school, and school district in reading and mathematics, and other core academic areas where possible. The system shall at a minimum contain the following capabilities:

(1) Use of a mixed-model statistical analysis that has the ability to use all achievement test data for each student, including the data for students with missing test scores, that does not adjust downward expectations for student progress based on race, poverty, or gender, and that will provide the best linear unbiased predictions of school or other educational entity effects to minimize the impact of fortuitous accumulation of random errors.

(2) The ability to work with test data from a variety of sources, including data that are not vertically scaled, and to provide a variety of analyses of such data.

(3) The capacity to receive and report results electronically and provide support for districts utilizing the system.

(4) The ability to create for each school district a chart that reports grade-equivalent scores for grades three through eight and gains between consecutive pairs of grades for each attendance center and provides for a district-wide study of grade equivalent scores. The system shall create a chart for each district in accordance with this subparagraph.

d. Each school district shall have complete access to and utilization of its own value-added assessment reports generated by the system at the student level for the purpose of measuring student achievement at different educational entity levels.*

Sec. 6. Section 256.18, subsection 2, unnumbered paragraph 2, Code 2003, is amended by striking the unnumbered paragraph.

Sec. 7. Section 256.39, subsection 8, Code 2003, is amended by striking the subsection.

Sec. 8. Section 256A.4, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The board of directors of each school district may develop and offer a program which provides outreach and incentives for the voluntary participation of expectant parents and parents of children in the period of life from birth through age five, who reside within district boundaries, in educational family support experiences designed to assist parents in learning about the physical, mental, and emotional development of their children. ~~A district providing a family support program, which seeks additional funding under sections 294A.13 through 294A.16, shall meet the requirements of this section and the program shall be subject to approval by the department of education.~~ A board may contract with another school district or public or private nonprofit agency for provision of the approved program or program site.

Sec. 9. Section 256D.9, Code 2003, is amended to read as follows:
256D.9 FUTURE REPEAL.

This chapter is repealed effective July 1, ~~2003~~ 2004.

Sec. 10. Section 257.3, subsection 2, Code 2003, is amended to read as follows:

2. TAX FOR REORGANIZED AND DISSOLVED DISTRICTS.

a. Notwithstanding subsection 1, a reorganized school district shall cause a foundation property tax of four dollars and forty cents per thousand dollars of assessed valuation to be levied on all taxable property which, in the year preceding a reorganization, was within a school district affected by the reorganization as defined in section 275.1, or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the director of the department of education pursuant to section 275.55. ~~In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved must have had a certified enrollment of fewer than six hundred in order for the four-dollar-and-forty-cent levy to apply.~~

* Item veto; see message at end of the Act

b. In succeeding school years, the foundation property tax levy on that portion shall be increased to the rate of four dollars and ninety cents per thousand dollars of assessed valuation the first succeeding year, five dollars and fifteen cents per thousand dollars of assessed valuation the second succeeding year, and five dollars and forty cents per thousand dollars of assessed valuation the third succeeding year and each year thereafter.

c. The foundation property tax levy reduction pursuant to this subsection shall be available if either of the following apply:

(1) In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved had a certified enrollment of fewer than six hundred pupils.

(2) In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved had a certified enrollment of six hundred pupils or greater, and entered into a reorganization or dissolution with one or more school districts with a certified enrollment of fewer than six hundred pupils. The amount of foundation property tax reduction received by a school district qualifying for the reduction pursuant to this subparagraph shall not exceed the highest reduction amount provided in paragraphs "a" and "b" received by any of the school districts with a certified enrollment of fewer than six hundred pupils involved in the reorganization pursuant to subparagraph (1) of this paragraph "c".

d. For purposes of this section, a reorganized school district is one which absorbs at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution is initiated by a vote of the board of directors or jointly by the affected boards of directors to take effect on or after July 1, 2002, and on or before July 1, 2006. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, 2002, and on or before July 1, 2006, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect.

Sec. 11. Section 257.11, subsection 2, paragraph c, subparagraph (2), Code 2003, is amended to read as follows:

(2) A school district which was not participating in a whole grade sharing arrangement during the budget year beginning July 1, 2000, which executes a whole grade sharing agreement pursuant to sections 282.10 through 282.12 for the budget year beginning July 1, 2002, ~~or~~ July 1, 2003, July 1, 2004, or July 1, 2005, and which adopts a resolution jointly with the other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2006, shall receive a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A district shall be eligible for supplementary weighting pursuant to this subparagraph for a maximum of three years. Receipt of supplementary weighting for a second and third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress toward the objective of reorganization on or before July 1, 2006.

Sec. 12. Section 258.17, subsection 4, Code 2003, is amended to read as follows:

4. Each workstart program shall include a written agreement by the school or school district with one or more businesses from the surrounding community to provide workplace-specific training and learning programs which are related to the skills needed to succeed in those occupational areas. The proposed plan for implementation of the workstart program shall include a copy of the written agreement between the school or school district and the business or businesses and a business support component, which shall consist of financial or in-kind support, or both financial and in-kind support, from the businesses that have entered into the agreement with the school or school district. ~~The plan may provide for the utilization of phase III~~

and other available school funds in the establishment of the program. A workstart program is a comprehensive school transformation program under section 294A.14.

Sec. 13. Section 262.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 29. Develop a policy, not later than August 1, 2003, that each institution of higher education under the control of the board shall approve, institute, and enforce, which prohibits students, faculty, and staff from harassing or intimidating a student or any other person on institution property who is wearing the uniform of, or a distinctive part of the uniform of, the armed forces of the United States. A policy developed in accordance with this subsection shall not prohibit an individual from wearing such a uniform on institution property if the individual is authorized to wear the uniform under the laws of a state or the United States. The policy shall provide for appropriate sanctions.

Sec. 14. Section 272.2, subsection 14, paragraph b, subparagraph (1), subparagraph subdivision (b), Code 2003, is amended by adding the following new subparagraph subdivision part:

NEW SUBPARAGRAPH SUBDIVISION PART. (viii) Sexual exploitation by a school employee.

Sec. 15. Section 272.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Adopt criteria for administrative endorsements that allow a person to achieve the endorsement authorizing the person to serve as an elementary or secondary principal without regard to the grade level at which the person accrued teaching experience.

Sec. 16. NEW SECTION. 272.15 SCHOOL REPORTING REQUIREMENT.

The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1), when the board or reporting official has a good faith belief that the incident occurred or the allegation is true. Information reported to the board in accordance with this section is privileged and confidential, and, except as provided in section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. The board shall review the information reported to determine whether a complaint should be initiated. In making that determination, the board shall consider the factors enumerated in section 272.2, subsection 14, paragraph "a". For purposes of this section, unless the context otherwise requires, "misconduct" means an action disqualifying an applicant for a license or causing the license of a person to be revoked or suspended in accordance with the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1).

Sec. 17. Section 272.25, subsection 4, Code 2003, is amended to read as follows:

4. A requirement that prescribes minimum experiences and responsibilities to be accomplished during the student teaching experience by the student teacher and by the cooperating teacher based upon recommendations of the department of education after consultation with teacher education faculty members in colleges and universities. The student teaching experience shall include opportunities for the student teacher to become knowledgeable about the Iowa teaching standards, including a mock evaluation performed by the cooperating teacher. The mock evaluation shall not be used as an assessment tool by the practitioner preparation

program. The student teaching experience shall consist of interactive experiences involving the college or university personnel, the student teacher, the cooperating teacher, and administrative personnel from the cooperating teacher's school district.

Sec. 18. Section 272.28, Code 2003, is amended to read as follows:

272.28 MENTORING AND INDUCTION REQUIREMENT.

1. Effective July 1, 2003, requirements for teacher licensure beyond a ~~provisional~~ an initial license shall include successful completion of a beginning teacher mentoring and induction program approved by the state board of education.

2. A teacher from an accredited nonpublic school or another state or country is exempt from the requirement of subsection 1 if the teacher can document three years of successful teaching experience ~~within the past five years~~ and meet or exceed the requirements contained in rules adopted under this chapter for endorsement and licensure.

Sec. 19. Section 273.8, subsection 2, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

2. ELECTION OF DIRECTORS. Except as otherwise provided in subsection 2A, the board of directors of an area education agency shall be elected by a vote of the members of the boards of directors of the local school districts located within the director district. The procedure for conducting the elections shall be as follows:

a. Notice of the election shall be published by the area education agency administrator not later than July 15 in at least one newspaper of general circulation in the director district. The cost of publication shall be paid by the area education agency.

b. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary not later than August 15, on forms prescribed by the department of education. The statement of candidacy shall include the candidate's name, address, and school district. The list of candidates shall be sent by the secretary of the area education agency in ballot form by certified mail to the presidents of the boards of directors of all school districts within the director district not later than September 1. In order for the ballot to be counted, the ballot must be received in the secretary's office by the end of the normal business day on September 30 or be clearly postmarked by an officially authorized postal service not later than September 29 and received by the secretary not later than noon on the first Monday following September 30.

c. The board of each separate school district that is located entirely or partially inside an area education agency director district shall cast a vote for director of the area education agency board based upon the ratio that the population of the school district, or portion of the school district, in the director district bears to the total population in the director district. The population of each school district or portion shall be determined by the department of education. The member of the area education agency board to be elected may be a member of a local school district board of directors and shall be an elector and a resident of the director district, but shall not be a school district employee.

d. Vacancies, as defined in section 277.29, in the membership of the area education agency board shall be filled for the unexpired portion of the term at a director district convention called and conducted in the manner provided in subsection 2A.

Sec. 20. Section 273.8, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Director district convention. If no candidate files with the area education agency secretary by the deadline specified in subsection 2, or a vacancy occurs, or if otherwise required as provided in section 273.23, subsection 3, a director district convention, attended by members of the boards of directors of the local school districts located within the director district, shall be called to elect a board member for that director district. The convention location shall be determined by the area education agency administrator. Notice of the time, date, and place of a director district convention shall be published by the area education agency administrator in at least one newspaper of general circulation in the director district

at least thirty days prior to the day of the convention. The cost of publication shall be paid by the area education agency. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary at least ten days prior to the date of the director district convention, on forms prescribed by the department of education, or nominations may be made at the convention by a delegate from a board of directors of a school district located within the director district. A statement of candidacy shall include the candidate's name, address, and school district. Delegates to director district conventions shall not be bound by a school board or any school board member to pledge their votes to any candidate prior to the date of the convention.

Sec. 21. Section 273.21, subsection 2, Code 2003, is amended read¹ as follows:

2. If twenty percent or more of the school districts within an affected area education agency file a petition by ~~March~~ December 1 with the affected area education agency board to consider reorganization, the affected board shall consider the request and vote on the petition. If a majority of the affected board members vote to study the reorganization of the affected area education agency, the affected board shall immediately begin the study to consider reorganization effective by July 1 of the next year.

Sec. 22. Section 273.21, subsection 3, paragraph g, Code 2003, is amended to read as follows:

g. Transmit the completed plan to the state board by ~~November 1~~ July 15. Plans received by the state board after ~~November 1~~ July 15 shall be considered for area education agency reorganization taking effect no sooner than July 1 after the next succeeding fiscal year.

Sec. 23. Section 273.21, subsection 4, Code 2003, is amended to read as follows:

4. The state board shall review the reorganization plan and shall, prior to ~~February 1~~ September 30, either approve the plan ~~or return as submitted~~, approve the plan contingent upon compliance with the state board's recommendations, or disapprove the plan. ~~An unapproved~~ A contingently approved plan may shall be resubmitted with modifications to the department not later than ~~February 10~~ October 30. An approved plan shall take effect on July 1 of the fiscal year following the date of approval by the state board, ~~except that plans submitted to the state board after November 1 shall take effect no sooner than July 1 after the next succeeding fiscal year.~~

Sec. 24. Section 273.22, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 4A. Not later than fifteen days after the state board notifies an area education agency of its approval of the area education agency's reorganization plan or dissolution proposal, the area education agency shall notify, by certified mail, the school districts located within the area education agency boundaries, the school districts and area education agencies that are contiguous to its boundaries, and any other school district under contract with the area education agency, of the state board's approval of the plan or proposal, and shall provide the department of education with a copy of any notice sent in accordance with this subsection. A petition to join an area education agency or for release from a contract with an area education agency, in accordance with subsections 4, 6, and 7,² shall be filed not later than forty-five days after the state board approves a reorganization plan or dissolution proposal in accordance with this chapter.

Sec. 25. Section 273.22, subsections 5 and 6, Code 2003, are amended to read as follows:

5. ~~The~~ Within forty-five days of the state board's approval, the board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of their current area education agency and the newly reorganized area education agency to join the newly reorganized area education agency. ~~If both area education agency boards~~ the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganiza-

¹ According to enrolled Act

² Subsections "4, 5, and 6" probably intended

tion, including any school district whose petition to join the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

6. The Within forty-five days of the state board's approval, the board of directors of a school district that is within a newly reorganized area education agency and whose school district was is contiguous to another area education agency prior to the reorganization not included in the newly reorganized area education agency may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. If both area education agency boards the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganization, excluding any school district whose petition to join an area education agency contiguous to the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 26. Section 273.22, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 27. Section 273.23, subsections 2, 3, and 5, Code 2003, are amended to read as follows:

2. Prior to the organization meeting of the board of directors of the newly formed area education agency, the boards of the former area education agencies shall designate directors to be retained as members to serve on the initial board of the newly formed area education agency. A vacancy occurs if an insufficient number of former board members reside within the newly formed area education agency's boundaries or if an insufficient number of former board members are willing to serve on the board of the newly formed area education agency. Vacancies, as defined in section 277.29, in the membership of the newly formed area education agency board shall be filled for the unexpired portion of the term at a ~~special~~ director district convention called and conducted in the manner provided in section 273.8 for ~~regular~~ director district conventions.

3. ~~Prior to the effective date of the reorganization~~ Not later than January 15 of the calendar year in which the reorganization takes effect, the initial board shall call a director district convention under the provisions of section 273.8, subsection 2 2A, for the purpose of electing a board for the reorganized area education agency. The new board shall have control of the employment of all personnel for the newly formed area education agency for the ensuing school year. Following the organization of the new board, the board shall have authority to establish policy, enter into contracts, and complete such planning and take such action as is essential for the efficient management of the newly formed area education agency.

5. The initial board, or new board if established in time under section 273.23, subsection 3, of the newly formed agency shall prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 through 273.9 and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall not be later than March 1, the time, and the location of the public hearing. The proposed budget as approved by the board shall be submitted to the state board, on forms provided by the department, no later than March 15 for approval. The state board shall review the proposed budget of the newly formed area education agency and shall, before April 1, either grant approval or return the budget without approval with comments of

the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. The state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

Sec. 28. Section 273.23, subsection 11, Code 2003, is amended to read as follows:

11. Unless the reorganization of an area education agency takes effect less than two years before the taking of the next federal decennial census, a newly formed area education agency shall, within one year of the effective date of the reorganization, redraw the boundary lines of director districts in the area education agency if a petition filed by a school district to join the newly formed area education agency, or for release from the newly formed area education agency, in accordance with section 273.22, subsections 4 through 6, and 7,³ was approved. Until the boundaries are redrawn, the boundaries for the newly formed area education agency shall be as provided in the reorganization plan approved by the state board in accordance with section 273.21.

Sec. 29. Section 273.27, subsection 2, Code 2003, is amended to read as follows:

2. Within thirty days of the hearing, the affected board shall call a director district convention in accordance with section 273.8, subsection 2A, which shall include the boards of directors in the area served by the area education agencies to which an area of the affected area education agency will be attached under the dissolution proposal, for the purpose of voting on the dissolution proposal.

Sec. 30. Section 279.3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

These officers shall be appointed from outside the membership of the board ~~for terms of one year beginning with the date of appointment~~, and the appointment and qualification shall be entered of record in the minutes of the secretary. They shall qualify within ten days following appointment by taking the oath of office in the manner required by section 277.28 and filing a bond as required by section 291.2 and shall hold office until their successors are appointed and qualified.

Sec. 31. Section 279.13, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Notwithstanding the other provisions of this section, a temporary contract may be issued to a teacher to fill a vacancy created by a leave of absence in accordance with the provisions of section 29A.28, which contract shall automatically terminate upon return from military leave of the former incumbent of the teaching position and which contract shall not be subject to the provisions of sections 279.15 through 279.19, or section 279.27. A separate extracurricular contract issued pursuant to section 279.19A to a person issued a temporary contract under this section shall automatically terminate with the termination of the temporary contract as required under section 279.19A, subsection 8.

Sec. 32. Section 279.23, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the other provisions of this section, a temporary contract may be issued to an administrator to fill a vacancy created by a leave of absence in accordance with the provisions of section 29A.28, which contract shall automatically terminate upon return from military leave of the former incumbent of the administrator position and which contract shall not be subject to the provisions of sections 279.24 and section 279.25.

Sec. 33. Section 279.46, Code 2003, is amended to read as follows:

279.46 RETIREMENT INCENTIVES — TAX.

The board of directors of a school district may adopt a program for payment of a monetary

³ Subsections "4, 5, and 6" probably intended

bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following June 30 school calendar. The age at which employees shall be designated eligible for the program shall be at the discretion of the board. An employee retiring under this section may apply for a retirement allowance under chapter 97B or chapter 294. The board may include in the district management levy an amount to pay the total estimated accumulated cost to the school district of the health or medical insurance coverage, bonus, or other incentives for employees within the age range of fifty-five to sixty-five years of age who retire under this section.

Sec. 34. Section 280.14, Code 2003, is amended to read as follows:

280.14 SCHOOL REQUIREMENTS — ADMINISTRATION.

1. The board or governing authority of each school or school district subject to the provisions of this chapter shall establish and maintain adequate administration, school staffing, personnel assignment policies, teacher qualifications, certification requirements, facilities, equipment, grounds, graduation requirements, instructional requirements, instructional materials, maintenance procedures and policies on extracurricular activities. In addition the board or governing authority of each school or school district shall provide such principals as it finds necessary to provide effective supervision and administration for each school and its faculty and student body.

2. An individual who is employed or contracted as a superintendent by a school or school district may also serve as an elementary or secondary principal in the same school or school district.

Sec. 35. Section 282.18, subsection 3, Code 2003, is amended to read as follows:

3. In all districts involved with voluntary or court-ordered desegregation, minority and non-minority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to voluntary or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district, or unless the request for transfer is submitted to the district in a timely manner as required under subsection 2 prior to the adoption of a desegregation plan by the district. If a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal to the district court in the county in which the primary business office of the district is located. By July 1, 2004, the state board of education shall adopt rules establishing guidelines and a review process for school districts that adopt voluntary desegregation plans. The guidelines shall include criteria and standards that school districts must follow when developing a voluntary desegregation plan. The department of education shall provide technical assistance to a school district that is seeking to adopt a voluntary desegregation plan. A school district implementing a voluntary desegregation plan prior to July 1, 2004, shall have until July 1, 2006, to comply with guidelines adopted by the state board pursuant to this section.

Sec. 36. Section 282.18, subsection 7, Code 2003, is amended to read as follows:

7. A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section, means a residence under section 282.1. The board of directors of the district of residence shall

pay to the receiving district the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. ~~The district of residence shall also transmit the phase III moneys allocated to the district for the previous year for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer.~~ If the pupil participating in open enrollment is also an eligible pupil under chapter 261C, the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261C.6.

Sec. 37. Section 284.2, subsections 1 and 3, Code 2003, are amended to read as follows:

1. "Beginning teacher" means an individual serving under an initial ~~provisional~~ license, issued by the board of educational examiners under chapter 272, who is assuming a position as a classroom teacher. For purposes of the beginning teacher mentoring and induction program created pursuant to section 284.5, "beginning teacher" also includes preschool teachers who are licensed by the board of educational examiners under chapter 272 and are employed by a school district or area education agency.

3. "Comprehensive evaluation" means a summative evaluation of a beginning teacher conducted by an evaluator for purposes of determining a beginning teacher's level of competency, ~~relative to the Iowa teaching standards and~~ for recommendation for licensure based upon ~~models developed pursuant to section 256.9, subsection 50~~ the Iowa teaching standards, and to determine whether the teacher's practice meets the school district expectations for a career teacher.

Sec. 38. Section 284.3, subsection 2, paragraphs a and b, Code 2003, are amended to read as follows:

a. ~~By July 1, 2002, for~~ For purposes of comprehensive evaluations for beginning teachers required to allow beginning teachers to progress to career teachers, standards and criteria that are the Iowa teaching standards specified in subsection 1 and the ~~model~~ criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. These standards and criteria shall be set forth in an instrument provided by the department. The comprehensive evaluation and instrument are not subject to negotiations or grievance procedures pursuant to chapter 20 or determinations made by the board of directors under section 279.14. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for beginning teachers that are not in conflict with this chapter. If, in accordance with section 279.19, a beginning teacher appeals the determination of a school board to an adjudicator under section 279.17, the adjudicator selected shall have successfully completed training related to the Iowa teacher standards, the ~~model~~ criteria adopted by the state board of education in accordance with subsection 3, ~~as enacted by this Act~~, and any additional training required under rules adopted by the public employment relations board in cooperation with the state board of education.

b. ~~By July 1, 2004~~ 2005, for purposes of performance reviews for teachers other than beginning teachers, evaluations that contain, at a minimum, the Iowa teaching standards specified in subsection 1, as well as the ~~model~~ criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, additional teaching standards and criteria. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for teachers other than beginning teachers that are not in conflict with this chapter.

Sec. 39. Section 284.3, subsection 3, Code 2003, is amended to read as follows:

3. The state board shall adopt by rule pursuant to chapter 17A the ~~model~~ criteria developed by the department in accordance with section 256.9, subsection 50.

Sec. 40. Section 284.4, subsection 1, paragraphs c and d, Code 2003, are amended to read as follows:

c. Provide, beginning in the ~~fourth~~ fifth year of participation, the equivalent of two additional contract days, outside of instruction time, than were provided in the school year preceding the first year of participation, to provide additional time for teacher career development that aligns with student learning and teacher development needs, including the integration of technology into curriculum development, in order to achieve attendance center and district-wide student achievement goals outlined in the district comprehensive school improvement plan. School districts are encouraged to develop strategies for restructuring the school calendar to provide for the most effective professional development, evaluate their current career development alignment with their student achievement goals and research-based instructional strategies, and implement district career development plans. A school district that provides the equivalent of ten or more contract days for career development is exempt from this paragraph.

d. Adopt a district and teacher career development ~~program~~ plans in accordance with this chapter.

Sec. 41. Section 284.5, subsection 6, Code 2003, is amended to read as follows:

6. Upon completion of the program, the beginning teacher shall be comprehensively evaluated to determine if the teacher meets expectations to move to the career level. The school district or area education agency that employs the beginning teacher shall recommend for ~~an educational~~ a standard license a beginning teacher who is determined through a comprehensive evaluation to demonstrate competence in the Iowa teaching standards. A school district or area education agency may offer a beginning teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district determines that the teacher is likely to successfully complete the mentoring and induction program by the end of the third year of eligibility. A teacher granted a third year of eligibility shall develop a teacher's mentoring and induction program plan in accordance with this chapter and shall undergo a comprehensive evaluation at the end of the third year. The board of educational examiners shall grant a one-year extension of the beginning teacher's ~~provisional~~ initial license upon notification by the school district that the teacher will participate in a third year of the school district's program.

Sec. 42. Section 284.6, subsection 5, Code 2003, is amended to read as follows:

5. The teacher's evaluator shall annually meet with the teacher to review progress in meeting the goals in the teacher's individual plan. The teacher shall present to the evaluator evidence of progress. The purpose of the meeting shall be to review the teacher's progress in meeting career development goals in the plan and to review collaborative work with other staff on student achievement goals and to modify as necessary the teacher's individual plan to reflect the individual teacher's and the school district's needs and the individual's progress in meeting the goals in the plan. The teacher's supervisor and the evaluator shall review, modify, or accept modifications made to the teacher's individual plan.

Sec. 43. Section 284.7, subsection 1, paragraph a, subparagraph (1), subparagraph subdivision (b), Code 2003, is amended to read as follows:

(b) Holds a ~~provisional~~ an initial teacher license issued by the board of educational examiners.

Sec. 44. Section 284.7, subsection 2, paragraph a, subparagraph (1), Code 2003, is amended to read as follows:

(1) A career II teacher is a teacher who meets the requirements of subsection 1, paragraph "b", has met the requirements established by the school district that employs the teacher, and is evaluated by the school district as demonstrating the competencies of a career II teacher.

The teacher shall have successfully completed a comprehensive evaluation performance review in order to be classified as a career II teacher.

Sec. 45. Section 284.7, subsection 4, Code 2003, is amended to read as follows:

4. If a comprehensive evaluation performance review for a teacher is conducted in the fifth year of the teacher's status at the career level, and indicates that the teacher's practice no longer meets the standards for that level, a comprehensive evaluation performance review shall be conducted in the next following school year. If the comprehensive evaluation performance review establishes that the teacher's practice fails to meet the standards for that level, the teacher shall be ineligible for any additional pay increase other than a cost-of-living increase.

Sec. 46. Section 284.7, subsection 6, paragraph a, Code 2003, is amended to read as follows:

a. ~~For the school year beginning July 1, 2002, and ending June 30, 2003, if~~ If the licensed employees of a school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "g" or "h", for purposes of this section, are organized under chapter 20 for collective bargaining purposes, the board of directors and the certified bargaining representative for the licensed employees shall mutually agree upon a formula for distributing the funds among the teachers employed by the school district or area education agency. However, the school district must comply with the salary minimums provided for in this section. The parties shall follow the negotiation and bargaining procedures specified in chapter 20 except that if the parties reach an impasse, neither impasse procedures agreed to by the parties nor sections 20.20 through 20.22 shall apply and the funds shall be paid as provided in paragraph "b". Negotiations under this section are subject to the scope of negotiations specified in section 20.9. If a board of directors and the certified bargaining representative for licensed employees have not reached mutual agreement by ~~July 15, 2002~~, for the distribution of funds received pursuant to section 284.13, subsection 1, paragraph "g" or "h", by July 15 of the fiscal year for which the funds are distributed, paragraph "b" of this subsection shall apply.

Sec. 47. Section 284.8, subsection 2, Code 2003, is amended to read as follows:

2. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under the Iowa teaching standards specified in section 284.3, subsection 1, paragraphs "a" through "g", the ~~model~~ criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50, ~~or~~ and any other standards or criteria established in the collective bargaining agreement, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or grievance procedures established pursuant to chapter 20. ~~By July 1, 2004~~ 2005, all school districts must be prepared to offer an intensive assistance program.

Sec. 48. Section 284.9, subsection 3, Code 2003, is amended to read as follows:

3. To assure fairness and consistency in the evaluation process, the review panels may perform random audits of the comprehensive evaluations and performance reviews conducted by evaluators throughout the state, and may randomly review ~~performance-based evaluation models~~ how the evaluators are evaluating teachers based upon the Iowa teaching standards developed by school districts in accordance with section 284.3, subsection 2. ~~The review of the evaluation models shall ensure that the model is at least equivalent to the state models developed pursuant to section 256.9, subsection 50.~~

Sec. 49. Section 284.10, subsections 4 and 5, Code 2003, are amended to read as follows:

4. ~~By July 1, 2003~~, a Δ higher education institution approved by the state board to provide an administrator preparation program shall incorporate the evaluator training program into the program offered by the institution.

5. ~~Beginning July 1, 2003, the~~ The board of educational examiners shall require certification as a condition of issuing or renewing an administrator's license.

Sec. 50. Section 284.11, subsections 1 and 6, Code 2003, are amended to read as follows:

1. It is the intent of the general assembly to create a statewide team-based variable pay program to reward individual attendance centers for improvement in student achievement. A pilot program is established to give Iowa school districts with one or more participating attendance centers the opportunity to explore and demonstrate successful methods to implement team-based variable pay and to compare student achievement gains in school districts participating in the program with gains in school districts similar in nature that are not participating in the program. The department shall develop and administer the pilot program and shall provide technical assistance in the areas of goal setting and student assessments to school districts approved to participate in the pilot program. Preference shall be given to school districts that were previously approved to participate in a pilot program administered by the department in accordance with this section. Each school district approved by the department to participate in the pilot program shall administer valid and reliable standardized assessments at the beginning and end of the school year to demonstrate growth in student achievement.

6. A district electing to initiate a team-based variable pay plan according to this section during the school year beginning July 1, ~~2001~~ 2003, shall notify the department of its election in writing no later than August 1, ~~2001~~ 2003. The department shall certify the school district plan by October 1, ~~2001~~ 2003.

**Sec. 51. Section 285.5, subsection 9, Code 2003, is amended to read as follows:*

9. All bus drivers, except substitute and part-time bus drivers, for school-owned equipment shall be under contract with the board. The director of the department of education shall prepare a uniform contract containing provision not in conflict with this chapter which shall be used by all school boards in contracting with drivers of school-owned vehicles.*

Sec. 52. Section 285.10, subsection 7, paragraph b, Code 2003, is amended to read as follows:

b. May purchase buses and enter into contracts to pay for such buses over a five-year period as follows: one-fourth of the cost when the bus is delivered and the balance in equal annual installments, plus simple interest due. The interest rate shall be the lowest rate available and shall not exceed the rate in effect under section 74A.2. The bus shall serve as security for balance due. Competitive bids on comparable equipment shall be requested on all school bus ~~body and chassis~~ purchases and shall be based upon minimum construction standards established by the department of education. ~~Separate body and chassis bids~~ Bids shall be requested unless the bus is ~~constructed as an integral unit, inseparable as to body and chassis, by the manufacturer or is a used or demonstrator bus.~~

Sec. 53. Section 294A.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The purpose of this chapter is to promote excellence in education. In order to maintain and advance the educational excellence in the state of Iowa, this chapter establishes the Iowa educational excellence program. The program shall consist of ~~three~~ two major phases addressing the following:

Sec. 54. Section 294A.1, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 55. Section 294A.3, unnumbered paragraph 2, Code 2003, is amended by striking the unnumbered paragraph.

Sec. 56. Section 294A.22, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Payments made to a teacher by a school district or area education agency Bids under this chapter

* Item veto; see message at end of the Act

are wages for the purposes of chapter 91A ~~except for payments made under an approved phase III plan where a modified payment plan has either been mutually agreed upon by the board of directors and the certified bargaining representative for certificated employees or for a district that is not organized for collective bargaining purposes where a modified payment plan is adopted by the board.~~

Sec. 57. Section 321.375, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any of the following shall constitute grounds for a school bus driver's immediate suspension from duties, pending a termination hearing by the board of directors of a public school district or the authorities in charge in a nonpublic school if the bus driver is under contract, pending confirmation of the grounds by the school district or accredited nonpublic school if the bus driver is a part-time or substitute bus driver who is not under contract, or pending confirmation of the grounds by the employer of the school bus driver if the employer is not a school district or accredited nonpublic school by the board:

Sec. 58. Section 321.375, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A change in circumstances indicating that the driver is no longer physically or mentally competent. For the purpose of an insulin-dependent diabetic, a change in circumstances includes the following:

(1) Results of a glycosylated hemoglobin test indicating values less than 6.0 percent or greater than 9.5 percent unless accompanied by the required medical opinion that the event was incidental and not an indication of failure to control glucose levels.

(2) Results of self-monitoring indicate glucose levels less than one hundred milligrams per deciliter or greater than three hundred milligrams per deciliter, until self-monitoring indicates compliance with specifications.

(3) Experiencing a loss of consciousness or control relating to diabetes.

(4) Failing to maintain or falsifying the required reports.

Sec. 59. Section 321.375, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Notwithstanding any provision to the contrary, an insulin-dependent diabetic may qualify under subsection 1, paragraph "d", for purposes of operating a school bus under this section if a person identified by federal or state law as authorized to perform physical examinations annually provides a signed statement indicating that based upon an annual physical examination the individual is physically able to perform the required functions despite insulin dependency. The insulin-dependent diabetic shall not qualify to operate a school bus if, at minimum, the individual results of a glycosylated hemoglobin test indicate values less than 6.0 percent or greater than 9.5 percent on other than an incidental basis and not as a result of failure to control glucose levels. The statement shall also indicate that within the past three years the insulin-dependent diabetic has completed instruction to address diabetes management and driving safety, signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications arise.

b. A school district or authorities in charge of the nonpublic school that employs or otherwise secures the services of an individual with an authorization who is an insulin-dependent diabetic shall monitor the insulin-dependent diabetic to determine that they are in compliance with all of the following:

(1) Self-monitoring blood glucose and demonstrating conformance with requirements, more than one hundred milligrams per deciliter and less than three hundred milligrams per deciliter, within one hour before driving a school bus and approximately every four hours while on duty using a United States food and drug administration approved device.

(2) Reporting immediately to the school district or school any failure to comply with specific glucose level requirements as listed in subparagraph (1) or loss of consciousness or control.

(3) Carrying a source of readily absorbable, fast-acting glucose while on duty.

(4) Maintaining a daily log of all glucose test results for the previous six-month period and providing copies to the school district or school, the examining physician, and the department of education upon request.

(5) Submitting all required department of education forms within the prescribed timelines.

Sec. 60. Section 321J.22, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials for courses offered both by community colleges and by substance abuse treatment programs licensed under chapter 125, and for administrative expenses incurred by the department of education in implementing subsection 5 on behalf of in-state and out-of-state offenders.

Sec. 61. Section 331.909, subsection 2, Code 2003, is amended to read as follows:

2. The activities of a multidisciplinary community services team shall not duplicate the activities of a multidisciplinary team for child abuse under section 235A.13, dependent adult abuse activities under section 235B.6, ~~area education agency activities under section 294A.14,~~ or child victim services provided under section 915.35.

Sec. 62. Section 614.1, subsection 12, Code 2003, is amended to read as follows:

12. SEXUAL ABUSE OR SEXUAL EXPLOITATION BY A COUNSELOR, OR THERAPIST, OR SCHOOL EMPLOYEE. An action for damages for injury suffered as a result of sexual abuse, as defined in section 709.1, by a counselor, ~~or~~ therapist, or school employee, as defined in section 709.15, or as a result of sexual exploitation by a counselor, ~~or~~ therapist, or school employee shall be brought within five years of the date the victim was last treated by the counselor or therapist, or within five years of the date the victim was last enrolled in or attended the school.

Sec. 63. Section 692A.1, subsection 10, Code 2003, is amended to read as follows:

10. "Sexual exploitation" means sexual exploitation by a counselor, ~~or~~ therapist, or school employee under section 709.15.

Sec. 64. Section 702.11, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. Sexual exploitation by a counselor, ~~or~~ therapist, or school employee in violation of section 709.15.

Sec. 65. Section 709.15, Code 2003, is amended to read as follows:

709.15 SEXUAL EXPLOITATION BY A COUNSELOR, OR THERAPIST, OR SCHOOL EMPLOYEE.

1. As used in this section:

a. "Counselor or therapist" means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

b. "Emotionally dependent" means that the nature of the patient's or client's or former patient's or client's emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in ~~paragraph "f" subsection 2,~~ by the counselor or therapist.

For the purposes of ~~paragraph "f" subsection 2,~~ a former patient or client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

c. "Former patient or client" means a person who received mental health services from the counselor or therapist.

d. "Mental health service" means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

e. "Patient or client" means a person who receives mental health services from the counselor or therapist.

f. "School employee" means a practitioner as defined in section 272.1.

g. "Student" means a person who is currently enrolled in or attending a public or nonpublic elementary or secondary school, or who was a student enrolled in or attended a public or nonpublic elementary or secondary school within thirty days of any violation of subsection 3.

f. 2. "Sexual ~~Sexual~~ exploitation by a counselor or ~~therapist~~ therapist occurs when any of the following are found:

(1) a. A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2) or (3) paragraph "b" or "c".

(2) b. Any sexual conduct, with an emotionally dependent patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the emotionally dependent patient or client or emotionally dependent former patient or client, which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

(3) c. Any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

"Sexual ~~Sexual~~ exploitation by a counselor or ~~therapist~~ therapist does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

3. Sexual exploitation by a school employee occurs when any of the following are found:

a. A pattern or practice or scheme of conduct to engage in any of the conduct described in paragraph "b".

b. Any sexual conduct with a student for the purpose of arousing or satisfying the sexual desires of the school employee or the student. Sexual conduct includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

Sexual exploitation by a school employee does not include touching that is necessary in the performance of the school employee's duties while acting within the scope of employment.

2. 4. a. A counselor or therapist who commits sexual exploitation in violation of subsection 1 2, paragraph "f" "a", subparagraph (1), commits a class "D" felony.

3. b. A counselor or therapist who commits sexual exploitation in violation of subsection 1 2, paragraph "f" "b", subparagraph (2), commits an aggravated misdemeanor.

4. c. A counselor or therapist who commits sexual exploitation in violation of subsection 1 2, paragraph "f" "c", subparagraph (3), commits a serious misdemeanor. In lieu of the sentence provided for under section 903.1, subsection 1, paragraph "b", the offender may be required to attend a sexual abuser treatment program.

5. a. A school employee who commits sexual exploitation in violation of subsection 3, paragraph "a", commits a class "D" felony.

b. A school employee who commits sexual exploitation in violation of subsection 3, paragraph "b", commits an aggravated misdemeanor.

Sec. 66. Section 802.2A, subsection 2, Code 2003, is amended to read as follows:

2. An indictment or information for sexual exploitation by a counselor, ~~or therapist, or school employee~~ under section 709.15 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other sexual exploitation shall be found within ten years of the date the victim was last treated by the counselor or therapist, ~~or within ten years of the date the victim was enrolled in or attended the school.~~

Sec. 67. Section 903B.1, subsection 4, paragraph h, Code 2003, is amended to read as follows:

h. Sexual exploitation ~~by a counselor~~ in violation of section 709.15.

Sec. 68. MINIMUM TEACHER SALARY REQUIREMENTS — FY 2003-2004.

1. Notwithstanding section 284.7, subsection 1, paragraph “a”, subparagraph (2), the minimum teacher salary paid by a school district or area education agency for purposes of teacher compensation in accordance with chapter 284, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be the minimum salary amount the school district or area education agency paid to a first-year beginning teacher or, the minimum salary amount the school district or area education agency would have paid a first-year beginning teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001. If the school district or area education agency did not employ a first-year beginning teacher in the 2001-2002 school year, the minimum salary is the amount that the district would have paid a first-year beginning teacher under chapter 284 in the 2001-2002 school year.

2. Notwithstanding section 284.7, subsection 1, paragraph “b”, subparagraph (2), the minimum career teacher salary paid to a career teacher who was a beginning teacher in the 2001-2002 school year, by a school district or area education agency participating in the student achievement and teacher quality program, for the school year beginning July 1, 2003, and ending June 30, 2004, shall be, unless the school district has a minimum career teacher salary that exceeds thirty thousand dollars, one thousand dollars greater than the minimum salary amount the school district or area education agency paid to a first-year beginning teacher if the school district or area education agency participated in the program during the 2001-2002 school year, or the minimum salary amount the school district or area education agency would have paid a first-year beginning teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001.

3. Notwithstanding section 284.7, subsection 1, paragraph “b”, subparagraph (2), and except as provided in subsection 2, the minimum career teacher salary paid by a school district or area education agency participating in the student achievement and teacher quality program, for purposes of teacher compensation in accordance with chapter 284, for the school year beginning July 1, 2003, and ending June 30, 2004, shall be the minimum salary amount the school district or area education agency paid to a career teacher if the school district or area education agency participated in the program during the 2001-2002 school year, or, the minimum salary amount the school district or area education agency would have paid a career teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001.

*Sec. 69. *READING INSTRUCTION PILOT PROGRAM.*

1. *Recognizing the state's goals of assisting children to grow, develop, and learn to their fullest extent, empowering students in grades kindergarten through eight to become good readers, and supporting student achievement and overall academic performance, and recognizing the importance of instructional methodologies and strategies for reading, a reading instruction pilot program is established. The objective of the program shall be to improve student reading*

* Item veto; see message at end of the Act

achievement and provide interventions needed to assist struggling readers by increasing teacher capacity to provide reading instruction.

2. The program shall be established for the school year beginning July 1, 2003, in a school district with an enrollment of at least six hundred pupils in grades kindergarten through twelve, or in two or more school districts, each with enrollments of less than six hundred pupils in grades kindergarten through twelve, jointly participating in the program and with a combined enrollment of at least six hundred pupils in grades kindergarten through twelve. The program shall involve the implementation of systematic intensive phonics reading instruction and direct instruction for students up to and including the eighth grade. The program shall meet the standards set forth by the United States department of education's national institute for literacy, which has identified the five areas of successful reading instruction as phonemic awareness, phonics, fluency, vocabulary, and text comprehension.

3. The program shall offer training and ongoing support for participating teachers and provide continuous formal and informal student assessment to demonstrate results. Teachers in the school district or group of districts selected shall, prior to the beginning of classes for the school year beginning July 1, 2003, participate in an in-service training program to prepare for implementation of the program. The in-service training shall include education and training in curriculum content and methods of instruction relating to systematic intensive phonics reading instruction and direct instruction, student assessment procedures and techniques, and effective interventions to address specific reading difficulties, and shall continue on an ongoing basis throughout the school year.

4. The program shall be administered by the department of education. The department shall provide notice to school districts regarding the existence of the program, shall provide technical assistance regarding application submission and information regarding program objectives and operation, and shall provide program implementation assistance to the school district or group of districts selected. A school district or group of districts wishing to participate shall submit an application to the department and the department shall, before July 1, 2003, select a school district or group of districts for participation in the pilot program. In the application the school district or group of districts shall propose a districtwide plan for effective reading interventions involving an approach to beginning reading instruction and boosting the reading levels of students using systematic intensive phonics instruction and direct instruction. A school district submitting an application shall also indicate a willingness to provide faculty committed to implementation of the program and participation in the in-service training, and shall include a plan for conducting pretesting and posttesting to demonstrate results. The department shall select for participation a school district or group of districts, after consultation with the chairpersons and ranking members of the senate and house standing committees on education, which demonstrates an ability to implement program requirements and adhere to the national institute for literacy standards.

5. Upon completion of the pilot program, the school district shall submit a report to the department regarding the impact of the program on student academic achievement. The department shall prepare a report summarizing these results, and comparing them to student academic achievement gains in similar school districts that did not participate in the program. The department report shall include recommendations for statewide implementation of the pilot program, and shall be submitted to the chairpersons and ranking members of the senate and house standing committees on education by December 15, 2004.

6. The establishment of the program pursuant to this section shall be contingent upon an appropriation for purposes of the program for the fiscal year beginning July 1, 2003, and ending June 30, 2004. Funds provided to the school district or group of districts selected shall be used by the district or group of districts to provide stipends and travel expense payments during the summer teacher in-service training, ongoing training and support during the school year, expense payments relating to data collection, and payments for the costs of reading instruction relating to the program.*

Sec. 70. Sections 294A.12 through 294A.20, and 294A.23, Code 2003, are repealed.

* Item veto; see message at end of the Act

Sec. 71. EFFECTIVE DATES.

1. Section 9 of this Act, relating to the repeal of chapter 256D, being deemed of immediate importance, takes effect upon enactment.

2. Section 10 of this Act, relating to school reorganization incentives, being deemed of immediate importance, takes effect upon enactment.

3. Section 69 of this Act, relating to a reading instruction pilot program, being deemed of immediate importance, takes effect upon enactment.

Sec. 72. EFFECTIVE AND RETROACTIVE APPLICABILITY PROVISION. Section 35 of this Act, relating to a request for open enrollment submitted to a district prior to the district's adoption of a desegregation plan, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2002, for open enrollment transfer requests received by a school district on or after July 1, 2002.

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 549, an Act relating to the duties and operations of the department of education, the board of educational examiners, the state board of regents and its universities, and school boards, and to property tax school reorganization incentives; requiring the establishment of a reading instruction pilot program; and including effective and retroactive applicability date provisions.

House File 549 is vitally important for education in Iowa. This bill expands the current data management system to meet the federal requirements of the No Child Left Behind initiative. It also extends the K-3 Class Size reduction program for an additional fiscal year. While this falls short of my recommendation, it allows us to continue working toward the goal of reducing K-3 class sizes to 17 students per teacher. House File 549 expands reorganization incentives for K-12 school districts and makes several changes to clarify the reorganization process for AEAs. It also makes necessary Code changes to the teacher quality program.

House File 549 is approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 5. This section requires the Department of Education to develop and implement a statewide program for educational assessment reporting and to use this information for a statewide report card. The text of paragraph "c" which describes the "single value-added system" requires the use of a proprietary system. I do not believe that it is in the best interest of school districts and the Department of Education to mandate a reporting system that is redundant to the requirement of the No Child Left Behind Act. I also do not support the mandate that all districts and the Department of Education must use a single proprietary system for analysis and reporting of assessment results.

I am unable to approve the item designated as Section 51 which removes the contract requirement for part-time and substitute bus drivers. The current law provides for a standard uniform contract for all drivers of school-owned equipment. This language eliminates secure employment relationships for bus drivers who are often responsible for the safety of our children.

I am unable to approve the items designated as Section 69 and Section 71, subsection 3. Section 69 requires the Department of Education to establish and administer a reading instruction pilot program beginning in the fall of 2003. A considerable effort is currently underway in the

* Item veto; see message at end of the Act

Department of Education given the requirements of the federally funded reading program, Reading First. The Reading First program will in the 2003-2004 school year involve 30 school districts across the state to improve reading skills. The federal program guidelines and evaluation requirements are very similar to the requirements in Section 69. The proposed reading program would duplicate current efforts and it is also very late for a district to plan to participate in a new program this fall.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 549 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 181

APPROPRIATIONS — ADMINISTRATION AND REGULATION

H.F. 655

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. **AUDITOR OF STATE.** There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,157,822
.....	FTEs	105.72

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

Sec. 2. **IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD.** There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	400,707
.....	FTEs	6.00

Sec. 3. DEPARTMENT OF COMMERCE. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,789,292
.....	FTEs	33.00

2. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,997,541
.....	FTEs	65.00

3. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,285,341
.....	FTEs	19.00

4. INSURANCE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,731,339
.....	FTEs	93.50

b. The insurance division may reallocate authorized full-time equivalent positions as necessary to respond to accreditation recommendations or requirements. The insurance division expenditures for examination purposes may exceed the projected receipts, refunds, and reimbursements, estimated pursuant to section 505.7, subsection 7, including the expenditures for retention of additional personnel, if the expenditures are fully reimbursable and the division first does both of the following:

(1) Notifies the department of management, the legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

(2) Files with each of the entities named in subparagraph (1) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

5. PROFESSIONAL LICENSING AND REGULATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	829,996
.....	FTEs	11.00

b. Notwithstanding the provisions of section 546.10, subsection 3, to the contrary, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, funds received from an increase in licensing fees by the real estate commission created pursuant to chapter 543B shall be deposited in the general fund of the state as provided in section 546.10, subsection 5.

6. UTILITIES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,754,414
.....	FTEs	79.00

b. The utilities division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for utility regulation and the expenditures are fully reimbursable. Before the division expends or encumbers an amount in excess of the funds budgeted for regulation, the division shall first do both of the following:

(1) Notify the department of management, the legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

(2) File with each of the entities named in subparagraph (1) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

The utilities division shall assess the office of consumer advocate within the department of justice a pro rata share of the operating expenses of the utilities division. Each division and the office of consumer advocate shall include in its charges assessed or revenues generated, an amount sufficient to cover the amount stated in its appropriation, and any state-assessed indirect costs determined by the department of revenue and finance. It is the intent of the general assembly that the director of the department of commerce shall review on a quarterly basis all out-of-state travel for the previous quarter for officers and employees of each division of the department if the travel is not already authorized by the executive council.

Sec. 4. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION. There is appropriated from the housing improvement fund of the Iowa department of economic development to the division of professional licensing and regulation of the department of commerce for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:
 \$ 62,317

Sec. 5. GOVERNOR AND LIEUTENANT GOVERNOR. There is appropriated from the general fund of the state to the offices of the governor and the lieutenant governor for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

..... \$ 1,243,643
 FTEs 17.25¹

2. TERRACE HILL QUARTERS

For salaries, support, maintenance, and miscellaneous purposes for the governor's quarters at Terrace Hill, and for not more than the following full-time equivalent positions:

..... \$ 98,088
 FTEs 3.00

3. ADMINISTRATIVE RULES COORDINATOR

For salaries, support, maintenance, and miscellaneous purposes for the office of administrative rules coordinator, and for not more than the following full-time equivalent positions:

..... \$ 130,972
 FTEs 3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

..... \$ 64,393

5. STATE-FEDERAL RELATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 109,814
 FTEs 2.00

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §10 herein

Sec. 6. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY.

1. There is appropriated from the general fund of the state to the governor's office of drug control policy for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes including statewide coordination of the drug abuse resistance education (D.A.R.E.) programs or similar programs, and for not more than the following full-time equivalent positions:

.....	\$	255,104
.....	FTEs	8.00

2. The governor's office of drug control policy, in consultation with the Iowa department of public health, and after discussion and collaboration with all interested agencies, shall coordinate substance abuse treatment and prevention efforts in order to avoid duplication of services.

Sec. 7. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	251,681
.....	FTEs	7.00

2. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	314,714
.....	FTEs	7.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be disbursed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for continued and expanded interpretation services.

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	170,969
.....	FTEs	3.50

4. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	153,977
.....	FTEs	3.00

5. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, including the Iowans in transition program, and the domestic violence and sexual assault-related grants, and for not more than the following full-time equivalent positions:

.....	\$	330,852
.....	FTEs	3.00

6. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	121,329
.....	FTEs	2.00

7. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	373,203
.....	FTEs	6.96

The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall coordinate their efforts in carrying out their respective duties relative to juvenile justice.

8. SHARED STAFF. The divisions of the department of human rights shall retain their individual administrators, but shall share staff to the greatest extent possible.

Sec. 8. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	712,437
.....	FTEs	19.25

2. ADMINISTRATIVE HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	496,436
.....	FTEs	23.00

3. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,367,532
.....	FTEs	41.00

4. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,246,415
.....	FTEs	101.75

5. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	749,773
.....	FTEs	12.00

6. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	34,123
.....	FTEs	15.00

The employment appeal board shall be reimbursed by the labor services division of the department of workforce development for all costs associated with hearings conducted under chapter 91C, related to contractor registration. The board may expend, in addition to the amount appropriated under this subsection, additional amounts as are directly billable to the labor services division under this subsection and to retain the additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

7. CHILD ADVOCACY BOARD

For foster care review and the court appointed special advocate program, including salaries,

support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,696,656
.....	FTEs	43.49

a. The department of human services, in coordination with the child advocacy board, and the department of inspections and appeals, shall submit an application for funding available pursuant to Title IV-E of the federal Social Security Act for claims for child advocacy board, administrative review costs.

b. It is the intent of the general assembly that the court appointed special advocate program investigate and develop opportunities for expanding fund-raising for the program.

c. The child advocacy board shall report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau by August 31, 2003, providing a budget for the appropriation made in this subsection. The budget shall delineate the expenditures planned for foster care review, the court appointed special advocate program, joint expenditures, and other pertinent information. The board shall submit to the same entities a report of the actual expenditures at the close of the fiscal year.

d. Administrative costs charged by the department of inspections and appeals for items funded under this subsection shall not exceed 4 percent of the amount appropriated in this subsection.

Sec. 9. RACING AND GAMING COMMISSION.

1. RACETRACK REGULATION

There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the regulation of pari-mutuel racetracks, and for not more than the following full-time equivalent positions:

.....	\$	2,105,333
.....	FTEs	24.53

Of the funds appropriated in this subsection, \$85,576 shall be used to conduct an extended harness racing season.

2. EXCURSION BOAT REGULATION

There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the excursion boat gambling laws, and for not more than the following full-time equivalent positions:

.....	\$	1,737,198
.....	FTEs	30.22

Sec. 10. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to sections 423.7 and 423.7A prior to their deposit in the road use tax fund pursuant to section 423.24, to the administrative hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purposes designated:

.....	\$	1,222,110
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Sec. 11. DEPARTMENT OF MANAGEMENT. There is appropriated from the general

fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE — STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,062,112
.....	FTEs	33.00

2. ENTERPRISE RESOURCE PLANNING

If funding is provided for the redesign of the enterprise resource planning budget system for the fiscal year beginning July 1, 2003, then there is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, and miscellaneous purposes for administration of the enterprise resource planning system, and for not more than the following full-time equivalent position:

.....	\$	57,966
.....	FTEs	1.00

3. REINVENTION SAVINGS

To fund the investment in reinvention initiatives intended to produce ongoing savings:

.....	\$	5,000,000
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Sec. 12. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	56,000
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Sec. 13. LOTTERY. There is appropriated from the lottery fund to the department of revenue and finance, or its successor, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes for the administration and operation of lottery games, and for not more than the following full-time equivalent positions:

.....	\$	8,956,673
.....	FTEs	117.00

The lottery shall deduct \$500,000 from its calculated retained earnings before making lottery proceeds transfers to the general fund of the state during the fiscal year beginning July 1, 2003.

Sec. 14. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor fuel tax fund created by section 452A.77 to the department of revenue and finance, or its successor, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the provisions of chapter 452A and the motor vehicle use tax program:

.....	\$	1,098,654
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Sec. 15. SECRETARY OF STATE. There is appropriated from the general fund of the state to the office of the secretary of state for the fiscal year beginning July 1, 2003, and ending June

30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND ELECTIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	676,292
.....	FTEs	10.00

It is the intent of the general assembly that the state department or state agency which provides data processing services to support voter registration file maintenance and storage shall provide those services without charge.

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,423,106
.....	FTEs	32.00

Sec. 16. SECRETARY OF STATE FILING FEES REFUND. Notwithstanding the obligation to collect fees pursuant to the provisions of section 490.122, subsection 1, paragraphs "a" and "s", and section 504A.85, subsections 1 and 9, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the secretary of state may refund these fees to the filer pursuant to rules established by the secretary of state. The decision of the secretary of state not to issue a refund under rules established by the secretary of state is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

Sec. 17. TREASURER. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	782,647
.....	FTEs	28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 18. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the Iowa public employees' retirement system for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system and for not more than the following full-time equivalent positions:

.....	\$	8,272,066
.....	FTEs	90.13

2. INVESTMENT PROGRAM STAFFING

It is the intent of the general assembly that the Iowa public employees' retirement system division employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

DIVISION II

Sec. 19. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning

July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsection 1:

.....	FTEs	404.17
1. COMPLIANCE — INTERNAL RESOURCES MANAGEMENT — STATE FINANCIAL MANAGEMENT — STATEWIDE PROPERTY TAX ADMINISTRATION		

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	24,976,712
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Of the funds appropriated pursuant to this subsection, \$400,000 shall be used to pay the direct costs of compliance related to the collection and distribution of local sales and services taxes imposed pursuant to chapters 422B and 422E.

The director of revenue and finance shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

2. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

.....	\$	28,166
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Sec. 20. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND PROPERTY MANAGEMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,413,749
.....	FTEs	149.40

2. TERRACE HILL OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes necessary for the operation of Terrace Hill and for not more than the following full-time equivalent positions:

.....	\$	235,412
.....	FTEs	5.00

3. RENTAL SPACE

For payment of lease or rental costs of buildings and office space as provided in section 18.12, subsection 9, notwithstanding section 18.16:

.....	\$	846,770
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The department shall prepare a summary of lease and rental agreements entered into by the department with information concerning the location of leased property, the funding source for each lease, and the cost of the lease. The summary shall be submitted to the general assembly by January 13, 2004.

4. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent position:

.....	\$	1,817,095
.....	FTEs	1.00

Notwithstanding sections 8.33 and 18.12, subsection 11, any excess funds appropriated for utility costs in this subsection shall not revert to the general fund of the state at the end of the fiscal year but shall remain available for expenditure for the purposes of this subsection during the fiscal year beginning July 1, 2004.

Sec. 21. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRALIZED PURCHASING

From the centralized purchasing permanent revolving fund established by section 18.9 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,118,960
.....	FTEs	15.15

2. CENTRALIZED PURCHASING — REMAINDER

The remainder of the centralized purchasing permanent revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 2003, and ending June 30, 2004, which are legally payable from this fund.

3. STATE FLEET ADMINISTRATOR

From the state fleet administrator revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	922,388
.....	FTEs	19.15

4. STATE FLEET ADMINISTRATOR — REMAINDER

The remainder of the state fleet administrator revolving fund is appropriated for the purchase of ethanol blended fuels and other fuels specified in section 18.115, subsection 5, oil, tires, repairs, and all other maintenance expenses incurred in the operation of state-owned motor vehicles and for contingencies arising during the fiscal year beginning July 1, 2003, and ending June 30, 2004, which are legally payable from this fund.

5. CENTRALIZED PRINTING

From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,404,173
.....	FTEs	25.95

6. CENTRALIZED PRINTING — REMAINDER

The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 2003, and ending June 30, 2004, which are legally payable from this fund.

Sec. 22. DEPARTMENT OF PERSONNEL. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated, including the filing of quarterly reports as required in this section:

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, research, communications and workforce planning services, data processing, financial services, customer information and support services, employment law and labor relations, training and benefit programs, and for not more than the following full-time equivalent positions:

.....	\$	3,757,125
.....	FTEs	66.00

Any funds received by the department for workers' compensation purposes shall be used only for the payment of workers' compensation claims and administrative costs.

It is the intent of the general assembly that members of the general assembly serving as members of the deferred compensation advisory board shall be entitled to receive per diem and necessary travel and actual expenses pursuant to section 2.10, subsection 5, while carrying out their official duties as members of the board.

Sec. 23. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the monthly per contract administrative charge which may be assessed by the department of personnel pursuant to section 19A.12F shall be \$2.00 per contract on all health insurance plans administered by the department.

Sec. 24. READY TO WORK PROGRAM COORDINATOR. There is appropriated from the surplus funds in the long-term disability reserve fund and the workers' compensation trust fund to the department of personnel for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator:

..... \$ 89,416

The moneys appropriated pursuant to this section shall be taken in equal proportions from the long-term disability reserve fund and the workers' compensation trust fund.²

Sec. 25. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... \$ 440,369

Sec. 26. ROAD USE TAX FUND APPROPRIATION. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... \$ 71,969

Sec. 27. STATE WORKERS' COMPENSATION CLAIMS. The premiums collected by the department of personnel shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.

Any funds received by the department of personnel for workers' compensation purposes other than funds appropriated in this section shall be used for the payment of workers' compensation claims and administrative costs.

Sec. 28. INFORMATION TECHNOLOGY DEPARTMENT. There is appropriated from the general fund of the state to the information technology department for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing information technology services to state agencies and for the following full-time equivalent positions:

..... \$ 2,967,323

..... FTEs 138.00

1. The information technology department shall not increase any fees or charges to other state agencies for services provided to such state agencies by the department, unless such

² See chapter 179, §44 herein

increase in fees or charges is first reported to the department of management. The department of management shall submit a report notifying the legislative fiscal bureau regarding any fee increase as the increase occurs.

2. The information technology department shall submit a report to the general assembly by January 12, 2004, providing information concerning the funding of the operation of the department, to include information concerning the receipt and use of fees and other revenues by the department, the method of determining fees to be charged, and information comparing fees charged by the department with comparable private sector rates.

3. It is the intent of the general assembly that all agencies comply with the requirements established in section 304.13A relating to utilization of the electronic repository developed for the purpose of providing public access to agency publications. To ensure compliance with the requirements, the department of management, the information technology department, and the state librarian shall coordinate the development of a process to maximize and monitor the extent to which the number of printed copies of agency publications is reduced, and to realize monetary savings through the reduction. The process shall include a policy for distribution of written copies of publications to members of the general assembly on a request-only basis and weekly notification of a new publication posting on the repository by the state librarian to the secretary of state, secretary of the senate, and chief clerk of the house of representatives, who in turn shall notify members of the general assembly of publication availability. The process shall also include the electronic submission of a report by November 1, annually, to the legislative fiscal bureau and legislative fiscal committee detailing the number of written copies of agency publications produced in the preceding two fiscal years, and indicating the extent to which a reduction may be observed.

Sec. 29. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the first \$1,000,000 collected and transferred by the department of transportation to the treasurer of state with respect to the fees for transactions involving the furnishing of a certified abstract of a vehicle operating record under section 321A.3, subsection 1, shall be transferred to the IowAccess revolving fund created in section 14B.206 and administered by the information technology department for the purposes of developing, implementing, maintaining, and expanding electronic access to government records in accordance with the requirements set forth in chapter 14B.

2. It is the intent of the general assembly that all fees collected with respect to transactions involving IowAccess shall be deposited in the IowAccess revolving fund created in section 14B.206 and shall be used only for the support of IowAccess projects.

Sec. 30. APPLICABILITY. This division shall not apply, and the appropriations and FTE authorizations hereunder shall not be effective, if a department of administrative services is created effective July 1, 2003, by legislation enacted by the first regular session of the 80th General Assembly.

DIVISION III

Sec. 31. DEPARTMENT OF REVENUE. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsection 1:

.....	FTEs	378.87
1. COMPLIANCE — INTERNAL RESOURCES MANAGEMENT — STATE FINANCIAL MANAGEMENT — STATEWIDE PROPERTY TAX ADMINISTRATION		
For salaries, support, maintenance, and miscellaneous purposes:		
.....	\$	23,259,111

Of the funds appropriated pursuant to this subsection, \$400,000 shall be used to pay the direct costs of compliance related to the collection and distribution of local sales and services taxes imposed pursuant to chapters 422B and 422E.

The director of revenue shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

2. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

.....	\$	28,166 ³
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Sec. 32. DEPARTMENT OF ADMINISTRATIVE SERVICES. There is appropriated from the general fund of the state to the department of administrative services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	16,755,075
.....	FTEs	384.70

Notwithstanding sections 8.33 and 18.12, subsection 11, any excess funds appropriated for utility costs in this section shall not revert to the general fund of the state at the end of the fiscal year but shall remain available for expenditure for the purposes of paying utility costs during the fiscal year beginning July 1, 2004.

Members of the general assembly serving as members of the deferred compensation advisory board shall be entitled to receive per diem and necessary travel and actual expenses pursuant to section 2.10, subsection 5, while carrying out their official duties as members of the board.

The premiums collected by the department shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.

Any funds received by the department for workers' compensation purposes shall be used for the payment of workers' compensation claims and administrative costs.

Sec. 33. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of administrative services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRALIZED PURCHASING

From the centralized purchasing permanent revolving fund for salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,118,960
.....	FTEs	15.15

2. CENTRALIZED PURCHASING — REMAINDER

The remainder of the centralized purchasing permanent revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 2003, and ending June 30, 2004, which are legally payable from this fund.

3. STATE FLEET SERVICES

From the fleet management revolving fund for salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	922,388
.....	FTEs	19.15

³ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §11 herein

4. STATE FLEET SERVICES — REMAINDER

The remainder of the fleet management revolving fund is appropriated for the purchase of ethanol blended fuels and other flexible fuels, oil, tires, repairs, and all other maintenance expenses incurred in the operation of state-owned motor vehicles and for contingencies arising during the fiscal year beginning July 1, 2003, and ending June 30, 2004, which are legally payable from this fund.

5. CENTRALIZED PRINTING

From the centralized printing permanent revolving fund for salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,404,173
.....	FTEs	25.95

6. CENTRALIZED PRINTING — REMAINDER

The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 2003, and ending June 30, 2004, which are legally payable from this fund.

Sec. 34. READY TO WORK PROGRAM COORDINATOR. There is appropriated from the surplus funds in the long-term disability reserve fund and the workers' compensation trust fund to the department of administrative services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator:

.....	\$	89,416
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The moneys appropriated pursuant to this section shall be taken in equal proportions from the long-term disability reserve fund and the workers' compensation trust fund.⁴

Sec. 35. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of administrative services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

.....	\$	440,369
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Sec. 36. ROAD USE TAX FUND APPROPRIATION. There is appropriated from the road use tax fund to the department of administrative services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

.....	\$	71,969
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Sec. 37. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the first \$1,000,000 collected and transferred by the department of transportation to the treasurer of state with respect to the fees for transactions involving the furnishing of a certified abstract of a vehicle operating record under section 321A.3, subsection 1, shall be transferred to the IowAccess revolving fund and administered by the department of administrative services for the purposes of developing, implementing, maintaining, and expanding electronic access to government records as provided by law.

⁴ See chapter 179, §45 herein

2. All fees collected with respect to transactions involving IowAccess shall be deposited in the IowAccess revolving fund and shall be used only for the support of IowAccess projects.

Sec. 38. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the monthly per contract administrative charge which may be assessed by the department of administrative services shall be \$2.00 per contract on all health insurance plans administered by the department.

Sec. 39. APPLICABILITY. This division shall not apply, and the appropriations and FTE authorizations hereunder shall not be effective, if a department of administrative services is not created effective July 1, 2003, by legislation enacted by the first regular session of the 80th General Assembly.

Approved May 30, 2003

CHAPTER 182

APPROPRIATIONS — EDUCATION

H.F. 662

ANACT relating to the funding of, the operation of, and appropriation of moneys to the college student aid commission, the department for the blind, the department of cultural affairs, the department of education, and the state board of regents and including an effective date and retroactive applicability date provision.

Be It Enacted by the General Assembly of the State of Iowa:

COLLEGE STUDENT AID COMMISSION

Section 1. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION		
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:		
.....	\$	289,433
.....	FTEs	4.21
2. STUDENT AID PROGRAMS		
For payments to students for the Iowa grant program:		
.....	\$	1,029,884
3. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER		
For the Des Moines university — osteopathic medical center for an initiative in primary health care to direct primary care physicians to shortage areas in the state:		
.....	\$	355,334
4. ACCELERATED CAREER EDUCATION GRANT PROGRAM		
For the accelerated career education grant program established in section 261.22:		
.....	\$	224,895

5. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard educational assistance under the program established in section 261.86:

..... \$ 1,175,000

6. TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

For the teacher shortage forgivable loan program established in section 261.111:

..... \$ 472,279

Sec. 2. WORK-STUDY APPROPRIATION NULLIFICATION FOR FY 2003-2004. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the amount appropriated for the work-study program under section 261.85 shall be zero.

DEPARTMENT FOR THE BLIND

Sec. 3. ADMINISTRATION. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 1,506,071

..... FTEs 106.50

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 4. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 217,633

..... FTEs 1.05

The department of cultural affairs shall coordinate activities with the tourism division of the department of economic development to promote attendance at the state historical building and at this state's historic sites.

2. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3:

..... \$ 300,000

3. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 2,798,238

..... FTEs 55.56

4. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 529,173

..... FTEs 8.00

5. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants and for not more than the following full-time equivalent positions:

..... \$ 1,167,029

..... FTEs 6.89

DEPARTMENT OF EDUCATION

Sec. 5. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,031,243
.....	FTEs	97.50

The director of the department of education shall ensure that all school districts are aware of the state education resources available on the state website for listing teacher job openings and shall make every reasonable effort to enable qualified practitioners to post their resumes on the state website. The department shall administer the posting of job vacancies for school districts, accredited nonpublic schools, and area education agencies on the state website. The department may coordinate this activity with the Iowa school board association or other interested education associations in the state.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	481,582
.....	FTEs	14.60

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	42,702
.....	FTEs	7.00

4. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,231,742
.....	FTEs	281.50

The division of vocational rehabilitation services shall seek funding from other sources, such as local funds, for purposes of matching the state's federal vocational rehabilitation allocation, as well as for matching other federal vocational rehabilitation funding that may become available.

Except where prohibited under federal law, the division of vocational rehabilitation services of the department of education shall accept client assessments, or assessments of potential clients, performed by other agencies in order to reduce duplication of effort.

Notwithstanding the full-time equivalent position limit established in this lettered paragraph, for the fiscal year ending June 30, 2004, if federal funding is received to pay the costs of additional employees for the vocational rehabilitation services division who would have duties relating to vocational rehabilitation services paid for through federal funding, authorization to hire not more than 4.00 additional full-time equivalent employees shall be provided, the full-time equivalent position limit shall be exceeded, and the additional employees shall be hired by the division.

b. For matching funds for programs to enable persons with severe physical or mental disabilities to function more independently, including salaries and support, and for not more than the following full-time equivalent position:

.....	\$	54,659
.....	FTEs	1.00

The highest priority use for the moneys appropriated under this lettered paragraph shall be for programs that emphasize employment and assist persons with severe physical or mental disabilities to find and maintain employment to enable them to function more independently.

5. STATE LIBRARY

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,233,948
.....	FTEs	18.00

b. For the enrich Iowa program:

.....	\$	1,741,982
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(1) Funds allocated for purposes of the enrich Iowa program as provided in this lettered paragraph shall be distributed by the division of libraries and information services to provide support for Iowa's libraries. The commission of libraries shall develop rules governing the allocation of funds provided by the general assembly for the enrich Iowa program to provide direct state assistance to public libraries and to fund the open access and access plus programs. Direct state assistance to eligible public libraries is provided as an incentive to improve library services and to reduce inequities among communities in the delivery of library services based on recognized and adopted performance measures. Funds distributed as direct state assistance shall be distributed to eligible public libraries that are in compliance with performance measures adopted by rule by the commission of libraries. The funds allocated as provided in this lettered paragraph shall not be used for the costs of administration by the division. The amount of direct state assistance distributed under the enrich Iowa program for the fiscal year beginning July 1, 2003, shall not be lower than the amount distributed under the enrich Iowa program for the fiscal year commencing July 1, 2002. The amount of direct state assistance distributed to each eligible public library shall be based upon the following:

(a) The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this subparagraph.

(b) The number of people residing within an eligible library's geographic service area for whom the library provides services.

(c) The amount of other funding the eligible public library received in the previous fiscal year for providing services to rural residents and to contracting communities.

(2) Moneys received by a public library under this lettered paragraph shall supplement, not supplant, any other funding received by the library.

(3) For purposes of this section, "eligible public library" means a public library that meets all of the following requirements:

(a) Submits to the division all of the following:

(i) The report provided for under section 256.51, subsection 1, paragraph "h".

(ii) An application and accreditation report, in a format approved by the commission, that provides evidence of the library's compliance with at least one level of the standards established in accordance with section 256.51, subsection 1, paragraph "k".

(iii) Any other application or report the division deems necessary for the implementation of the enrich Iowa program.

(b) Participates in the library resource and information sharing programs established by the state library.

(c) Is a public library established by city ordinance or a library district as provided in chapter 336.

(4) Each eligible public library shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this lettered paragraph, and shall annually submit this listing to the division.

(5) By January 15, 2004, the division shall submit a program evaluation report to the general assembly and the governor detailing the uses and the impacts of funds allocated under this lettered paragraph.

(6) A public library that receives funds in accordance with this lettered paragraph shall have an internet use policy in place, which may or may not include internet filtering. The library shall submit a report describing the library's internet use efforts to the division.

(7) A public library that receives funds in accordance with this lettered paragraph shall

provide open access, the reciprocal borrowing program, as a service to its patrons, at a reimbursement rate determined by the state library.

6. LIBRARY SERVICE AREA SYSTEM

For state aid:

..... \$ 1,411,854

7. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 6,270,467
..... FTEs 78.00

8. REGIONAL TELECOMMUNICATIONS COUNCILS

For state aid and for not more than the following full-time equivalent positions:

..... \$ 1,619,656
..... FTEs 7.00

a. Of the amount appropriated in this section, \$347,371 shall be allocated to the public broadcasting division for purposes of providing support for functions related to the Iowa communications network, including but not limited to the following functions: development of distance learning applications; development of a central information source on the internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council.

b. Of the amount appropriated in this section, \$1,272,285 shall be allocated to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.¹

9. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

..... \$ 3,012,209

Funds appropriated in this subsection shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 260C.14 as a result of the enactment of 1989 Iowa Acts, chapter 278. Funds shall be used as reimbursement for vocational education expenditures made by secondary schools in the manner provided by the department of education for implementation of the standards set in 1989 Iowa Acts, chapter 278.

10. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs that shall be disbursed according to federal regulations, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 2,574,034

11. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

..... \$ 13,724,712

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2003, and ending June 30, 2004, not more than \$200,000 is allocated for the community empowerment office and other technical assistance activities. It is the intent of the general assembly that regional technical assistance teams will be established and will include staff from various agencies, as appropriate, including the area education agencies, community colleges, and the Iowa state university of science and technology cooperative extension service in agriculture and home economics. The Iowa empowerment board shall direct staff to work with the advisory council to inventory technical assistance needs. Funds allocated under this lettered paragraph may be used by the Iowa empowerment board for the purpose of skills development and support for ongoing training of the regional technical assistance teams. However, funds shall not be used for additional staff or for the reimbursement of staff.

¹ See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §45 herein

b. Notwithstanding any other provision of law to the contrary, beginning July 1, 2003, the community empowerment office, established as a division of the department of management, shall use the documentation created by the legislative fiscal bureau to implement a four-year phase-in period of the distribution formula approved by the community empowerment board.

c. As a condition of receiving funding appropriated in this subsection, each community empowerment area board shall report to the Iowa empowerment board progress on each of the state indicators approved by the state board, as well as progress on local indicators. The community empowerment area board must also submit a written plan amendment extending by one year the area's comprehensive school ready children grant plan developed for providing services for children from birth through five years of age and provide other information specified by the Iowa empowerment board. The amendment may also provide for changes in the programs and services provided under the plan. The Iowa empowerment board shall establish a submission deadline for the plan amendment that allows a reasonable period of time for preparation of the plan amendment and for review and approval or request for modification of the plan amendment by the Iowa empowerment board. In addition, the community empowerment board must continue to comply with reporting provisions and other requirements adopted by the Iowa empowerment board in implementing section 28.8.

12. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school as authorized by section 301.1. The funding is limited to \$20 per pupil and shall not exceed the comparable services offered to resident public school pupils:

..... \$ 578,880

13. STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

..... \$ 44,275,000

14. COMMUNITY COLLEGES

For general state financial aid, including general financial aid to merged areas in lieu of personal property tax replacement payments, to merged areas as defined in section 260C.2, for vocational education programs in accordance with chapters 258 and 260C:

..... \$ 139,260,763

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	\$ 6,683,208
b. Merged Area II	\$ 7,850,326
c. Merged Area III	\$ 7,292,776
d. Merged Area IV	\$ 3,564,554
e. Merged Area V	\$ 7,457,487
f. Merged Area VI	\$ 6,909,220
g. Merged Area VII	\$ 9,969,086
h. Merged Area IX	\$ 12,261,253
i. Merged Area X	\$ 19,242,498
j. Merged Area XI	\$ 20,423,208
k. Merged Area XII	\$ 8,046,150
l. Merged Area XIII	\$ 8,273,870
m. Merged Area XIV	\$ 3,607,057
n. Merged Area XV	\$ 11,350,140
o. Merged Area XVI	\$ 6,329,930

Sec. 6. SUPPLEMENTAL AID FOR COMMUNITY COLLEGES. Notwithstanding the provisions of section 8.33 or any other provision of law to the contrary, moneys from the appropriation made in 2001 Iowa Acts, chapter 177, section 1, reserved for purposes of section 284.13, subsection 1, paragraph "a", which remain unexpended or unencumbered on June 30, 2003, shall be spent by the department of education in the following amount to supplement the

general state financial aid provided to community colleges pursuant to section 5, subsection 14 of this Act:

.....	\$	762,675
The funds allocated in this subsection ² shall be distributed as follows:		
a. Merged Area I	\$	36,600
b. Merged Area II	\$	42,993
c. Merged Area III	\$	39,940
d. Merged Area IV	\$	19,522
e. Merged Area V	\$	40,842
f. Merged Area VI	\$	37,839
g. Merged Area VII	\$	54,597
h. Merged Area IX	\$	67,150
i. Merged Area X	\$	105,383
j. Merged Area XI	\$	111,850
k. Merged Area XII	\$	44,066
l. Merged Area XIII	\$	45,313
m. Merged Area XIV	\$	19,754
n. Merged Area XV	\$	62,160
o. Merged Area XVI	\$	34,666

Sec. 7. BOARD OF EDUCATIONAL EXAMINERS LICENSING FEES. Notwithstanding section 272.10, up to 85 percent of any funds received annually resulting from an increase in fees approved and implemented for licensing by the state board of educational examiners after July 1, 1997, shall be available for the fiscal year beginning July 1, 2003, to the state board for purposes related to the state board's duties, including, but not limited to, additional full-time equivalent positions. The director of revenue and finance shall draw warrants upon the treasurer of state from the funds appropriated as provided in this section and shall make the funds resulting from the increase in fees available during the fiscal year to the state board on a monthly basis.

Sec. 8. NONREVERSION OF CAREER DEVELOPMENT FUNDS. Notwithstanding section 8.33, moneys appropriated and allocated by the general assembly for fiscal year 2001-2002 and fiscal year 2002-2003 for purposes of the career development program pursuant to section 284.13, subsection 1, paragraph "e", which remain unobligated or unexpended at the end of the fiscal year ending June 30, 2003, shall remain available for expenditure for the purposes for which they were appropriated and allocated, for the fiscal year beginning July 1, 2003, and ending June 30, 2004.

STATE BOARD OF REGENTS

Sec. 9. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. OFFICE OF STATE BOARD OF REGENTS

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,190,152
.....	FTEs	16.00

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 2003, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2004.

The state board of regents shall submit a monthly financial report in a format agreed upon by the state board of regents office and the legislative fiscal bureau.

b. For allocation by the state board of regents to the state university of Iowa, the Iowa state

² See 2003 Iowa Acts, First Extraordinary Session, chapter 2, §46 herein

* Item veto; see message at end of the Act

university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions:

.....	\$	13,343,050
c. For funds to be allocated to the southwest Iowa graduate studies center:		
.....	\$	108,673
d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:		
.....	\$	79,940
e. For funds to be allocated to the quad-cities graduate studies center:		
.....	\$	161,173

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	232,423,103
.....	FTEs	4,055.62

It is the intent of the general assembly that the university continue progress on the school of public health and the public health initiative for the purposes of establishing an accredited school of public health and for funding an initiative for the health and independence of elderly Iowans. From the funds appropriated in this lettered paragraph, the university may use up to \$2,100,000 for the school of public health and the public health initiative.

b. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes and for medical and surgical treatment of indigent patients as provided in chapter 255, for medical education, and for not more than the following full-time equivalent positions:

.....	\$	28,833,519
.....	FTEs	5,471.01

The university of Iowa hospitals and clinics shall, within the context of chapter 255 and when medically appropriate, make reasonable efforts to extend the university of Iowa hospitals and clinics' use of home telemedicine and other technologies to reduce the frequency of visits to the hospital required by indigent patients. The university of Iowa hospitals and clinics shall submit a report to the general assembly and the legislative fiscal bureau by January 15, 2004, describing its use of these technologies to accomplish this purpose.

The university of Iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this lettered paragraph expended on medical education. The report shall be submitted in a format jointly developed by the university of Iowa hospitals and clinics, the legislative fiscal bureau, and the department of management, and shall delineate the expenditures and purposes of the funds.

Funds appropriated in this lettered paragraph shall not be used to perform abortions except medically necessary abortions, and shall not be used to operate the early termination of pregnancy clinic except for the performance of medically necessary abortions. For the purpose of this lettered paragraph, an abortion is the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and a medically necessary abortion is one performed under one of the following conditions:

- (1) The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.
- (2) The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.
- (3) The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.
- (4) The pregnancy is the result of incest which is reported within 150 days of the incident

* Item veto; see message at end of the Act

to a law enforcement agency or public or private health agency which may include a family physician.

(5) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

The total quota allocated to the counties for indigent patients for the fiscal year beginning July 1, 2003, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1998. The total quota shall be allocated among the counties on the basis of the 2000 census pursuant to section 255.16.

c. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

.....	\$	7,442,887
.....	FTEs	272.11

d. Center for disabilities and development

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,724,505
.....	FTEs	143.34

From the funds appropriated in this lettered paragraph, \$200,000 shall be allocated for purposes of the employment policy group.

e. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,808,191
.....	FTEs	43.25

f. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,018,388
.....	FTEs	102.49

g. Family practice program

For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	2,193,798
.....	FTEs	192.40

h. Child health care services

For specialized child health care services, including childhood cancer diagnostic and treatment network programs, rural comprehensive care for hemophilia patients, and the Iowa high-risk infant follow-up program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	685,914
.....	FTEs	53.46

i. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

.....	\$	188,886
.....	FTEs	2.40

j. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation, and for not more than the following full-time equivalent positions:

.....	\$	68,553
.....	FTEs	1.50

k. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

.....	\$	931,420
.....	FTEs	5.20

l. Primary health care initiative

For the primary health care initiative in the college of medicine and for not more than the following full-time equivalent positions:

.....	\$	803,013
.....	FTEs	7.75

From the funds appropriated in this lettered paragraph, \$330,000 shall be allocated to the department of family practice at the state university of Iowa college of medicine for family practice faculty and support staff.

m. Birth defects registry

For the birth defects registry and for not more than the following full-time equivalent positions:

.....	\$	47,170
.....	FTEs	1.30 ³

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	183,134,521
.....	FTEs	3,647.42

It is the intent of the general assembly that the university continue progress on the center for excellence in fundamental plant sciences. From the funds appropriated in this lettered paragraph, the university may use up to \$4,670,000 for the center for excellence in fundamental plant sciences.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	32,712,448
.....	FTEs	546.98

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	20,815,676
.....	FTEs	383.34

d. Leopold center

For agricultural research grants at Iowa state university under section 266.39B, and for not more than the following full-time equivalent positions:

.....	\$	489,648
.....	FTEs	11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8:

.....	\$	232,749 ⁴
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4. UNIVERSITY OF NORTHERN IOWA

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	82,228,033
.....	FTEs	1,398.01

**It is the intent of the general assembly that the university continue progress on the imple-*

³ See chapter 178, §31 herein

* Item veto; see message at end of the Act

⁴ See chapter 178, §31 herein

mentation of a masters in social work program. From the funds appropriated in this lettered paragraph, the university may use up to \$450,000 for the implementation of the masters in social work program, up to \$100,000 for the roadside vegetation project, and up to \$200,000 for the Iowa office for staff development.*

b. Recycling and reuse center

For purposes of the recycling and reuse center, and for not more than the following full-time equivalent positions:

.....	\$	217,290
.....	FTEs	3.00 ⁵

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	8,107,934
.....	FTEs	126.60

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,537,514
.....	FTEs	81.00

7. TUITION AND TRANSPORTATION COSTS

For payment to local school boards for the tuition and transportation costs of students residing in the Iowa braille and sight saving school and the state school for the deaf pursuant to section 262.43 and for payment of certain clothing, prescription, and transportation costs for students at these schools pursuant to section 270.5:

.....	\$	15,103
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Sec. 10. MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the department of human services shall continue the supplemental disproportionate share and a supplemental indirect medical education adjustment applicable to state-owned acute care hospitals with more than 500 beds and shall reimburse qualifying hospitals pursuant to that adjustment with a supplemental amount for services provided medical assistance recipients. The adjustment shall generate supplemental payments intended to equal the state appropriation made to a qualifying hospital for treatment of indigent patients as provided in chapter 255. To the extent of the supplemental payments, a qualifying hospital shall, after receipt of the funds, transfer to the department of human services an amount equal to the actual supplemental payments that were made in that month. The aggregate amounts for the fiscal year shall not exceed the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255. The department of human services shall deposit these funds in the department's medical assistance account. To the extent that state funds appropriated to a qualifying hospital for the treatment of indigent patients as provided in chapter 255 have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup the supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by a qualifying hospital pursuant to this provision is transferred to the qualifying hospital by the department.

If the state supplemental amount allotted to the state of Iowa for the federal fiscal year beginning October 1, 2003, and ending September 30, 2004, pursuant to section 1923(f)(3) of the federal Social Security Act, as amended, or pursuant to federal payments for indirect medical education is greater than the amount necessary to fund the federal share of the supplemental payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share or supplemental indirect medical education adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the state university of Iowa general

* Item veto; see message at end of the Act

⁵ See chapter 178, §31 herein

education fund and allocated to the university for the college of medicine. The state university of Iowa shall transfer from the allocation for the college of medicine to the department of human services, on a monthly basis, an amount equal to the additional supplemental payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental payments pursuant to this paragraph that are greater than the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255 shall be obligated as a condition of its participation in the medical assistance program to transfer to the state university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the state university of Iowa to the department of human services. To the extent that state funds appropriated to the state university of Iowa and allocated to the college of medicine have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by the state university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

Continuation of the supplemental disproportionate share and supplemental indirect medical education adjustment shall preserve the funds available to the university hospital for medical and surgical treatment of indigent patients as provided in chapter 255 and to the state university of Iowa for educational purposes at the same level as provided by the state funds initially appropriated for that purpose.

The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to a qualifying hospital through the supplemental disproportionate share and supplemental indirect medical education adjustment as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a qualifying hospital for services to medical assistance recipients.

For purposes of this section, "supplemental payment" means a supplemental payment amount paid for medical assistance to a hospital qualifying for that payment under this section.

Sec. 11. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, the state board of regents may use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of six years.

Sec. 12. Notwithstanding section 270.7, the department of revenue and finance shall pay the state school for the deaf and the Iowa braille and sight saving school the moneys collected from the counties during the fiscal year beginning July 1, 2003, for expenses relating to prescription drug costs for students attending the state school for the deaf and the Iowa braille and sight saving school.

Sec. 13. Section 261.25, subsection 1, Code 2003, is amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of forty-six million ~~one~~ four hundred seventeen thousand nine hundred sixty-four dollars for tuition grants.

Sec. 14. Section 261.86, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 6. Notwithstanding section 8.33, until one year after the date the president of the United States or the Congress of the United States declares a cessation of hostilities ending operation Iraqi freedom, funds appropriated for purposes of this section which remain unencumbered or unobligated at the close of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for purposes of this section.

Sec. 15. Section 284.5, subsection 3, Code 2003, is amended to read as follows:

3. Each school district and area education agency shall provide a beginning teacher mentoring and induction program for all classroom teachers who are beginning teachers by the school year beginning July 1, 2002, and notwithstanding section 284.4, subsection 1, a school district and an area education agency shall be eligible to receive moneys under section 284.13, subsection 1, paragraph "c", for the fiscal year beginning July 1, 2002, and ending June 30, 2003, to establish purposes of implementing a beginning teacher mentoring and induction program in accordance with this section.

Sec. 16. Section 284.13, subsection 1, paragraph f, Code 2003, is amended by striking the paragraph.

Sec. 17. Section 284.13, subsection 1, paragraphs b, c, d, and e, Code 2003, are amended to read as follows:

b. For the fiscal year beginning July 1, 2002 2003, and ending June 30, 2003 2004, to the department of education, the amount of ~~one million four~~ seven hundred thousand dollars for the issuance of national board certification awards in accordance with section 256.44.

c. For the fiscal year beginning July 1, 2002 2003, and succeeding fiscal years, an amount up to four million ~~one~~ two hundred thousand dollars for first-year and second-year beginning teachers, to the department of education for distribution to school districts for purposes of the beginning teacher mentoring and induction programs. A school district shall receive one thousand three hundred dollars per beginning teacher participating in the program. If the funds appropriated for the program are insufficient to pay mentors and school districts as provided in this paragraph, the department shall prorate the amount distributed to school districts based upon the amount appropriated. Moneys received by a school district pursuant to this paragraph shall be expended to provide each mentor with an award of five hundred dollars per semester, at a minimum, for participation in the school district's beginning teacher mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district.

d. For the fiscal year beginning July 1, 2002 2003, and ending June 30, 2003 2004, up to one million ~~seven hundred thousand~~ dollars to the department of education for purposes of establishing the evaluator training program, including but not limited to ~~the development of criteria models~~; an evaluation process; the training of providers; development of a provider approval process; training materials and costs; for payment to practitioners under section 284.10, subsection 3, and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district; and for subsidies to school districts for training costs. A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes.

e. For the fiscal year beginning July 1, 2002 2003, and ending June 30, 2003 2004, up to fifty ~~three hundred seventy-five~~ thousand dollars to the department of education for purposes of implementing the career development program requirements of section 284.6, and the review panel requirements of section 284.9. ~~From the moneys allocated to the department pursuant to this paragraph, not less than seventy-five thousand dollars shall be used to administer the ambassador to education position in accordance with section 256.45.~~ A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes.

*Sec. 18. Section 284.13, subsection 1, paragraph g, unnumbered paragraph 1, Code 2003, is amended to read as follows:

For each fiscal year in which funds are appropriated for purposes of this chapter, the moneys

* Item veto; see message at end of the Act

remaining after distribution as provided in paragraphs “a” “b” through “f” “e” and “h” shall be allocated to school districts in accordance with the following formula:*

Sec. 19. Section 284.13, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated for purposes of paragraphs “b” or “c” shall not revert but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The provisions of section 8.39 shall not apply to the funds appropriated pursuant to this subsection.

Sec. 20. Section 284.13, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 21. Section 294A.25, subsections 5 and 6, Code 2003, are amended to read as follows:

5. For the fiscal year beginning July 1, ~~2001~~ 2002, and ending June 30, ~~2002~~ 2003, the amount of fifty thousand dollars to be paid to the department of education for participation in a state and national project, the national assessment of education progress, to determine the academic achievement of Iowa students in math, reading, science, United States history, or geography.

6. For the fiscal year beginning July 1, ~~2001~~ 2002, and ending June 30, ~~2002~~ 2003, to the department of education from phase III moneys, the amount of seventy-five thousand dollars to administer the ambassador to education position in accordance with section 256.45.

Sec. 22. EFFECTIVE DATES.

1. Section 6 of this Act, relating to the supplemental aid for community colleges, being deemed of immediate importance, takes effect upon enactment.

2. Section 21 of this Act, relating to the appropriation of educational excellence moneys to the department of education for purposes of the national assessment of education progress and the ambassador to education position, being deemed of immediate importance, takes effect upon enactment.

3. Section 8 of this Act, relating to the nonreversion of career development funds, being deemed of immediate importance, takes effect upon enactment.

4. The section of this Act, amending section 261.86, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2002.

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 662, an Act relating to the funding of, the operation of, and appropriation of moneys to the College Student Aid Commission, the Department of the Blind, the Department of Cultural Affairs, the Department of Education, and the State Board of Regents and including an effective date and retroactive applicability date provision.

House File 662 provides funding to help achieve the ambitious goals we have set for education in Iowa. I am particularly pleased with the continued commitment to reduce class sizes, redesign teacher compensation strategies, increase Iowa Tuition Grant funding, maintain quality faculty and staff at our state’s Regents institutions, and provide support for community colleges.

There are, however, shortcomings in this legislation. I am disappointed that the college work-study program was not reinstated. The Iowa Work Study program is a great tool to help disad-

* Item veto; see message at end of the Act

vantaged students work their way through our public universities, community colleges, and independent colleges. In addition, no funding was provided to start the Iowa Virtual Academy. I hope the Legislature will address these areas in the future.

House File 662 is approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 9, subsection 1. This sentence specifies that the Board of Regents, the Department of Management and the Fiscal Bureau shall cooperate to determine the amount to be appropriated for tuition replacement. This language is outdated and unnecessary as the Board of Regents now relies on a financial advisor to calculate figures for tuition replacement.

I am unable to approve the designated portion of Section 9, subsection 2. This paragraph restricts spending on the School of Public Health and the Public Health Initiative at the University of Iowa. If we face a growing need for workers trained in these health professions and for the services provided by this program, then it is appropriate to allow reallocations of funds to the school of public health from other areas, rather than single this out as the one area at the University of Iowa to have its budget capped at its previous level.

I am unable to approve the designated portion of Section 9, subsection 3. This language restricts spending on the Center for Excellence in Fundamental Plant Sciences at Iowa State University and does not permit this program to receive either its share of dollars for salary increases or internal reallocations of funds from other university programs. If we are committed to making Iowa a leader in plant sciences technologies then it is unreasonable to single this out as the one center at Iowa State University to have its budget frozen.

I am unable to approve the designated portion of Section 9, subsection 4. This language restricts spending on the masters in social work program, the roadside vegetation project, and the Iowa office for staff development at the University of Northern Iowa. There is no reason to single these three areas out to be treated differently from all the other programs and activities at the University of Northern Iowa.

I am unable to approve Section 18 in its entirety. This veto is a technical correction. This section conflicts with Senate File 458, Section 117, which also changes the paragraph lettering in Iowa Code section 284.13, subsection 1, paragraph g.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 662 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 183

**HEALTHY IOWANS TOBACCO TRUST
AND TOBACCO SETTLEMENT TRUST FUND — APPROPRIATIONS**

H.F. 685

AN ACT relating to and making appropriations from the healthy Iowans tobacco trust and the tobacco settlement trust fund.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. HEALTHY IOWANS TOBACCO TRUST — APPROPRIATIONS TO DEPARTMENTS. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the following departments for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

- 1. To the department of human services:
 - a. Unless otherwise provided, to maintain the reimbursement rate for all noninstitutional medical assistance providers, with the exception of anesthesia and dental services, at the rate provided under the federal Medicare program for such providers during the fiscal year beginning July 1, 2000, and ending June 30, 2001, as specified in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “a”, for the fiscal year July 1, 2003, through June 30, 2004, and to continue the resource-based relative value system of reimbursement under the medical assistance program:

.....	\$ 8,095,718
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 - b. To maintain the reimbursement rate at the usual and customary rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “b”, for the fiscal year July 1, 2003, through June 30, 2004, for dental services under the medical assistance program:

.....	\$ 3,814,973
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 - c. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “e”, for the fiscal year July 1, 2003, through June 30, 2004, for hospitals under the medical assistance program:

.....	\$ 3,035,278
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 - d. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “f”, for the fiscal year July 1, 2003, through June 30, 2004, for home health care services under the medical assistance program:

.....	\$ 2,108,279
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 - e. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “g”, for the fiscal year July 1, 2003, through June 30, 2004, for critical access hospitals under the medical assistance program:

.....	\$ 250,000
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 - f. To maintain the expansion of home health care services and habilitative day care as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “h”, under the medical assistance program for children with special needs:

.....	\$ 1,975,496
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 - g. To maintain the expansion of respite care services provided through home and community-based waivers as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “i”, under the medical assistance program:

.....	\$ 1,137,309
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 - h. To maintain the cost-of-living adjustment as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph “c”, for the fiscal year July 1, 2003, through June 30, 2004, for rehabilitative treatment and support services providers under child and family services:

.....	\$ 3,243,026
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i. To maintain the cost-of-living adjustment as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "d", for the fiscal year July 1, 2003, through June 30, 2004, for adoption, independent living, shelter care, and home studies services providers:

..... \$ 468,967

j. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "j", for the fiscal year July 1, 2003, through June 30, 2004, to service providers under the purview of the department of human services:

..... \$ 545,630

2. To the department of human services to continue the supplementation of the children's health insurance program appropriation:

..... \$ 200,000

3. To the department of human services to provide coverage under the medical assistance program to women who require treatment for breast or cervical cancer as provided in section 249A.3, subsection 2, paragraph "b":

..... \$ 250,000

4. To the department of human services to continue the supplementation of the medical assistance appropriation:

..... \$ 14,346,750

Of the amount appropriated in this subsection, \$100,000 shall be used to continue the efforts of the Iowa chronic care consortium.

5. To the Iowa department of public health:

a. For the tobacco use prevention and control initiative, including efforts at the state and local levels, as provided in chapter 142A and for not more than the following full-time equivalent positions:

..... \$ 5,000,000

..... FTEs 7.00

(1) The director of public health shall dedicate sufficient resources to promote and ensure retailer compliance with tobacco laws and ordinances relating to persons under 18 years of age, and shall prioritize the state's compliance in the allocation of available funds to comply with 42 U.S.C. § 300x-26 and section 453A.2.

(2) Of the full-time equivalent positions funded under this section, two full-time equivalent positions shall be utilized to provide for enforcement of tobacco laws, regulations, and ordinances under a chapter 28D agreement entered into between the Iowa department of public health and the alcoholic beverages division of the department of commerce.

(3) Of the funds appropriated in this paragraph "a", not more than \$525,759 shall be expended on administration and management of the program.

(4) Of the funds appropriated in this paragraph "a", not less than 80 percent of the amount expended in the fiscal year beginning July 1, 2001, for community partnerships shall be expended in the fiscal year beginning July 1, 2003, for that purpose.

b. For a grant to a program that utilizes high school mentors to teach life skills, violence prevention, and character education in an effort to reduce the illegal use of alcohol, tobacco, and other substances:

..... \$ 400,000

c. For provision of smoking cessation products as provided in this paragraph:

..... \$ 75,000

The department shall award grants to free health clinics that are tax-exempt organizations pursuant to 26 U.S.C. § 501(c)(3) to fund the provision of smoking cessation products to patients. The department shall adopt a methodology for the awarding of the grants to the health clinics based upon the order of receipt of applications.

d. For additional substance abuse treatment under the substance abuse treatment program:

..... \$ 11,800,000

(1) The department shall use funds appropriated in this paragraph "d" to enhance the quality of and to expand the capacity to provide 24-hour substance abuse treatment programs.

(2) The department shall use funds appropriated in this paragraph "d" to expand the length

of individual client substance abuse treatment plans, as necessary to reduce program recidivism.

(3) The department shall use funds appropriated in this paragraph "d" to share research-based best practices for treatment with substance abuse treatment facilities.

(4) The department shall use funds appropriated in this paragraph "d" to develop a results-based funding approach for substance abuse treatment services.

(5) The department shall use funds appropriated in this paragraph "d" to develop a program to encourage individuals who are successfully managing their substance abuse problems to serve as role models.

(6) The department shall submit a report annually by March 1, to the governor and the general assembly delineating the success rates of the substance abuse treatment programs that receive funding under this paragraph "d".

e. For the healthy Iowans 2010 plan within the Iowa department of public health and for not more than the following full-time equivalent positions:

.....	\$	2,346,960
.....	FTEs	4.00

(1) Of the funds appropriated in this paragraph "e", not more than \$1,157,482 shall be used for core public health functions, including home health care and public health nursing services, contracted through a formula by local boards of health, to enhance disease and injury prevention services.

(2) Of the funds appropriated in this paragraph "e", not more than \$387,320 shall be used for the continuation and support of a coordinated system of delivery of trauma and emergency medical services.

(3) Of the funds appropriated in this paragraph "e", not more than \$437,000 shall be used for the state poison control center.

(4) Of the funds appropriated in this paragraph "e", not more than \$288,770 shall be used for the development of scientific and medical expertise in environmental epidemiology.

(5) Of the funds appropriated in this paragraph "e", not more than \$76,388 shall be used for the childhood lead poisoning prevention program.

6. To the department of corrections:

.....	\$	920,000
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a. Of the funds appropriated in this subsection, \$127,217 is allocated to the second judicial district department of correctional services to replace expired federal funding for day programming.

b. Of the funds appropriated in this subsection \$35,359 is allocated to the third judicial district department of correctional services to replace expired federal funding for the drug court program.

c. Of the funds appropriated in this subsection, \$191,731 is allocated to the fourth judicial district department of correctional services for a drug court program.

d. Of the funds appropriated in this subsection, \$255,693 is allocated to the fifth judicial district department of correctional services to replace expired funding for the drug court program.

e. Of the funds appropriated in this subsection \$310,000 is allocated to the Newton correctional facility for a value-based treatment program. A portion of the funds allocated in this paragraph may be used to establish a similar value-based treatment program at the Iowa correctional institution for women at Mitchellville.

Sec. 2. PURCHASE OF SERVICE CONTRACT PROVIDERS — REIMBURSEMENT INCREASE. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the property tax relief fund created in section 426B.1 for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For assistance to the counties with limited county mental health, mental retardation, and developmental disabilities services fund balances which were selected in accordance with 2000

Iowa Acts, chapter 1221, section 3, to receive such assistance in the same amount provided during the fiscal year beginning July 1, 2000, and ending June 30, 2001, to pay reimbursement increases in accordance with 2000 Iowa Acts, chapter 1221, section 3:

..... \$ 146,750

Sec. 3. IOWA EMPOWERMENT FUND. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, to the Iowa empowerment fund created in section 28.9 for the fiscal year beginning July 1, 2003, and ending June 30, 2004, for deposit in the school ready children grants account and for distribution as provided in this section:

..... \$ 2,153,250

Sec. 4. DEPARTMENT OF CORRECTIONS — SPECIAL NEEDS UNIT. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For operating the special needs unit at the Fort Madison correctional facility and for not more than the following full-time equivalent positions:

..... \$ 1,100,000
..... FTEs 17.87

Sec. 5. RISK POOL APPROPRIATION — TRANSFER. Notwithstanding 2002 Iowa Acts, chapter 1175, section 104, subsection 1, paragraph “b”, as amended by 2003 Iowa Acts, House File 667,¹ section 41, if enacted, moneys appropriated for the fiscal year beginning July 1, 2003, and ending June 30, 2004, for deposit in the risk pool pursuant to that paragraph shall be transferred to the medical assistance appropriation for the same fiscal year.

Sec. 6. ENDOWMENT FOR IOWA’S HEALTH ACCOUNT — TRANSFER. In addition to the amount transferred pursuant to section 12E.12, subsection 1, paragraph “b”, subparagraph (2), subparagraph subdivision (b), \$5,206,960 is transferred from the endowment for Iowa’s health account of the tobacco settlement trust fund created in section 12E.12 to the healthy Iowans tobacco trust created in section 12.65 for the fiscal year beginning July 1, 2003, and ending June 30, 2004.

Approved May 30, 2003

CHAPTER 184

WORLD FOOD PRIZE AWARDS CEREMONY

S.J.R. 1

A JOINT RESOLUTION authorizing the temporary use and consumption of wine in the State Capitol in conjunction with the awards ceremony of the World Food Prize Foundation.

WHEREAS, the State of Iowa has the honor of being the home of the World Food Prize Foundation which annually presents an international award recognizing outstanding individual achievement in improving the quality, quantity, or availability of food in the world; and

WHEREAS, Iowa’s unique State Capitol is an optimal location for this awards ceremony of the World Food Prize Foundation and previously served as the ceremony location; and

¹ Chapter 175 herein

WHEREAS, wine is customarily served as an accompaniment to the food and entertainment provided at this type of awards ceremony and wine was served when the ceremony was previously held at the State Capitol; and

WHEREAS, under 401 IAC 3.4(8), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine at this type of awards ceremony in the State Capitol; NOW THEREFORE,

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Notwithstanding 401 IAC 3.4(8) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, wine may be used and consumed within the state capitol at an awards ceremony, to be held on or around October 16, 2003, hosted and organized in whole or in part by the world food prize foundation if the person providing the food and wine at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the state capitol is a private place.

Approved April 11, 2003

CHAPTER 185

NULLIFICATION OF ADMINISTRATIVE RULE — METHODS OF TAKING WILD TURKEY AND DEER

H.J.R. 5

A JOINT RESOLUTION to nullify administrative rules of the department of natural resources concerning methods of taking wild turkey and deer and providing an effective date.

Be It Resolved by the General Assembly of the State of Iowa:

Section 1. 571 Iowa administrative code, rule 98.2, subrule 1, paragraph b, subparagraph (2), last sentence, is nullified.

Sec. 2. 571 Iowa administrative code, rule 106.7, subrule 1, paragraph b, last sentence, is nullified.

Sec. 3. **EFFECTIVE DATE.** This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Effective April 17, 2003

CHAPTER 186NULLIFICATION OF ADMINISTRATIVE RULE —
AMMONIA AND HYDROGEN SULFIDE AMBIENT AIR STANDARDS*S.J.R. 5*

A JOINT RESOLUTION nullifying amendments to administrative rules of the environmental protection commission of the department of natural resources relating to ammonia and hydrogen sulfide ambient air regulations and providing an effective date.

Be It Resolved by the General Assembly of the State of Iowa:

Section 1. The amendments to 567 Iowa administrative code, rule 28.1, adopted on April 21, 2003, are nullified.

Sec. 2. 567 Iowa administrative code, rule 28.2, adopted on April 21, 2003, is nullified.

Sec. 3. EFFECTIVE DATE. This Joint Resolution, being deemed of immediate importance, takes effect upon enactment.

Effective April 30, 2003

CHAPTER 187PROPOSED CONSTITUTIONAL AMENDMENT
— QUALIFICATION OF ELECTORS*H.J.R. 3*

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa relating to the qualification of electors.

Be It Resolved by the General Assembly of the State of Iowa:

Section 1. The following amendment to the Constitution of the State of Iowa is proposed: Section 5 of Article II of the Constitution of the State of Iowa is repealed and the following adopted in lieu thereof:

DISQUALIFIED PERSONS. SEC. 5. A person adjudged mentally incompetent to vote or a person convicted of any infamous crime shall not be entitled to the privilege of an elector.

Sec. 2. The foregoing amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly, and the Secretary of State is directed to cause the same to be published for three consecutive months previous to the date of that election as provided by law.



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225	140	489	62	624	149
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¹ Code Supplement 2001

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⁶ Not enacted

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2003 First Extraordinary Session
of the
Eightieth General Assembly
of the
State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE

FIRST EXTRAORDINARY SESSION HELD FROM THE TWENTY-NINTH DAY OF MAY THROUGH
THE FOURTH DAY OF JUNE, A.D. 2003
IN THE ONE HUNDRED FIFTY-SEVENTH YEAR OF THE STATE

CHAPTER 1

TAXATION, ECONOMIC GROWTH AND DEVELOPMENT,
AND OTHER CHANGES — LIABILITY REFORM,
WORKERS' AND UNEMPLOYMENT COMPENSATION,
AND FINANCING CHARGES

H.F. 692

AN ACT concerning regulatory, taxation, and statutory requirements affecting individuals and business relating to taxation of property, income and utilities, liability reform, workers' compensation, financial services, unemployment compensation employer surcharges, economic development, and including effective date, applicability, and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
PROPERTY TAXATION

Section 1. Section 441.19, subsections 1 and 2, Code 2003, are amended to read as follows:

1. Supplemental and optional to the procedure for the assessment of property by the assessor as provided in this chapter, the assessor may require from all persons required to list their property for taxation as provided by sections 428.1 and 428.2, a supplemental return to be prescribed by the director of revenue and finance upon which the person shall list the person's property and any additions or modifications completed in the prior year to a structure located on the property. The supplemental return shall be in substantially the same form as now prescribed by law for the assessment rolls used in the listing of property by the assessors. Every person required to list property for taxation shall make a complete listing of the property upon

supplemental forms and return the listing to the assessor as promptly as possible within thirty days of receiving the assessment notice in section 441.23. The return shall be verified over the signature of the person making the return and section 441.25 applies to any person making such a return. The assessor shall make supplemental return forms available as soon as practicable after the first day of January of each year. The assessor shall make supplemental return forms available to the taxpayer by mail, or at a designated place within the taxing district.

2. Upon receipt of such supplemental return from any person the assessor shall prepare a roll assessing such person as hereinafter provided. In the preparation of such assessment roll the assessor shall be guided not only by the information contained in such supplemental roll, but by any other information the assessor may have or which may be obtained by the assessor as prescribed by the law relating to the assessment of property. The assessor shall not be bound by any values or square footage determinations or purchase prices as listed in such supplemental return, and may include in the assessment roll any property omitted from the supplemental return which in the knowledge and belief of the assessor should be listed as required by law by the person making the supplemental return. Upon completion of such roll the assessor shall deliver to the person submitting such supplemental return a copy of the assessment roll, either personally or by mail.

Sec. 2. NEW SECTION. 441.20 LEGISLATIVE INTENT.

It is the intent of the general assembly that there be transparency in the property tax system. It is further the intent of the general assembly that property assessments for purposes of property taxation be equal and uniform within classes of property. It is further the intent of the general assembly to minimize the impact that maintenance and upkeep by the owner of property has on the assessment of that property and that there be predictability in increases of property assessments and that such predictability be based primarily on the actions of the property owner. It is further the intent of the general assembly to minimize the impact that increases in assessed value of property will have on property taxes paid and that any increases will be primarily the result of direct action taken by the local taxing authority in setting budget amounts rather than by increases in market value of property.

Sec. 3. Section 441.21, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

441.21 ASSESSMENT OF STRUCTURES.

1. All real property, except land, subject to taxation shall be assessed on a value per square foot basis according to the provisions of this section.

2. a. Subject to paragraph "b", for valuations established as of January 1, 2006, and for subsequent assessment years, the assessed value per square foot of a residential structure shall be an amount equal to the valuation of the structure as determined for the assessment year beginning January 1, 2005, prior to application of the assessment limitation for that year, divided by the total number of square feet of the structure as of January 1, 2005.

b. (1) The assessed value per square foot of an existing residential structure purchased after January 1, 2005, shall be the purchase price of the structure divided by the cumulative inflation factor established for the assessment year following the year of purchase, divided by the total number of square feet of the structure as of January 1 of the assessment year. The assessed value per square foot of a residential structure newly constructed after January 1, 2005, shall be the market value of the structure, as determined by the assessor, divided by the cumulative inflation factor established for the assessment year following the year construction was completed, divided by the total number of square feet of the structure as of January 1 of the assessment year. However, when valuing an addition that substantially increases the square footage of a structure, only that portion of the structure comprising the addition shall be valued by the assessor under this subparagraph.

(2) If additions or modifications to an existing structure do not constitute a newly constructed structure, the valuation of the structure shall only increase if the square footage of the structure increases. The increased valuation, if any, equals the amount of increased square feet times the value per square foot of the structure prior to the additions or modifications.

3. a. Subject to paragraph "b" for valuations established as of January 1, 2006, and for subsequent assessment years, the assessed value per square foot of a commercial or industrial structure shall be an amount equal to the valuation of the structure as determined for the assessment year beginning January 1, 2005, prior to application of the assessment limitation for that year, divided by the total number of square feet of the structure as of January 1, 2005.

b. (1) The assessed value per square foot of an existing commercial or industrial structure purchased after January 1, 2005, shall be the purchase price of the structure divided by the cumulative inflation factor established for the assessment year following the year of purchase, divided by the total number of square feet of the structure as of January 1 of the assessment year. The assessed value per square foot of a commercial or industrial structure newly constructed after January 1, 2005, shall be the market value of the structure, as determined by the assessor, divided by the cumulative inflation factor established for the assessment year following the year construction was completed, divided by the total number of square feet of the structure as of January 1 of the assessment year. However, when valuing an addition that substantially increases the square footage of a structure, only that portion of the structure comprising the addition shall be valued by the assessor under this subparagraph.

(2) If additions or modifications to an existing structure do not constitute a newly constructed structure, the valuation of the structure shall only increase if the square footage of the structure increases. The increased valuation, if any, equals the amount of increased square feet times the value per square foot of the structure prior to the additions or modifications.

4. a. Subject to paragraph "b" for valuations established as of January 1, 2006, and for subsequent assessment years, the assessed value per square foot of an agricultural structure that is not an agricultural dwelling shall be an amount equal to the valuation of the structure as determined for the assessment year beginning January 1, 2005, prior to application of the assessment limitation for that year, divided by the total number of square feet of the structure as of January 1, 2005.

b. (1) The assessed value per square foot of an existing agricultural structure purchased after January 1, 2005, shall be the productivity value of the structure divided by the cumulative inflation factor established for the assessment year following the year of purchase, divided by the total number of square feet of the structure as of January 1 of the assessment year. The assessed value per square foot of an agricultural structure newly constructed after January 1, 2005, shall be the productivity value of the structure for the assessment year following the year construction was completed, as determined by the assessor, divided by the cumulative inflation factor established for the assessment year following the year construction was completed, divided by the total number of square feet of the structure as of January 1 of the assessment year. However, when valuing an addition that substantially increases the square footage of a structure, only that portion of the structure comprising the addition shall be valued by the assessor under this subparagraph.

(2) If additions or modifications to an existing structure do not constitute a newly constructed structure, the valuation of the structure shall only increase if the square footage of the structure increases. The increased valuation, if any, equals the amount of increased square feet times the value per square foot of the structure prior to the additions or modifications.

5. a. In determining the market value of newly constructed property, except agricultural structures, the assessor may determine the value of the property using uniform and recognized appraisal methods including its productive and earning capacity, if any, industrial conditions, its cost, physical and functional depreciation and obsolescence and replacement cost, and all other factors which would assist in determining the fair and reasonable market value of the property but the actual value shall not be determined by use of only one such factor. The following shall not be taken into consideration: special value or use value of the property to its present owner, and the goodwill or value of a business that uses the property as distinguished from the value of the property as property. However, in assessing property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code, as amended, and which section limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account

the extent to which that use and limitation reduces the market value of the property. The assessor shall not consider any tax credit equity or other subsidized financing as income provided to the property in determining the market value. Upon adoption of uniform rules by the department of revenue and finance covering assessments and valuations of such properties, the valuation on such properties shall be determined in accordance with such values for assessment purposes to assure uniformity, but such rules shall not be inconsistent with or change the foregoing means of determining the market value.

b. The actual value of special purpose tooling, which is subject to assessment and taxation as real property under section 427A.1, subsection 1, paragraph "e", but which can be used only to manufacture property which is protected by one or more United States or foreign patents, shall not exceed the fair and reasonable exchange value between a willing buyer and a willing seller, assuming that the willing buyer is purchasing only the special purpose tooling and not the patent covering the property which the special purpose tooling is designed to manufacture nor the rights to manufacture the patented property. For purposes of this paragraph, special purpose tooling includes dies, jigs, fixtures, molds, patterns, and similar property. The assessor shall not take into consideration the special value or use value to the present owner of the special purpose tooling which is designed and intended solely for the manufacture of property protected by a patent in arriving at the actual value of the special purpose tooling.

c. In determining the purchase price of a structure, the assessor shall consider whether the sale was a fair and reasonable exchange in the year in which the property was listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property. Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in determining purchase price. In determining purchase price, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, or discounted purchase transactions.

d. If a county enters into a contract before May 1, 2003, for a comprehensive revaluation by a private appraiser and such revaluation is for the assessment year beginning January 1, 2006, the valuations determined under the comprehensive revaluation for that assessment year shall be divided by the cumulative inflation factor for the assessment year beginning January 1, 2006, and that quotient shall be considered the valuation of the property for the assessment year beginning January 1, 2005.

6. Notwithstanding any other provision of this section, the assessed value per square foot of a structure times the total number of square feet of the structure shall not exceed its fair and reasonable market value for the assessment year, except for agricultural structures which shall be valued exclusively as provided in subsection 4.

7. For purposes of this section:

a. "Annual inflation factor" means an index, expressed as a percentage, determined by the department by January 15 of the assessment year for which the factor is determined, which reflects the purchasing power of the dollar as a result of inflation during the twelve-month period ending September 30 of the calendar year preceding the assessment year for which the factor is determined. In determining the annual inflation factor, the department shall use the annual percent change, but not less than zero percent, in the gross domestic product price deflator computed for the calendar year by the bureau of economic analysis of the United States department of commerce and shall add all of that percent change to one hundred percent. The annual inflation factor and the cumulative inflation factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual inflation factor shall not be less than one hundred percent. The annual inflation factor for the 2005 calendar year is one hundred percent.

b. "Cumulative inflation factor" means the product of the annual inflation factor for the 2005

calendar year and all annual inflation factors for subsequent calendar years as determined pursuant to this subsection. The cumulative inflation factor applies to the assessment year beginning on January 1 of the calendar year for which the latest annual inflation factor has been determined.

c. "Newly constructed" includes, but is not limited to, structural replacement, additions that substantially increase the square footage, conversion into another class of property, and conversion from exempt property under section 427.1 to taxable property. For commercial and industrial property, "newly constructed" also includes an addition or removal to a structure of personal property taxed as real estate under chapter 427A.

d. "Structure" means any part of that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. For residential structures, structure includes only those parts of the structure, including basements and attics, that are or could be used as living space. "Structure" does not include the land beneath, or horizontal improvements relating to the structure, such as sidewalks, sewers, or retaining walls.

8. For the purpose of computing the debt limitations for municipalities, political subdivisions, and school districts, the term "actual value" means the "actual value" as determined under this section without application of any percentage reduction and entered opposite each item, and as listed on the tax list as provided in section 443.2, as "actual value".

Whenever any board of review or other tribunal changes the assessed value of property, all applicable records of assessment shall be adjusted to reflect such change in both assessed value and actual value of such property.

9. The provisions of this chapter and chapters 443, 443A, and 444 shall be subject to legislative review at least once every five years. The review shall be based upon a property tax status report containing the recommendations of a property tax implementation committee appointed to conduct a review of the land tax, square footage tax, the baseline assessment for the square footage tax, and other related provisions, to be prepared with the assistance of the departments of management and revenue and finance. The report shall include recommendations for changes or revisions based upon demographic changes and property tax valuation fluctuations observed during the preceding five-year interval, and a summary of issues that have arisen since the previous review and potential approaches for their resolution. The first such report shall be submitted to the general assembly no later than January 1, 2010, with subsequent reports developed and submitted by January 1 at least every fifth year thereafter.

Sec. 4. NEW SECTION. 441.21A PROPERTY CLASSIFICATIONS.

1. a. Agricultural land shall be valued at its productivity value. The productivity value of agricultural land shall be determined on the basis of productivity and net earning capacity of the land determined on the basis of its use for agricultural purposes capitalized at a rate of seven percent and applied uniformly among counties and among classes of property. Any formula or method employed to determine productivity and net earning capacity of land shall be adopted in full by rule.

b. In counties or townships in which field work on a modern soil survey has been completed since January 1, 1949, the assessor shall place emphasis upon the results of the survey in spreading the valuation among individual parcels of such agricultural land.

c. "Agricultural land" includes the land of a vineyard.

2. a. "Residential property" includes all lands and buildings which are primarily used or intended for human habitation, including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. Residential property located on agricultural land shall include only buildings.

b. "Residential property" includes all land and buildings of multiple housing cooperatives

organized under chapter 499A and includes land and buildings used primarily for human habitation which land and buildings are owned and operated by organizations that have received tax-exempt status under section 501(c)(3) of the Internal Revenue Code and rental income from the property is not taxed as unrelated business income under section 422.33, subsection 1A.

c. "Residential property" includes an apartment in a horizontal property regime referred to in chapter 499B which is used or intended for use for human habitation regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless applicable building code requirements have been met.

d. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters shall not be considered residential property.

Sec. 5. Section 441.23, Code 2003, is amended to read as follows:

441.23 NOTICE OF VALUATION.

If there has been an increase or decrease in the valuation of the property, or upon the written request of the person assessed, the assessor shall, at the time of making the assessment, inform the person assessed, in writing, of the valuation put upon the taxpayer's property, and notify the person, if the person feels aggrieved, to appear before the board of review and show why the assessment should be changed. However, if the valuation of a class of agricultural property is uniformly decreased, the assessor may notify the affected property owners by publication in the official newspapers of the county. The owners of real property shall be notified not later than April 15 of any adjustment of the real property assessment. The notification shall include a supplemental return form for the person to list the person's property and any additions or modifications completed in the prior year to a structure located on the property, as required in section 441.19.

Sec. 6. Section 441.24, Code 2003, is amended to read as follows:

441.24 REFUSAL TO FURNISH STATEMENT.

1. If a person refuses to furnish the verified statements required in connection with the assessment of property by the assessor, or to list the corporation's or person's property, the director of revenue and finance, or assessor, as the case may be, shall proceed to list and assess the property according to the best information obtainable, and shall add to the taxable agricultural land and square footage valuation one hundred percent thereof, which valuation and penalty shall be separately shown, and shall constitute the assessment; and if the agricultural land or square footage valuation of the property is changed by a board of review, or on appeal from a board of review, a like penalty shall be added to the valuation thus fixed.

2. However, all or part of the penalty imposed under this section may be waived by the board of review upon application to the board by the assessor or the property owner. The waiver or reduction in the penalty shall be allowed only on the agricultural land or the square footage valuation of real property the structure against which the penalty has been imposed.

Sec. 7. Section 441.26, unnumbered paragraph 3, Code 2003, is amended to read as follows:

The notice in 1981 2007 and each odd-numbered year thereafter shall contain a statement that the agricultural property assessments and property assessed pursuant to section 441.21, subsection 2, paragraph "b", subparagraph (1), and subsection 3, paragraph "b", subparagraph (1), are subject to equalization pursuant to an order issued by the director of revenue and finance, that the county auditor shall give notice on or before October 15 by publication in an official newspaper of general circulation to any class of agricultural property affected by the equalization order, and that the board of review shall be in session from October 15 to November 15 to hear protests of affected property owners or taxpayers whose valuations have been adjusted by the equalization order.

Sec. 8. Section 441.26, unnumbered paragraphs 4 and 5, Code 2003, are amended to read as follows:

The assessment rolls shall be used in listing the property, the number of structures, and the total square footage of the structures by class of property, and showing the values affixed to agricultural land and the assessed value per square foot affixed to the property the structures by class of property of all persons assessed. The rolls shall be made in duplicate. The duplicate roll shall be signed by the assessor, detached from the original and delivered to the person assessed if there has been an increase or decrease in the valuation of the property. If there has been no change in the evaluation, the information on the roll may be printed on computer stock paper and preserved as required by this chapter. If the person assessed requests in writing a copy of the roll, the copy shall be provided to the person. The pages of the assessor's assessment book shall contain columns ruled and headed for the information required by this chapter and that which the director of revenue and finance deems essential in the equalization work of the director. The assessor shall return all assessment rolls and schedules to the county auditor, along with the completed assessment book, as provided in this chapter, and the county auditor shall carefully keep and preserve the rolls, schedules and book for a period of five years from the time of its filing in the county auditor's office.

Beginning with valuations for January 1, ~~1977~~ 2006, and each succeeding year, for each parcel of agricultural property and for each structure entered in the assessment book, the assessor shall list the classification of the property.

Sec. 9. Section 441.35, subsection 1, Code 2003, is amended by striking the subsection.

Sec. 10. Section 441.35, unnumbered paragraph 2, Code 2003, is amended by striking the unnumbered paragraph.

Sec. 11. Section 441.36, Code 2003, is amended to read as follows:

441.36 CHANGE OF ASSESSMENT — NOTICE.

All changes in assessments authorized by the board of review, and reasons therefor, shall be entered in the minute book kept by ~~said~~ the board and on the assessment roll. ~~Said~~ The minute book shall be filed with the assessor after the adjournment of the board of review and shall at all times be open to public inspection. In case the value of any specific property or structure or the entire assessment of any person, partnership, or association is increased, or new property or a new structure is added by the board, the clerk shall give immediate notice thereof by mail to each at the post-office address shown on the assessment rolls, and at the conclusion of the action of the board therein the clerk shall post an alphabetical list of those whose assessments are thus raised and added, in a conspicuous place in the office or place of meeting of the board, and enter upon the records a statement that such posting has been made, which entry shall be conclusive evidence of the giving of the notice required. The board shall hold an adjourned meeting, with at least five days intervening after the posting of ~~said~~ the notices, before final action with reference to the raising of assessments or the adding of property or structures to the rolls is taken, and the posted notices shall state the time and place of holding such adjourned meeting, which time and place shall also be stated in the proceedings of the board.

Sec. 12. Section 441.37, subsection 1, paragraphs a and b, Code 2003, are amended to read as follows:

a. That ~~said~~ the assessment is not equitable as compared with assessments of other like property or structures in the taxing district. When this ground is relied upon as the basis of a protest the legal description and assessments of a representative number of comparable ~~properties~~ structures, as described by the aggrieved taxpayer shall be listed on the protest, otherwise ~~said~~ the protest shall not be considered on this ground.

b. That the property or structure is assessed for more than the value authorized by law, stat-

ing the specific amount which the protesting party believes the property or structure to be overassessed, and the amount which the party considers to be its actual value and the amount the party considers a fair assessment.

Sec. 13. Section 441.39, Code 2003, is amended to read as follows:

441.39 TRIAL ON APPEAL.

The court shall hear the appeal in equity and determine anew all questions arising before the board which relate to the liability of the property or structure to assessment or the amount thereof. The court shall consider all of the evidence and there shall be no presumption as to the correctness of the ~~valuation~~ of assessment appealed from. Its decision shall be certified by the clerk of the court to the county auditor, and the assessor, who shall correct the assessment books accordingly.

Sec. 14. Section 441.42, Code 2003, is amended to read as follows:

441.42 APPEAL ON BEHALF OF PUBLIC.

Any officer of a county, city, township, drainage district, levee district, or school district interested or a taxpayer thereof may in like manner make complaint before ~~said the~~ board of review in respect to the assessment of any property or structure in the township, drainage district, levee district or city and an appeal from the action of the board of review in fixing the amount of assessment on any property or structure concerning which such complaint is made, may be taken by any of such aforementioned officers.

Such appeal is in addition to the appeal allowed to the person whose property or structure is assessed and shall be taken in the name of the county, city, township, drainage district, levee district, or school district interested, and tried in the same manner, except that the notice of appeal shall also be served upon the owner of the property or structure concerning which the complaint is made and affected thereby or person required to return said property or structure for assessment.

Sec. 15. Section 441.43, Code 2003, is amended to read as follows:

441.43 POWER OF COURT.

Upon trial of any appeal from the action of the board of review fixing the amount of assessment upon any property or structure concerning which complaint is made, the court may increase, decrease, or affirm the amount of the assessment appealed from.

Sec. 16. Section 441.45, subsections 1 and 2, Code 2003, are amended to read as follows:

1. The number of acres of land and the aggregate taxable values of the agricultural land, ~~exclusive of city lots~~, returned by the assessors, as corrected by the board of review.
2. The aggregate values of structures and the taxable square footage values of real estate structures by class in each township and city in the county and the aggregate value of agricultural land in each township and city in the county, returned as corrected by the board of review.

Sec. 17. Section 441.47, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the assessment year beginning January 1, 2007, and for all subsequent assessment years, only property classified as agricultural property and property assessed pursuant to section 441.21, subsection 2, paragraph "b", subparagraph (1), and subsection 3, paragraph "b", subparagraph (1), shall be subject to equalization by the director of revenue and finance under this section and sections 441.48 and 441.49.

Sec. 18. NEW SECTION. 441.47A EQUALIZATION OF INFLATION FACTORS.

The director of revenue and finance on or about August 15, 2007, and every two years thereafter, shall order the equalization of the assessed value per square foot resulting from the application of the cumulative inflation factor in the several assessing jurisdictions in each case as may be necessary to bring such values as fixed by the assessor in cases of purchases of property and newly constructed property to the values determined for the assessment year begin-

ning January 1, 2005. In equalizing the effects of the application of the cumulative inflation factor, the department shall make use of reports issued by Iowa state university of science and technology which reports shall more precisely indicate, on a county-by-county basis, annual and cumulative inflation factors for each county. If the cumulative inflation factor for an assessing jurisdiction as reported by Iowa state university of science and technology is five percent above or below the cumulative inflation factor as defined in section 441.21, subsection 7, the director shall notify the assessor by mail of the equalization of the effects of the cumulative inflation factor for the assessing jurisdiction. The assessor shall recompute the assessments made pursuant to section 441.21, subsection 2, paragraph "b", subparagraph (1), subsection 3, paragraph "b", subparagraph (1), and subsection 4, paragraph "b", subparagraph (1), by applying the equalized inflation factor. The assessor shall send notice of the equalized assessments to all affected property owners.

Sec. 19. Section 441.50, Code 2003, is amended to read as follows:

441.50 APPRAISERS EMPLOYED.

The conference board shall have power to employ appraisers or other technical or expert help to assist in the valuation assessment of property as provided in section 441.21, the cost thereof to be paid in the same manner as other expenses of the assessor's office. The conference board may certify for levy annually an amount not to exceed forty and one-half cents per thousand dollars of assessed value of taxable property for the purpose of establishing a special appraiser's fund, to be used only for such purposes. From time to time the conference board may direct the transfer of any unexpended balance in the special appraiser's fund to the assessment expense fund.

Sec. 20. Section 443.1, Code 2003, is amended to read as follows:

443.1 CONSOLIDATED TAX.

All square footage taxes which are uniform throughout any township or school district shall be formed into a single tax and entered upon the tax list in a single column, to be known as a consolidated tax, and each receipt shall show the percentage levied for each separate fund. The land tax shall be separately stated and each receipt shall show the percentage levied for each separate fund.

Sec. 21. Section 443.2, Code 2003, is amended to read as follows:

443.2 TAX LIST.

Before the first day of July in each year, the county auditor shall transcribe the assessments of the townships and cities into a book or record, to be known as the tax list, properly ruled and headed, with separate columns, in which shall be entered the names of the taxpayers, descriptions of lands, number of acres and value, numbers of city lots, their size in acres, and value, and each description of the square footage tax and the land tax, with a column for polls and one for payments, and shall complete it by entering the amount due on each installment, separately, and carrying out the total of both installments. The total of all columns of each page of each book or other record shall balance with the tax totals. After computing the amount of land tax and square footage tax due and payable on each property, the county auditor shall round the total amount of ~~tax taxes~~ due and payable on the property to the nearest even whole dollar.

The county auditor shall list the aggregate actual value and the aggregate taxable value of all taxable property within the county and each political subdivision including property subject to the statewide property tax imposed under section 437A.18 on the tax list in order that the actual value of the taxable property within the county or a political subdivision may be ascertained and shown by the tax list for the purpose of computing the debt-incurring capacity of the county or political subdivision. As used in this section, "actual value" is the value determined under section 441.21, subsections 1 to 3, Code 2005, prior to the reduction to a percentage of actual value as otherwise provided in section 441.21, Code 2005. "Actual value" of property subject to statewide property tax is the assessed value under section 437A.18.

Sec. 22. Section 443.3, Code 2003, is amended to read as follows:

443.3 CORRECTION — TAX APPORTIONED.

At the time of transcribing ~~said the~~ assessments into the tax list, the county auditor shall correct all transfers up to date and place the legal descriptions of all real estate in the name of the owner at ~~said that~~ date as shown by the transfer book in the auditor's office. At the end of the list for each township or city the auditor shall make an abstract thereof, and apportion the consolidated tax among the respective funds to which it belongs, according to the amounts levied for each. The auditor shall apportion the land tax as prescribed in section 443A.2.

Sec. 23. Section 443.6, Code 2003, is amended to read as follows:

443.6 CORRECTIONS BY AUDITOR.

The auditor may correct any error in the assessment or tax list, and the assessor or auditor may list for taxation any omitted land and may assess and list for taxation any omitted ~~property structure~~.

Sec. 24. Section 443.7, Code 2003, is amended to read as follows:

443.7 NOTICE.

Before listing for taxation any omitted land and before assessing and listing for taxation any omitted ~~property structure~~, the assessor or auditor shall notify by mail the person in whose name the ~~property land or structure~~ is taxed, to appear before the assessor or auditor at the assessor's or auditor's office within ten days from the date of the notice and show cause, if any, why the correction or assessment should not be made.

Sec. 25. Section 443.9, Code 2003, is amended to read as follows:

443.9 ADJUSTMENT OF ACCOUNTS.

If such correction or assessment is made after the books or other records approved by the state auditor of state have passed into the hands of the treasurer, the treasurer shall be charged or credited therefor as the case may be. In the event such listing of omitted land or listing and assessment of omitted ~~property structure~~ is made by the assessor after the tax records have passed into the hands of the auditor or treasurer, such correction or assessment shall be entered on the records by the auditor or treasurer.

Sec. 26. Section 443.12, Code 2003, is amended to read as follows:

443.12 CORRECTIONS BY TREASURER.

When ~~property land or a structure~~ subject to taxation is withheld, overlooked, or from any other cause is not listed, or is not listed and assessed, the county treasurer shall, when apprised thereof, at any time within two years from the date at which such listing and assessment should have been made, demand of the person, firm, corporation, or other party by whom the same should have been listed, or to whom it should have been listed and assessed, or of the administrator thereof, the amount the ~~property land or structure~~ should have been taxed in each year the same was so withheld or overlooked and not listed or not listed and assessed, together with six percent interest thereon from the time the taxes would have become due and payable had such ~~property land~~ been listed or such ~~structure~~ been listed and assessed.

Sec. 27. Section 443.13, Code 2003, is amended to read as follows:

443.13 ACTION BY TREASURER — APPORTIONMENT.

Upon failure to pay such sum within thirty days, with all accrued interest, the treasurer shall cause an action to be brought in the name of the treasurer for the use of the proper county, to be prosecuted by the county attorney, or such other person as the board of supervisors may appoint, and when such ~~property land~~ has been fraudulently withheld from listing or such structure fraudulently withheld from listing and assessment, there shall be added to the sum found to be due a penalty of fifty percent upon the amount, which shall be included in the judgment. The amount thus recovered shall be by the treasurer apportioned ratably as the taxes would have been if they had been paid according to law.

Sec. 28. Section 443.14, Code 2003, is amended to read as follows:

443.14 DUTY OF TREASURER.

The treasurer shall assess any ~~real property structure and shall list the acreage of any land~~ subject to taxation which may have been omitted by the assessor, board of review, or county auditor, and collect taxes thereon, and in such cases shall note, opposite the tract or lot assessed, the words "by treasurer".

Sec. 29. Section 443.15, Code 2003, is amended to read as follows:

443.15 TIME LIMIT.

The assessment shall be made within two years after the tax list shall have been delivered to the treasurer for collection, and not afterwards, if the ~~property~~ land or structure is then owned by the person who should have paid the tax.

Sec. 30. Section 443.17, Code 2003, is amended to read as follows:

443.17 PRESUMPTION OF TWO-YEAR OWNERSHIP.

In any action or proceeding, now pending or hereafter brought, to recover taxes upon ~~prop-erty~~ land not listed or agricultural land or a structure not listed and assessed for taxation during the lifetime of any decedent, it shall be presumed that any property, any evidence of ownership of property, and any evidence of a promise to pay, owned by a decedent at the date of the decedent's death, had been acquired and owned by such decedent more than two years before the date of the decedent's death; and the burden of proving that any such property had been acquired by such decedent less than two years before the date of the decedent's death shall be upon the heirs, legatees, and legal representatives of any such decedent.

Sec. 31. Section 443.18, Code 2003, is amended to read as follows:

443.18 REAL ESTATE — DUTY OF OWNER.

In all cases where ~~real-estate~~ land subject to taxation has not been listed or agricultural land or a structure subject to taxation has not been listed and assessed, the owner, or an agent of the owner, shall have the same done by the treasurer, and pay the taxes thereon; and if the owner fails to do so the treasurer shall list or list and assess the same and collect the tax assessed as the treasurer does other taxes.

Sec. 32. Section 443.19, Code 2003, is amended to read as follows:

443.19 IRREGULARITIES, ERRORS AND OMISSIONS — EFFECT.

~~No~~ A failure of the owner to have such ~~property~~ land listed or agricultural land or structure listed and assessed or to have the errors in the listing or assessment corrected, and ~~no~~ an irregularity, error or omission in the listing of such land or listing and assessment of such ~~property~~ agricultural land or structure, shall not affect in any manner the legality of the taxes levied thereon, or affect any right or title to such ~~real-estate~~ property which would have accrued to any party claiming or holding under and by virtue of a deed executed by the treasurer as provided by this title, had the listing and assessment of such property been in all respects regular and valid.

Sec. 33. Section 443.21, Code 2003, is amended to read as follows:

443.21 ASSESSMENTS CERTIFIED TO COUNTY AUDITOR.

All assessors and assessing bodies, including the department of revenue and finance having authority over the listing of land or listing and assessment of ~~property~~ agricultural land and structures for tax purposes shall certify to the county auditor of each county the number of acres of land and the assessed values of agricultural land and structures for all the taxable property in such county as finally ~~equalized and~~ determined, and the same shall be transcribed onto the tax lists as required by section 443.2.

Sec. 34. Section 443.22, Code 2003, is amended to read as follows:

443.22 UNIFORM ASSESSMENTS MANDATORY.

All assessors and assessing bodies, including the department of revenue and finance having

authority over the listing of land and listing and assessment of property agricultural land and structures for tax purposes, shall comply with sections 428.4, 428.29, 434.15, 438.13, 441.21, and 441.45. The department of revenue and finance, having authority over the listing and assessments, shall exercise its powers and perform its duties under section 421.17 and other applicable laws so as to require the uniform and consistent application of said that section.

Sec. 35. NEW SECTION. 443A.1 LAND TAX.

Effective for the fiscal year beginning July 1, 2007, and all subsequent fiscal years, a land tax shall be imposed against each acre or portion of an acre of land in a county.

Sec. 36. NEW SECTION. 443A.2 APPORTIONMENT OF LAND TAX.

1. The land tax for each county shall be apportioned as follows:

In the unincorporated area of the county, the land tax shall be distributed to the county, the school district located in the unincorporated area of the county, and other taxing entities located in the unincorporated area of the county in the same proportion that property taxes levied in the unincorporated area of the county for the fiscal year beginning July 1, 2006, were allocated to those entities.

In the incorporated areas of the county, the land tax shall be distributed to the city, the county, each school district located within the city, and other taxing entities located within the city in the same proportion that property taxes levied in the city for the fiscal year beginning July 1, 2006, were allocated to those entities.

2. The city finance committee and the county finance committee shall jointly determine the adjustments to be made to the allocation of the land tax in the case of boundary adjustments made to a taxing district on or after January 1, 2006.

3. After the auditor has computed the amount of land tax to be distributed to each taxing district, the auditor shall compute the rate of tax to be levied upon the square footage valuation of structures pursuant to chapter 444.

Sec. 37. Section 444.1, Code 2003, is amended to read as follows:

444.1 BASIS FOR AMOUNT OF TAX.

In all taxing districts in the state, including townships, school districts, cities and counties, when by law then existing the people are authorized to determine by vote, or officers are authorized to estimate or determine, a rate of taxation required for any public purpose, such rate shall in all cases be estimated and based upon the amount of land tax available to the district and the adjusted taxable square footage valuation of such taxing district for the preceding calendar year.

Sec. 38. Section 444.2, Code 2003, is amended to read as follows:

444.2 AMOUNTS CERTIFIED IN DOLLARS.

When an authorized square footage tax rate within a taxing district, including townships, school districts, cities and counties, has been thus determined as provided by law, the officer or officers charged with the duty of certifying the authorized rate to the county auditor or board of supervisors shall, before certifying the rate, compute upon the adjusted taxable square footage valuation of the taxing district for the preceding fiscal year, the amount of tax the rate will raise, stated in dollars, and shall certify the computed amount in dollars and not by rate, to the county auditor and board of supervisors and shall further certify the percentage of such amount to be levied against each class of property.

Sec. 39. Section 444.3, Code 2003, is amended to read as follows:

444.3 COMPUTATION OF SQUARE FOOTAGE RATE.

When the square footage valuations for the several taxing districts shall have been adjusted by the several boards for the current year, and the amount of land tax to be distributed to each taxing district has been deducted from the dollar amounts certified in section 444.2 for each taxing district, the county auditor shall thereupon apply such a rate, not exceeding the rate

authorized by law, or rates as will raise the amount required for such taxing district, and when combined with the land tax amount will raise an amount not exceeding the dollar amount authorized by law for the taxing district, and no will not raise a larger amount. For purposes of computing the square footage rate under this section, the adjusted taxable square footage valuation of the property of a taxing district does not include the valuation of property of a railway corporation or its trustee which corporation has been declared bankrupt or is in bankruptcy proceedings. Nothing in the preceding sentence exempts the property of such railway corporation or its trustee from taxation and the rate computed under this section shall be levied on the taxable property of such railway corporation or its trustee.

The square footage tax rate shall be expressed in dollars and cents per one hundred dollars of valuation per square foot.

Sec. 40. NEW SECTION. 444.9 COMPUTATION OF TAX.

The amount of tax imposed on any taxable property is the sum of the amounts computed in subsections 1 and 2.

1. LAND TAX. The product of the land tax rate times the number of acres or portion of an acre of the taxable property.

2. SQUARE FOOTAGE TAX. The product of the square footage tax rate times the valuation per square foot of the taxable structure times the number of square feet of the taxable structure. The square footage tax shall be computed separately for each structure located on the land.

Sec. 41. PROPERTY TAX IMPLEMENTATION COMMITTEE.

1. On or before July 1, 2003, the department of revenue and finance, in consultation with the department of management, shall initiate and coordinate the establishment of a property tax implementation committee and provide staffing assistance to the committee. The property tax implementation committee shall include four members of the general assembly, one each appointed by the majority leader of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives. The committee shall also include members appointed by the department of revenue and finance representing the department of revenue and finance, the department of management, counties, cities, school districts, local assessors, commercial property taxpayers, industrial property taxpayers, residential property taxpayers, and agricultural property taxpayers, and other appropriate stakeholders. The department may consider participation on the committee of former state officials with expertise in budget and tax policy. The chairpersons of the committee shall be those members of the general assembly appointed by the majority leader of the senate and the speaker of the house of representatives.

2. The committee shall study and make recommendations relating to the land tax, square footage tax, the baseline assessment for the square footage tax, and other related provisions. The committee shall also study and make recommendations on issues relating to implementation of a land tax and square footage tax, including, but not limited to, whether or not maximum square footage rates and land tax rates should be imposed and, if such rates are recommended, the imposition of rates that have a revenue neutral impact on classes of property, the property tax financing portion of the school funding formula, treatment of current property tax credits and exemptions under a land tax and square footage tax and continued state reimbursement of any credits or exemptions, implementation of urban revitalization and urban renewal programs under the land tax and square footage tax, implementation of a payment in lieu of taxes program for local government services, and maintenance of equity among classes of taxpayers and among taxpayers within the same class. The property tax implementation committee shall also study the role of property taxes in funding local government services and the types of services currently funded by property taxes.

3. The property tax implementation committee shall direct three counties and cities within those counties to submit data as prescribed by the committee. The department of revenue and finance, in consultation with the department of management, shall select the three counties

and the cities within those counties that will be required to provide data to the committee. The committee shall devise a system for testing the data, including the necessary computer hardware and software to allow the selected counties and cities to prepare projected budgets, to determine the rates for the land tax and the square footage tax for those projected budgets, and to provide a sampling of the effect on the various classes of property in those jurisdictions. The committee shall use the data and the results of the projections to resolve, and make recommendations relating to, the issues described in subsection 2, and related issues, in a revenue neutral manner that will not result in a shift of property tax burden between classes of property. The committee shall submit to the general assembly by October 31, 2003, October 31, 2004, and October 31, 2005, a report for each of those years resolving the issues in subsection 2 and other related issues for implementation of this Act. The reports shall include detailed estimates of the cost to the counties and cities of providing the data and an estimate of the cost of statewide implementation of this Act.

Sec. 42. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this division of this Act establishing the property tax implementation committee, being deemed of immediate importance, takes effect upon enactment.

2. The remainder of this division of this Act takes effect July 1, 2005, and applies to assessment years beginning on or after January 1, 2006, and applies to tax collections for fiscal years beginning on or after July 1, 2007.

Sec. 43. FUTURE REPEAL. This division of this Act is repealed effective June 30, 2005.

DIVISION II
INDIVIDUAL INCOME TAX
2004-2006 TAX YEARS

*Sec. 44. Section 422.5, subsection 1, paragraphs a through i, Code 2003, are amended to read as follows:

	<u>2004</u>	<u>For tax years beginning in the calendar year:</u>	
		<u>2005</u>	<u>2006</u>
a. On all taxable income from zero through one thousand dollars, thirty-six hundredths of one percent :	.35%	.34%	.32%
b. On all taxable income exceeding one thousand dollars but not exceeding two thousand dollars, seventy-two hundredths of one percent :	.70%	.68%	.65%
c. On all taxable income exceeding two thousand dollars but not exceeding four thousand dollars, two and forty-three hundredths percent :	2.36%	2.30%	2.19%
d. On all taxable income exceeding four thousand dollars but not exceeding nine thousand dollars, four and one-half percent :	4.37%	4.27%	4.05%
e. On all taxable income exceeding nine thousand dollars but not exceeding fifteen thousand dollars, six and twelve hundredths percent :	5.94%	5.80%	5.51%

* Item veto; see message at end of the Act

<p>f. On all taxable income exceeding fifteen thousand dollars but not exceeding twenty thousand dollars, six and forty-eight hundredths percent:.....</p>	6.29%	<u>6.14%</u>	<u>5.84%</u>
<p>g. On all taxable income exceeding twenty thousand dollars but not exceeding thirty thousand dollars, six and eight-tenths percent:.....</p>	6.60%	<u>6.45%</u>	<u>6.13%</u>
<p>h. On all taxable income exceeding thirty thousand dollars but not exceeding forty-five thousand dollars, seven and ninety-two hundredths percent:.....</p>	7.68%	<u>7.51%</u>	<u>7.14%</u>
<p>i. On all taxable income exceeding forty-five thousand dollars, eight and ninety-eight hundredths percent:.....</p>	8.71%	<u>8.51%</u>	<u>8.09%*</u>

Sec. 45. EFFECTIVE AND APPLICABILITY DATE PROVISIONS. This division of this Act takes effect January 1, 2004, for tax years beginning on or after January 1, 2004, but before January 1, 2007.

DIVISION III
INDIVIDUAL INCOME TAX
2007 AND SUBSEQUENT TAX YEARS

*Sec. 46. Section 422.5, subsection 1, paragraphs a through i, Code 2003, are amended to read as follows:

For tax years beginning in the calendar year: 2007 and subsequent calendar years

<p>a. On all taxable income from zero through one thousand dollars, thirty-six hundredths of one percent:.....</p>	.31%
<p>b. On all taxable income exceeding one thousand dollars but not exceeding two thousand dollars, seventy-two hundredths of one percent:.....</p>	.62%
<p>c. On all taxable income exceeding two thousand dollars but not exceeding four thousand dollars, two and forty-three hundredths percent:.....</p>	2.09%
<p>d. On all taxable income exceeding four thousand dollars but not exceeding nine thousand dollars, four and one-half percent:.....</p>	3.87%
<p>e. On all taxable income exceeding nine thousand dollars but not</p>	

* Item veto; see message at end of the Act

exceeding fifteen thousand dollars, ~~six and twelve hundredths~~ percent: 5.26%

f. On all taxable income exceeding fifteen thousand dollars but not exceeding twenty thousand dollars, ~~six and forty eight hundredths~~ percent: 5.57%

g. On all taxable income exceeding twenty thousand dollars but not exceeding thirty thousand dollars, ~~six and eight tenths~~ percent: 5.84%

h. On all taxable income exceeding thirty thousand dollars but not exceeding forty-five thousand dollars, ~~seven and ninety-two hundredths~~ percent: 6.80%

i. On all taxable income exceeding forty-five thousand dollars, ~~eight and ninety-eight hundredths~~ percent: 7.71%*

Sec. 47. EFFECTIVE AND APPLICABILITY DATE PROVISIONS. This division of this Act takes effect January 1, 2007, for tax years beginning on or after January 1, 2007.

DIVISION IV
INDIVIDUAL INCOME TAX
2007 AND SUBSEQUENT TAX YEARS

*Sec. 48. Section 422.4, subsection 1, paragraphs b and c, Code 2003, are amended to read as follows:

b. "Cumulative inflation factor" means the product of the annual inflation factor for the ~~1988~~ 2007 calendar year and all annual inflation factors for subsequent calendar years as determined pursuant to this subsection. The cumulative inflation factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual inflation factor has been determined.

c. The annual inflation factor for the ~~1988~~ 2007 calendar year is one hundred percent.*

*Sec. 49. Section 422.4, subsection 16, Code 2003, is amended to read as follows:

16. ~~The words "taxable income" mean means the net income as defined in section 422.7 minus the deductions allowed by section 422.9, in the case of individuals; in, In the case of estates or trusts, the words "taxable income" mean means the taxable income, (without a deduction for personal exemption), as computed for federal income tax purposes under the Internal Revenue Code, but with the adjustments specified in section 422.7 plus the Iowa income tax deducted in computing the federal taxable income and minus federal income taxes as provided in section 422.9.*~~

*Sec. 50. Section 422.5, subsection 1, Code 2003, as amended by 2003 Iowa Acts, Senate File 442, section 4, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. A tax is imposed upon every resident and nonresident of the state which tax shall be levied, collected, and paid annually upon and with respect to the entire taxable income at rates as follows:

* Item veto; see message at end of the Act

(1) On all taxable income from zero through eight thousand dollars, one and eighty-five hundredths percent.

(2) On all taxable income exceeding eight thousand dollars but not exceeding one hundred thousand dollars, four and seventy-five hundredths percent.

(3) On all taxable income exceeding one hundred thousand dollars, four and ninety-nine hundredths percent.

b. (1) The tax imposed upon the taxable income of a nonresident shall be computed by reducing the amount determined pursuant to paragraph "a" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the nonresident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "a", is the numerator and the nonresident's total net income computed under section 422.7 is the denominator. This provision also applies to individuals who are residents of Iowa for less than the entire tax year.

(2) The tax imposed upon the taxable income of a resident shareholder in an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraph "a" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. If a resident shareholder has elected to take advantage of this subparagraph, and for the next tax year elects not to take advantage of this subparagraph, the resident shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection. This subparagraph also applies to individuals who are residents of Iowa for less than the entire tax year.*

*Sec. 51. Section 422.5, subsection 2, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. However, if the married persons' filing jointly or separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds thirteen thousand five hundred dollars or nine thousand dollars in the case of all other persons, the regular tax imposed under this division shall be the lesser of the product of eight percent times the portion of the net income in excess of thirteen thousand five hundred dollars or nine thousand dollars, as applicable, or the regular tax liability computed without regard to this paragraph.

b. Paragraph "a" does not apply to estates and trusts. Married taxpayers electing to file separately shall compute the alternate tax described in paragraph "a" using the total net income of the husband and wife. The alternate tax described in paragraph "a" does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of paragraph "a" if the person claiming the dependent has net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable.*

*Sec. 52. Section 422.5, subsection 5, Code 2003, is amended to read as follows:

5. Upon determination of the latest cumulative inflation factor, the director shall multiply each dollar amount set forth in subsection 1, paragraphs "a" through "i" of this section ~~paragraph "a"~~, by this cumulative inflation factor, shall round off the resulting product to the nearest one dollar, and shall incorporate the result into the income tax forms and instructions for each tax year.*

Sec. 53. Section 422.5, subsection 7, Code 2003, is amended by striking the subsection.

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*Sec. 54. Section 422.7, Code 2003, as amended by 2003 Iowa Acts, Senate File 442, section 5, and House File 674, sections 5 and 6, is amended by striking the section and inserting in lieu thereof the following:

422.7 "NET INCOME" — HOW COMPUTED.

The term "net income" means the adjusted gross income before the net operating loss deduction as properly computed for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

1. The adjusted gross income is adjusted by adding the sum of the following:
 - a. Add the amount of federal income tax refunds received in a tax year beginning on or after January 1, 2007, but before January 1, 2010, to the extent that the federal income tax was deducted on an Iowa individual income tax return for a tax year beginning prior to January 1, 2007.
 - b. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code.
 - c. Add interest and dividends from regulated investment companies exempt from federal income tax under the Internal Revenue Code.
 - d. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state individual income tax.
 - e. Add the amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Iowa educational savings plan trust under chapter 12D to the extent previously deducted as a contribution to the trust.
2. The adjusted gross income is adjusted by subtracting the sum of the following:
 - a. Subtract the amount of federal income taxes paid or accrued, as the case may be, in a tax year beginning on or after January 1, 2007, but before January 1, 2010, to the extent the federal tax payment is for a tax year beginning prior to January 1, 2007.
 - b. Subtract interest and dividends from federal securities.
 - c. Subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under section 852(b)(4)(B) of the Internal Revenue Code.
 - d. (1) Subtract, to the extent included, the amount of additional social security benefits taxable under the Internal Revenue Code for tax years beginning on or after January 1, 1994. The amount of social security benefits taxable as provided in section 86 of the Internal Revenue Code, as amended up to and including January 1, 1993, continues to apply for state income tax purposes for tax years beginning on or after January 1, 1994.
(2) Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or who elect separate filing on a combined return for state income tax purposes, shall allocate between the spouses the amount of benefits subtracted under subparagraph (1) from net income in the ratio of the social security benefits received by each spouse to the total of these benefits received by both spouses.
 - e. (1) For a person who is disabled, or is fifty-five years of age or older, or is the surviving spouse of an individual or a survivor having an insurable interest in an individual who would have qualified for the exemption under this paragraph for the tax year, subtract, to the extent included, the total amount of a governmental or other pension or retirement pay, including, but not limited to, defined benefit or defined contribution plans, annuities, individual retirement accounts, plans maintained or contributed to by an employer, or maintained or contributed to by a self-employed person as an employer, and deferred compensation plans or any earnings attributable to the deferred compensation plans, up to a maximum of six thousand dollars for a person, other than a husband or wife, who files a separate state income tax return and up to a maximum of twelve thousand dollars for a husband and wife who file a joint state income tax return.
(2) However, a surviving spouse who is not disabled or fifty-five years of age or older can only exclude the amount of pension or retirement pay received as a result of the death of the other

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spouse. A husband and wife filing separate state income tax returns or separately on a combined return are allowed a combined maximum exclusion under this paragraph "e" of up to the amount allowed for a husband and wife who file a joint state income tax return. The exclusion shall be allocated to the husband or wife in the proportion that each spouse's respective pension and retirement pay received bears to total combined pension and retirement pay received.

f. Notwithstanding the method for computing income from an installment sale under section 453 of the Internal Revenue Code, as defined in section 422.3, the method to be used in computing income from an installment sale shall be the method under section 453 of the Internal Revenue Code, as amended up to and including January 1, 2000. A taxpayer affected by this paragraph shall make adjustments in the adjusted gross income pursuant to rules adopted by the director.

The adjustment to net income provided in this paragraph "f" is repealed for tax years beginning on or after January 1, 2002. However, to the extent that a taxpayer using the accrual method of accounting reported the entire capital gain from the sale or exchange of property on the Iowa return for the tax year beginning in the 2001 calendar year and the capital gain was reported on the installment method on the federal income tax return, any additional installment from the capital gain reported for federal income tax purposes is not to be included in net income in tax years beginning on or after January 1, 2002.

g. Subtract, if the taxpayer is the owner of an individual development account certified under chapter 541A at any time during the tax year, all of the following:

(1) Contributions made to the account by persons and entities, other than the taxpayer, as authorized in chapter 541A.

(2) The amount of any savings refund authorized under section 541A.3, subsection 1.

(3) Earnings from the account.

h. (1) Subtract the maximum contribution that may be deducted for income tax purposes as a participant in the Iowa educational savings plan trust pursuant to section 12D.3, subsection 1, paragraph "a".

(2) Subtract, to the extent included, income from interest and earnings received from the Iowa educational savings plan trust created in chapter 12D.

(3) Subtract, to the extent not deducted for federal income tax purposes, the amount of any gift, grant, or donation made to the Iowa educational savings plan trust for deposit in the endowment fund of that trust.

i. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for services performed on or after August 2, 1990, pursuant to military orders related to the Persian Gulf Conflict.

j. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for service performed on or after November 21, 1995, pursuant to military orders related to peacekeeping in Bosnia-Herzegovina.

k. Subtract, to the extent included, the following:

(1) Payments made to the taxpayer because of the taxpayer's status as a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim.

(2) Items of income attributable to, derived from, or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II. However, income from assets acquired with such assets or with the proceeds from the sale of such assets shall not be subtracted. This subparagraph shall only apply to a taxpayer who was the first recipient of such assets after recovery of the assets and who is a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or is an heir of such victim.

l. Subtract, to the extent included, active duty pay received by a person in the national guard

or armed forces military reserve for service performed on or after January 1, 2003, pursuant to military orders related to Operation Iraqi Freedom, Operation Noble Eagle, and Operation Enduring Freedom.

m. Subtract, not to exceed one thousand five hundred dollars, the overnight transportation, meals, and lodging expenses, to the extent not reimbursed, incurred by the taxpayer for travel away from home of more than one hundred miles for the performance of services by the taxpayer as a member of the national guard or armed forces military reserve.

n. Subtract, to the extent included, military student loan repayments received by the taxpayer serving on active duty in the national guard or armed forces military reserve or on active duty status in the armed forces.

o. Subtract, to the extent not otherwise excluded, the amount of the death gratuity payable under 10 U.S.C. § 1475-1491 for deaths occurring after September 10, 2001.

3. a. In determining the amount of federal income tax refunds or taxes paid or accrued under subsection 1 or 2, for tax years beginning in the 2001 calendar year, the amount shall not be adjusted by the amount received during the tax year of the advanced refund of the rate reduction tax credit provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, and the advanced refund of such credit shall not be subject to taxation under this division.

b. In determining the amount of federal income tax refunds or taxes paid or accrued under subsection 1 or 2, for tax years beginning in the 2002 calendar year, the amount shall not be adjusted by the amount of the rate reduction credit received during the tax year to the extent that the credit is attributable to the rate reduction credit provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, and the amount of such credit shall not be taxable under this division.

4. The additional first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code, as enacted by Pub. L. No. 107-147, section 101, does not apply in computing net income for state tax purposes. If the taxpayer has taken such deduction in computing federal adjusted gross income, the following adjustments shall be made:

a. Add the total amount of depreciation taken on all property for which the election under section 168(k) of the Internal Revenue Code was made for the tax year.

b. Subtract an amount equal to depreciation taken on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k).

c. Any other adjustments to gains or losses to reflect the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.*

*Sec. 55. Section 422.8, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Nonresident's net income allocated to Iowa is the net income, or portion of net income, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. However, income derived from a business, trade, profession, or occupation carried on within this state and income from any property, trust, estate, or other source within Iowa shall not include distributions from pensions, including defined benefit or defined contribution plans, annuities, individual retirement accounts, and deferred compensation plans or any earnings attributable thereto so long as the distribution is directly related to an individual's documented retirement and received while the individual is a nonresident of this state. If a business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "j" "b", and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state.*

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Sec. 56. Section 422.8, subsection 4, Code 2003, is amended by striking the subsection.

*Sec. 57. Section 422.9, subsection 1, Code 2003, is amended to read as follows:

1. An optional standard deduction, ~~after deduction of federal income tax,~~ equal to one thousand two hundred thirty dollars for a married person who files separately or a single person or equal to three thousand thirty dollars for a husband and wife who file a joint return, a surviving spouse, or an unmarried head of household. ~~The optional standard deduction shall not exceed the amount remaining after deduction of the federal income tax.*~~

Sec. 58. Section 422.9, subsection 2, paragraph b, Code 2003, is amended by striking the paragraph.

Sec. 59. Section 422.9, subsections 6 and 7, Code 2003, are amended by striking the subsections.

*Sec. 60. Section 422.11B, subsection 1, Code 2003, is amended to read as follows:

1. There is allowed as a credit against the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the adjusted net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, but before January 1, 2007, over the amount allowable as a credit under this section for those prior tax years.

If a minimum tax credit is available to a tax period beginning on or after January 1, 2007, the credit can be carried over to tax years beginning on or after January 1, 2007, but before January 1, 2010. The minimum tax credit is limited to the tax determined in section 422.5, subsection 1, paragraphs "a" and "b".*

*Sec. 61. Section 422.13, subsection 1, paragraph c, and subsection 1A, Code 2003, are amended to read as follows:

c. However, if that part of the net income of a nonresident which is allocated to Iowa pursuant to section 422.8, subsection 2, is less than one thousand dollars the nonresident is not required to make and sign a return ~~except when the nonresident is subject to the state alternative minimum tax imposed pursuant to section 422.5, subsection 1, paragraph "k".~~

1A. Notwithstanding any other provision in this section, a resident of this state is not required to make and file a return if the person's net income is equal to or less than the appropriate dollar amount listed in section 422.5, subsection 2, upon which tax is not imposed. A nonresident of this state is not required to make and file a return if the person's total net income in section 422.5, subsection 1, paragraph "j", "b", is equal to or less than the appropriate dollar amount provided in section 422.5, subsection 2, upon which tax is not imposed. For purposes of this subsection, the amount of a lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining if a resident is required to file a return and the portion of the lump sum distribution that is allocable to Iowa is included in total net income for purposes of determining if a nonresident is required to make and file a return.*

*Sec. 62. Section 422.21, unnumbered paragraph 5, Code 2003, is amended to read as follows:

The director shall determine for the ~~1989~~ 2008 and each subsequent calendar year the annual and cumulative inflation factors for each calendar year to be applied to tax years beginning on or after January 1 of that calendar year. The director shall compute the new dollar amounts as specified to be adjusted in section 422.5 by the latest cumulative inflation factor and round off the result to the nearest one dollar. The annual and cumulative inflation factors determined by the director are not rules as defined in section 17A.2, subsection 11. The director shall determine for the 1990 calendar year and each subsequent calendar year the annual and cumulative standard deduction factors to be applied to tax years beginning on or after January 1 of that

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calendar year. The director shall compute the new dollar amounts of the standard deductions specified in section 422.9, subsection 1, by the latest cumulative standard deduction factor and round off the result to the nearest ten dollars. The annual and cumulative standard deduction factors determined by the director are not rules as defined in section 17A.2, subsection 11.*

Sec. 63. Section 422.11B, Code 2003, is repealed.

COORDINATING AMENDMENTS

*Sec. 64. Section 12D.9, subsection 2, Code 2003, is amended to read as follows:

2. State income tax treatment of the Iowa educational savings plan trust shall be as provided in section 422.7, ~~subsections 32, 33, and 34~~ subsection 1, paragraph "e", and subsection 2, paragraph "h", and section 422.35, subsection 14.*

*Sec. 65. Section 217.39, Code 2003, is amended to read as follows:

217.39 PERSECUTED VICTIMS OF WORLD WAR II — REPARATIONS — HEIRS.

Notwithstanding any other law of this state, payments paid to and income from lost property of a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim which is exempt from state income tax as provided in section 422.7, subsection ~~35~~ 2, paragraph "k", shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to recoupment for the receipt of governmental benefits or entitlements, and liens, except liens for child support, are not enforceable against these sums for any reason.*

*Sec. 66. Section 422.120, subsection 1, paragraph b, subparagraph (3), Code 2003, is amended to read as follows:

(3) ~~The annual index factor for the 1997 calendar year is one hundred percent. For each subsequent the 1998 through 2006 calendar year years, the annual index factor equals the annual inflation factor for that calendar year as computed in section 422.4 for purposes of the individual income tax. For the 2007 calendar year and each subsequent calendar year the annual index factor shall be determined by the department by October 15 of the calendar year preceding the calendar year for which the factor is determined, which reflects the purchasing power of the dollar as a result of inflation during the fiscal year ending in the calendar year preceding the calendar year for which the factor is determined. In determining the annual index factor, the department shall use the annual percent change, but not less than zero percent, in the gross domestic product price deflator computed for the second quarter of the calendar year by the bureau of economic analysis of the United States department of commerce and shall add all of that percent change to one hundred percent. The annual index factor and the cumulative index factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual index factor shall not be less than one hundred percent.*~~

*Sec. 67. Section 425.23, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. ~~The annual adjustment factor for the 1998 base year is one hundred percent. For each subsequent the 1999 through 2006 base year years, the annual adjustment factor equals the annual inflation factor for the calendar year, in which the base year begins, as computed in section 422.4 for purposes of the individual income tax. For the 2007 base year and each subsequent base year, the annual adjustment factor equals the annual index factor, in which the base year begins, as computed in section 422.120, subsection 1, for purposes of the livestock production tax credit.*~~

*Sec. 68. Section 450.4, subsection 8, Code 2003, is amended to read as follows:

8. On the value of that portion of any lump sum or installment payments which are received by a beneficiary under an annuity which was purchased under an employee's pension or retire-

* Item veto; see message at end of the Act

ment plan which was excluded from net income as set forth in under section 422.7, ~~subsection 31.~~*

*Sec. 69. Section 541A.2, subsection 7, unnumbered paragraph 1, Code 2003, is amended to read as follows:

An individual development account closed in accordance with this subsection is not subject to the limitations and benefits provided by this chapter but is subject to state tax in accordance with the provisions of section 422.7, subsection ~~28 2.~~ paragraph "g", and section 450.4, subsection 6. An individual development account may be closed for any of the following reasons:*

*Sec. 70. Section 541A.3, subsection 2, Code 2003, is amended to read as follows:

2. Income earned by an individual development account is not subject to state tax, in accordance with the provisions of section 422.7, subsection ~~28 2.~~ paragraph "g".*

Sec. 71. Division III of this Act is repealed.

CONTINGENT EFFECTIVE AND APPLICABILITY DATE PROVISION

*Sec. 72.

1. This division of this Act takes effect upon ratification prior to January 1, 2007, of an amendment to the Constitution of the State of Iowa requiring a three-fifths majority vote of each house of the general assembly in order to pass a bill that amends the state individual income tax by raising the rate or rates of the individual income tax or of an amendment to the Constitution of the State of Iowa requiring a statewide referendum in order to approve a bill that amends the state individual income tax by raising the rate or rates of the individual income tax.

2. If this division of this Act takes effect as provided in subsection 1, this division of this Act, except as provided in subsection 3, applies to tax years beginning on or after January 1, 2007.

3. The section of this division of this Act repealing section 422.11B applies to tax years beginning on or after January 1, 2010.*

DIVISION V SALES AND USE TAX STUDIES

Sec. 73. INDUSTRIAL PROCESSING EXEMPTION STUDY COMMITTEE. On or before July 1, 2003, the department of revenue and finance shall initiate and coordinate the establishment of an industrial processing exemption study committee and provide staffing assistance to the committee. It is the intent of the general assembly that the committee shall include representatives of the department of revenue and finance, department of management, industrial producers including manufacturers, fabricators, printers and publishers, and an association that specifically represents business tax issues, and other stakeholders.

The industrial processing exemption under the sales and use tax is a significant exemption for business. The committee shall study and make legislative and administrative recommendations relating to Iowa's processing exemption to ensure maximum utilization by Iowa's industries.

The committee shall study and make recommendations regarding all of the following:

1. The current sales and use tax industrial processing exemption.
2. The corresponding administrative rules, including a review and recommendation of an administrative rules process relating to the industrial processing exemption prior to filing with the administrative rules review committee.
3. Other states' industrial processing exemptions.
4. Recommendations for change for issues including effectiveness and competitiveness.
5. Development of additional publications to improve compliance.

The committee shall annually report to the general assembly by January 1 of each year through January 1, 2013.

* Item veto; see message at end of the Act

Sec. 74. IOWA SALES, SERVICES, AND USE TAX STUDY COMMITTEE. On or before July 1, 2003, the department of revenue and finance shall initiate and coordinate the establishment of a state sales, services, and use tax study committee and provide staffing assistance to the committee. It is the intent of the general assembly that the committee shall include representatives of the department of revenue and finance, department of management, an association of Iowa farmers and other agricultural interests, retail associations, contractors, taxpayers, an association that specifically represents business tax issues, and other stakeholders, two members of the general assembly, and a representative of the governor's office.

The committee shall study the current sales, services, and use tax law. Programs funded through special features of the tax code often escape regular review. It is intended that the study committee shall review the current sales, services, and use tax exemptions to improve government accountability.

The committee shall study and make recommendations regarding all of the following:

1. Retaining or eliminating current sales, services, and use tax exemptions or providing new exemptions. Such decisions shall be based at least partially on the issues of effectiveness and competitiveness and their impact on economic behavior.
2. Tax simplification and consistency issues in applying the tax, including recordkeeping burdens on retailers and application by the department of revenue and finance.
3. Streamlining sales tax implementation in Iowa.
4. The tax rate.
5. Comparison of Iowa sales, services, and use tax structure with other states.

The committee shall report to the general assembly by January 1, 2004. The report shall provide rationale for each decision made by the study committee.

Sec. 75. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect July 1, 2003.

DIVISION VI GROW IOWA VALUES BOARD AND FUND

Sec. 76. Section 15.108, subsection 9, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Administer the marketing strategy selected pursuant to section 15G.108.

Sec. 77. NEW SECTION. 15G.101 DEFINITIONS.

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

1. "Board" means the grow Iowa values board established in section 15G.102.
2. "Department" means the Iowa department of economic development created in section 15.105.
3. "Director" means the director of the department of economic development.
4. "Fund" means the grow Iowa values fund created in section 15G.107.
5. "Grow Iowa values geographic regions" means the geographic regions defined in section 15G.105.

Sec. 78. NEW SECTION. 15G.102 GROW IOWA VALUES BOARD.

1. The grow Iowa values board is established consisting of eleven voting members and four ex officio, nonvoting members. The grow Iowa values board shall be located for administrative purposes within the department and the director shall provide office space, staff assistance, and necessary supplies and equipment for the board. The director shall budget moneys to pay the compensation and expenses of the board. In performing its functions, the board is performing a public function on behalf of the state and is a public instrumentality of the state.

2. a. The eleven voting members of the board shall be appointed by the governor, subject to confirmation by the senate.

- b. The four ex officio, nonvoting members shall be appointed as follows:
 - (1) One member appointed by the president of the senate.
 - (2) One member appointed by the minority leader of the senate.
 - (3) One member appointed by the speaker of the house of representatives.
 - (4) One member appointed by the minority leader of the house of representatives.
- c. All appointments shall comply with sections 69.16 and 69.16A.
- d. At least one member of the board shall be from each grow Iowa values geographic region.
- e. Each of the following areas of expertise shall be represented by at least one member of the board who has professional experience in that area of expertise:
 - (1) Finance and investment banking.
 - (2) Advanced manufacturing.
 - (3) Statewide agriculture.
 - (4) Life sciences.
 - (5) Small business development.
 - (6) Information technology.
 - (7) Economics.
 - (8) Labor.
 - (9) Marketing.
 - (10) Entrepreneurship.
- f. At least nine voting members of the board shall be actively employed in the private, for-profit sector of the economy.
- g. The board membership shall be balanced between representation by employers with less than two hundred employees and employers with two hundred or more employees.
- 3. The chairperson and vice chairperson shall be elected by the voting members of the board from the membership of the board. In the case of the absence or disability of the chairperson and vice chairperson, the voting members of the board shall elect a temporary chairperson by a majority vote of those voting members who are present and voting, provided a quorum is present.
- 4. The members of the board shall be appointed to three-year staggered terms and the terms shall commence and end as provided in section 69.19. If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.
- 5. A majority of the voting members of the board constitutes a quorum.
- 6. A member of the board shall abstain from voting on the provision of financial assistance to a project which is located in the county in which the member of the board resides.
- 7. The members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A board member may also be eligible to receive compensation as provided in section 7E.6.

Sec. 79. NEW SECTION. 15G.103 BOARD DUTIES.

The board shall do all of the following:

- 1. Organize.
- 2. Receive advice and recommendations from the due diligence committee, the economic development marketing board, and the grow Iowa values review commission.
- 3. Assist the department in implementing programs and activities in a manner designed to achieve the goals set out in section 15G.106.
- 4. By December 15 of each year, submit a written report to the general assembly reviewing the activities of the board during the calendar year. The report shall include information necessary for the review of the goals and performance measures set out in section 15G.106. State agencies and other entities receiving moneys from the fund shall cooperate with and assist the board in compilation of the report.
- 5. Adopt administrative rules pursuant to chapter 17A necessary to administer this chapter. This delegation shall be construed narrowly.
- 6. Adopt a strategic plan pursuant to section 8E.204 by July 1, 2004.

Sec. 80. NEW SECTION. 15G.104 DUE DILIGENCE COMMITTEE.

1. A due diligence committee is established consisting of five members and is located for administrative purposes within the department. The director of the department shall provide office space, staff assistance, and necessary supplies and equipment for the committee. The director shall budget moneys to pay the compensation and expenses of the committee. In performing its functions, the committee is performing a public function on behalf of the state and is a public instrumentality of the state.

2. a. Membership of the due diligence committee shall consist of five voting members of the grow Iowa values board elected annually by the voting members of the board. Committee members shall have expertise in the areas of banking and entrepreneurship.

b. The chairperson and vice chairperson of the committee shall be elected by and from the committee members. The terms of the members shall commence and end as provided by section 69.19. If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term. A majority of the committee constitutes a quorum.

3. The committee, after a thorough review, shall determine whether a proposed project using moneys from the grow Iowa values fund is practical and shall provide recommendations to the grow Iowa values board regarding any moneys proposed to be expended from the grow Iowa values fund, with the exception of moneys appropriated for purposes of the loan and credit guarantee program and regarding whether a proposed project is practical. The recommendations shall be based on whether the expenditure would make the achievement of the goals in accordance with the performance measures set out in section 15G.106 more likely. The recommendations may include conditions or that a proposed expenditure be rejected.

4. The members of the committee are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A committee member may also be eligible to receive compensation as provided in section 7E.6.

Sec. 81. NEW SECTION. 15G.104A GROW IOWA VALUES REVIEW COMMISSION.

1. A grow Iowa values review commission is established consisting of three members and is located for administrative purposes within the office of the auditor of state. The auditor of state shall provide office space, staff assistance, and necessary supplies and equipment for the review commission. The auditor of state shall budget moneys to pay the compensation and expenses of the commission, including the actual expenses of the auditor of state incurred while engaged in the performance of official commission duties. In performing its functions, the review commission is performing a public function on behalf of the state and is a public instrumentality of the state.

2. Membership of the review commission shall include the auditor of state, one member appointed by the governor subject to confirmation by the senate, and one member appointed by the legislative council. The members appointed by the governor and the legislative council shall possess experience and expertise in the field of economics. The appointments shall comply with sections 69.16 and 69.16A. The chairperson of the review commission shall be the auditor of state. The members shall be appointed to three-year staggered terms and the terms shall commence and end as provided by section 69.19. If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term. A majority of the review commission constitutes a quorum.

3. The review commission shall analyze all annual reports of the grow Iowa values board for purposes of determining if the goals and performance measures set out in section 15G.106 have been met. By January 1, 2007, the review commission shall submit a report to the grow Iowa values board, the department, and the general assembly. The report shall include findings, itemized by grow Iowa values geographic regions, regarding whether the goals and performance measures were met. The report shall also include recommendations regarding the continuation, elimination, or modification of any programs receiving moneys from the grow Iowa values fund and whether moneys should continue to be appropriated to and from the

grow Iowa values fund. The recommendations shall be based on whether the goals in accordance with the performance measures are being achieved.

4. The members of the commission, including the auditor of state, are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A commission member may also be eligible to receive compensation as provided in section 7E.6.

Sec. 82. NEW SECTION. 15G.105 GROW IOWA VALUES GEOGRAPHIC REGIONS.

For purposes of applying the goals and performance measurements, the state shall be divided into five grow Iowa values geographic regions. The regions shall be the following:

1. The northwest region shall include the counties of Lyon, Osceola, Dickinson, Emmet, Kossuth, Winnebago, Sioux, O'Brien, Clay, Palo Alto, Hancock, Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Woodbury, Ida, Sac, Calhoun, Webster, and Hamilton.

2. The northeast region shall include the counties of Worth, Mitchell, Howard, Winneshiek, Allamakee, Cerro Gordo, Floyd, Chickasaw, Fayette, Clayton, Franklin, Butler, Bremer, Hardin, Grundy, Black Hawk, Buchanan, Delaware, Dubuque, Tama, Benton, Linn, Jones, and Jackson.

3. The southeast region shall include the counties of Poweshiek, Iowa, Johnson, Cedar, Clinton, Scott, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.

4. The southwest region shall include the counties of Monona, Crawford, Carroll, Greene, Harrison, Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair, Mills, Montgomery, Adams, Union, Clarke, Lucas, Fremont, Page, Taylor, Ringgold, Decatur, and Wayne.

5. The central region shall include the counties of Boone, Story, Marshall, Dallas, Polk, Jasper, Madison, Warren, and Marion.

Sec. 83. NEW SECTION. 15G.106 GOALS — PERFORMANCE MEASURES.

1. In performing the duties provided in this chapter, chapter 15, and chapter 15E, the grow Iowa values board, the due diligence committee, the economic development marketing board, the grow Iowa values review commission, and the department shall achieve the goals of expanding and stimulating the state economy, increasing the wealth of Iowans, and increasing the population of the state. For purposes of this section, "upper midwest region" includes the states of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

2. Goal achievement shall be examined on a regional basis using the grow Iowa values geographic regions on a statewide basis. Family farm performance indicators shall be calculated separately. The performance of the grow Iowa values geographic regions shall be compared to the performance of the state, the upper midwest region, and the United States. The baseline year shall be the calendar year 2002. In each grow Iowa values geographic region, the goal shall be to increase the baseline performance measure of Iowa's gross state product at a rate equal to or greater than the national economy.

3. a. In determining whether the goal of expanding and stimulating the state economy has been met, and using the calendar year 2002 as a baseline, performance measures shall be considered, including but not limited to the following, on a statewide basis or of those businesses that receive moneys originating from the grow Iowa values fund, as appropriate:

- (1) A net increase in a business's supplier network.
- (2) A net increase in business start-ups.
- (3) A net increase in business expansion.
- (4) A net increase in business modernization.
- (5) A net increase in attracting new businesses to the state.
- (6) A net increase in business retention.
- (7) A net increase in job creation and retention.

(8) A decrease in Iowa of the ratio of the government employment as a percentage share of the total employment in Iowa at a rate at least equal to the ratio of the upper midwest region.

b. By December 15 of each year, the department shall submit a report to the grow Iowa

values review commission and the grow Iowa values board that identifies information pertinent to the performance measures in paragraph "a", subparagraphs (3), (4), and (6), that the department gains through interviews with businesses in the state that close all or a portion of operations in the state. By December 15 of each year, based on the same interviews, the department shall submit a report to the general assembly providing suggested amendments to the Code of Iowa and the Iowa administrative code designed to stimulate and expand the state's economy.

c. By December 15 of each year the department shall submit a report to the grow Iowa values review commission and the grow Iowa values board that identifies prospective lost business development opportunities information pertinent to the performance measures in paragraph "a", subparagraphs (2) and (5), which indicate that the state has not been successful in the performance measures in paragraph "a", subparagraphs (2) and (5).

d. For purposes of the performance measure in paragraph "a", subparagraph (7), the department of economic development, in consultation with the department of workforce development and the auditor of state, shall determine average annual job creation and retention rates based on the ten years prior to 2003, for the state and the upper midwest region. During the fiscal years beginning July 1, 2003, July 1, 2004, and July 1, 2005, the department of economic development shall report the job creation and retention rate of those businesses that receive moneys originating from the grow Iowa values fund and the job creation and retention rate of those businesses that do not receive moneys originating from the grow Iowa values fund. The ten-year average annual job creation and retention rate shall be compared to the job creation and retention rates determined under this paragraph for the fiscal years beginning July 1, 2003, July 1, 2004, and July 1, 2005. The department of economic development shall assist the department of workforce development in maintaining detailed employment statistics on businesses that receive moneys originating from the grow Iowa values fund, on businesses that do not receive moneys originating from the grow Iowa values fund, and on industries in Iowa that those businesses represent. The auditor of state shall audit the reliability and validity of the statistics compiled pursuant to this paragraph.

4. In determining whether the goal of increasing the wealth of Iowans has been met, the following earning performance measures shall be considered:

a. The per capita personal income in Iowa shall equal or exceed the average per capita personal income for the upper midwest region.

b. The average earnings per job in Iowa shall equal or exceed the average earnings per job in the upper midwest region.

c. The average manufacturing earnings per employee in Iowa shall equal or exceed the average manufacturing earnings per employee in the upper midwest region.

d. The average service earnings per employee in Iowa shall equal or exceed the average service earnings per employee in the upper midwest region.

e. The average earnings per employee in the financial, insurance, and real estate industries in Iowa shall equal or exceed the average earnings per employee in the financial, insurance, and real estate industries in the upper midwest region.

5. In determining whether the goal of increasing the population of the state has been met, the following performance measures shall be considered:

a. Using the calendar year 2002 as a baseline year, a net increase in the retention of Iowa high school graduates that are employed in the Iowa workforce following a higher education degree.

b. The increase in higher education graduates.

Sec. 84. NEW SECTION. 15G.107 GROW IOWA VALUES FUND.

A grow Iowa values fund is created in the state treasury under the control of the grow Iowa values board consisting of moneys appropriated to the grow Iowa values board. 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. The fund shall be administered by the grow Iowa values board, which shall make expenditures from the fund consistent with this chapter

and pertinent Acts of the general assembly. Any financial assistance provided using moneys from the fund may be provided over a period of time of more than one year. Payments of interest, repayments of moneys loaned pursuant to this chapter, and recaptures of grants or loans shall be deposited in the fund.

Sec. 85. NEW SECTION. 15G.108 ECONOMIC DEVELOPMENT MARKETING BOARD — MARKETING STRATEGIES.

1. a. An economic development marketing board is established consisting of seven members and is located for administrative purposes within the department. The director of the department shall provide office space, staff assistance, and necessary supplies and equipment for the board. The director shall budget moneys to pay the compensation and expenses of the board. In performing its functions, the board is performing a public function on behalf of the state and is a public instrumentality of the state.

b. The membership of the board shall consist of seven members appointed by the governor, subject to confirmation by the senate. Five of the members shall have significant demonstrated experience in marketing or advertising. Two members of the board shall also be members of the grow Iowa values board.

c. The appointments shall comply with sections 69.16 and 69.16A.

d. The chairperson and vice chairperson of the board shall be elected by and from the board members. In case of the absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting.

e. The members shall be appointed to three-year staggered terms and the terms shall commence and end as provided by section 69.19. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. A successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

f. A majority of the board constitutes a quorum.

2. The board shall administer and implement the approval process for marketing strategies provided in subsection 3.

3. The economic development marketing board shall accept proposals for marketing strategies for purposes of selecting a strategy for the department to administer. The marketing strategies shall be designed to market Iowa as a lifestyle, increase the population of the state, increase the wealth of Iowans, and expand and stimulate the state economy. The economic development marketing board shall submit a recommendation regarding the proposal to the grow Iowa values board. In selecting a marketing strategy for recommendation, the economic development marketing board shall base the selection on the goals and performance measures provided in section 15G.106. The grow Iowa values board shall either approve or deny the recommendation.

4. The department shall implement and administer the marketing strategy approved by the grow Iowa values board as provided in subsection 3. The department shall provide the economic development marketing board with assistance in implementing administrative functions of the board and provide technical assistance to the board.

5. The members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A board member may also be eligible to receive compensation as provided in section 7E.6.

Sec. 86. NEW SECTION. 15G.109 FUTURE CONSIDERATION.

Not later than February 1, 2007, the legislative services agency shall prepare and deliver to the secretary of the senate and the chief clerk of the house of representatives identical bills that repeal the provisions of this chapter. It is the intent of this section that the general assembly shall bring the bill to a vote in either the senate or the house of representatives expeditiously. It is further the intent of this chapter that if the bill is approved by the first house in which it is considered, it shall expeditiously be brought to a vote in the second house.

DIVISION VII
VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES
FINANCIAL ASSISTANCE PROGRAM

Sec. 87. Section 15E.111, subsection 1, Code 2003, is amended to read as follows:

1. a. The department shall establish a value-added agricultural products and processes financial assistance program. The department shall consult with ~~the Iowa corn growers association and the Iowa soybean association~~ Iowa commodity groups. The purpose of the program is to encourage the increased utilization of agricultural commodities produced in this state. The program shall assist in efforts to revitalize rural regions of this state, by committing resources to provide financial assistance to new or existing value-added production facilities. The department of economic development may consult with other state agencies regarding any possible future environmental, health, or safety issues linked to technology related to the biotechnology industry. In awarding financial assistance, the department shall prefer producer-owned, value-added businesses and public and private joint ventures involving an institution of higher learning under the control of the state board of regents or a private college or university acquiring assets, research facilities, and leveraging moneys in a manner that meets the goals of the grow Iowa values fund and shall commit resources to assist the following:

a- (1) Facilities which are involved in the development of new innovative products and processes related to agriculture. The facility must do either of the following: produce a good derived from an agricultural commodity, if the good is not commonly produced from an agricultural commodity; or use a process to produce a good derived from an agricultural process, if the process is not commonly used to produce the good.

b- (2) Renewable fuel production facilities. As used in this section, "renewable fuel" means an energy source which is derived from an organic compound capable of powering machinery, including an engine or power plant.

(3) Agricultural business facilities in the agricultural biotechnology industry, agricultural biomass industry, and alternative energy industry. For purposes of this subsection:

(a) "Agricultural biomass industry" means businesses that utilize agricultural commodity crops, agricultural by-products, or animal feedstock in the production of chemicals, protein products, or other high-value products.

(b) "Agricultural biotechnology industry" means businesses that utilize scientifically enhanced plants or animals that can be raised by producers and used in the production of high-value products.

(c) "Alternative energy industry" includes businesses involved in the production of ethanol, including gasoline with a mixture of seventy percent or more ethanol, biodiesel, biomass, hydrogen, or in the production of wind energy.

(4) Facilities that add value to Iowa agricultural commodities through further processing and development of organic products and emerging markets.

(5) Producer-owned, value-added businesses, education of producers and management boards in value-added businesses, and other activities that would support the infrastructure in the development of value-added agriculture. Public and private joint ventures involving an institution of higher learning under the control of the state board of regents or a private college or university to acquire assets, research facilities, and leverage moneys in a manner that meets the goals of the grow Iowa values fund. For purposes of this subsection, "producer-owned, valued-added business" means a person who holds an equity interest in the agricultural business and is personally involved in the production of crops or livestock on a regular, continuous, and substantial basis.

b. Financial assistance awarded under this section may be in the form of a loan, loan guarantee, grant, production incentive payment, or a combination of financial assistance. The department shall not award more than twenty-five percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any fiscal year to support a single person. The department may finance any size of facility. However, the department shall may reserve up to fifty percent of the total amount allocated to the fund, for

purposes of assisting persons requiring ~~one~~ five hundred thousand dollars or less in financial assistance. The amount shall be reserved until the end of the third quarter of the fiscal year. The department shall not provide financial assistance to support a value-added production facility if the facility or a person owning a controlling interest in the facility has demonstrated a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of workforce development pursuant to chapter 84A, or rules enforced by the department of natural resources pursuant to chapter 455B or 459, subchapters II and III.

DIVISION VIII
ENDOW IOWA GRANTS

Sec. 88. NEW SECTION. 15E.301 SHORT TITLE.

This division shall be known as and may be cited as the "Endow Iowa Program Act".

Sec. 89. NEW SECTION. 15E.302 PURPOSE.

The purpose of this division is to enhance the quality of life for citizens of this state through increased philanthropic activity by providing capital to new and existing citizen groups of this state organized to establish endowment funds that will address community needs. The purpose of this division is also to encourage individuals, businesses, and organizations to invest in community foundations.

Sec. 90. NEW SECTION. 15E.303 DEFINITIONS.

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

1. "Board" means the governing board of the lead philanthropic entity identified by the department pursuant to section 15E.304.
2. "Business" means a business operating within the state and includes individuals operating a sole proprietorship or having rental, royalty, or farm income in this state and includes a consortium of businesses.
3. "Community affiliate organization" means a group of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in this state with the intention of establishing a community affiliate endowment fund.
4. "Endowment gift" means an irrevocable contribution to a permanent endowment held by a qualified community foundation.
5. "Lead philanthropic entity" means the entity identified by the department pursuant to section 15E.304.
6. "Qualified community foundation" means a community foundation organized or operating in this state that meets or exceeds the national standards established by the national council on foundations.

Sec. 91. NEW SECTION. 15E.304 ENDOW IOWA GRANTS.

1. The department shall identify a lead philanthropic entity for purposes of encouraging the development of qualified community foundations in this state. A lead philanthropic entity shall meet all of the following qualifications:
 - a. The entity shall be a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code.
 - b. The entity shall be a statewide organization with membership consisting of organizations, such as community, corporate, and private foundations, whose principal function is the making of grants within the state of Iowa.
 - c. The entity shall have a minimum of forty members and that membership shall include qualified community foundations.

2. A lead philanthropic entity may receive a grant from the department. The board shall use the grant moneys to award endow Iowa grants to new and existing qualified community foundations and to community affiliate organizations that do all of the following:
 - a. Provide the board with all information required by the board.
 - b. Demonstrate a dollar-for-dollar funding match in a form approved by the board.
 - c. Identify a qualified community foundation to hold all funds. A qualified community foundation shall not be required to meet this requirement.
 - d. Provide a plan to the board demonstrating the method for distributing grant moneys received from the board to organizations within the community or geographic area as defined by the qualified community foundation or the community affiliate organization.
3. Endow Iowa grants awarded to new and existing qualified community foundations and to community affiliate organizations shall not exceed twenty-five thousand dollars per foundation or organization unless a foundation or organization demonstrates a multiple county or regional approach. Endow Iowa grants may be awarded on an annual basis with not more than three grants going to one county in a fiscal year.
4. In ranking applications for grants, the board shall consider a variety of factors including the following:
 - a. The demonstrated need for financial assistance.
 - b. The potential for future philanthropic activity in the area represented by or being considered for assistance.
 - c. The proportion of the funding match being provided.
 - d. For community affiliate organizations, the demonstrated need for the creation of a community affiliate endowment fund in the applicant's geographic area.
 - e. The identification of community needs and the manner in which additional funding will address those needs.
 - f. The geographic diversity of awards.
5. Of any moneys received by a lead philanthropic entity from the state, not more than five percent of such moneys shall be used by the entity for administrative purposes.

Sec. 92. NEW SECTION. 15E.306 REPORTS — AUDITS.

By January 31 of each year, the lead philanthropic entity, in cooperation with the department, shall publish an annual report of the activities conducted pursuant to this division during the previous calendar year and shall submit the report to the governor and the general assembly. The annual report shall include a listing of endowment funds and the amount of tax credits authorized by the department.

Sec. 93. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2003, for tax years beginning on or after that date.

DIVISION IX
COMMERCIALIZATION OF RESEARCH ISSUES

- Sec. 94. Section 262.9, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 29. By January 15 of each year, submit a report to the governor, through the director of technology in the office of the governor, and the general assembly containing information from the previous calendar year regarding all of the following:
- a. Patents secured or applied for by each university under the control of the board delineated by university and by faculty member and staff member responsible for the research or activity that resulted in the patent. In the initial report filed by January 15, 2004, the board shall include an inventory of patent portfolios with details concerning which patents are creating financial benefit and the amount of financial benefit and which patents are not creating financial benefit and the amount invested in those patents.
 - b. Research grants secured by each university under the control of the board from both

public and private sources delineated by university and by faculty member and staff member. The board shall also include the same information for grant applications that are denied.

c. The number of faculty members and staff members at each university under the control of the board involved in a start-up company.

d. The number of grant applications for research received by each university under the control of the board for start-up companies, the number of applications approved, and the number of applications denied.

e. The number of agreements entered into by faculty members and staff members at each university under the control of the board with foundations affiliated with the universities relating to business start-ups.

f. An accounting of the financial gain received by each university under the control of the board relating to patents sold, royalties received, licensing fees, and any other remuneration received by the university related to technology transfer.

g. The number of professional employees at each university under the control of the board who assist in the transfer of technology and research to commercial application.

Sec. 95. Section 262B.1, Code 2003, is amended to read as follows:

262B.1 TITLE.

This chapter shall be known and may be cited as the "~~University-Based Research and Economic Development~~ Commercialization of Research for Iowa Act".

Sec. 96. Section 262B.2, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

262B.2 LEGISLATIVE INTENT.

It is the intent of the general assembly that the three universities under the control of the state board of regents have as part of their mission the use of their universities' expertise to expand and stimulate economic growth across the state. This activity may be accomplished through a wide variety of partnerships, public and private joint ventures, and cooperative endeavors, primarily in the area of high technology, and may result in investments by the private sector for commercialization of the technology. It is imperative that the investments and job creation be in Iowa, but need not be in the proximity of the universities. The purpose is to expand and stimulate Iowa's economy, increase the wealth of Iowans, and increase the population of Iowa, which may be accomplished through research conducted within the state that will competitively position Iowa on an economic basis with other states and create high-wage, high-growth employers and jobs. It is also the intent of the general assembly that real or virtual research parks will be established and maintained by the universities in close enough proximity to the ventures that cooperation between the academic, research, and commercialization phases will be encouraged. It is the intent of the general assembly that satellites of the research parks will expand and stimulate economic growth in other areas of the state.

Sec. 97. Section 262B.3, Code 2003, is amended to read as follows:

262B.3 ~~ESTABLISHMENT OF CONSORTIUM~~ DUTIES AND RESPONSIBILITIES.

1. The state board of regents or the universities under its jurisdiction, as part of its mission and strategic plan, shall establish consortiums mechanisms for the purpose of carrying out the intent of this chapter. The majority of consortium members shall be from the university community and the balance of members shall be from private industry. The members of the consortium shall be appointed by the president of the convening university and will serve at the pleasure of the president. In addition to other board initiatives, the board shall work with the department of economic development, other state agencies, and the private sector to facilitate the commercialization of research.

2. Activities to implement this chapter may include:

a. Developing strategies to market university research for commercialization in Iowa.

b. Matching university resources with the needs of existing Iowa firms or start-up opportunities.

- c. Evaluating university research for commercialization potential, where relevant.
- d. Developing a plan to improve private sector access to the university licenses and patent information and the transfer of technology from the university to the private sector.
- e. Disseminating information on research activities of the university.
- f. Identifying research needs of existing Iowa businesses and recommending ways in which the universities can meet these needs.
- g. Linking research and instruction activities to economic development.
- h. Reviewing and monitoring activities related to technology transfer.
- i. Coordinating activities to facilitate a focus on research in the state's targeted industry clusters.
- j. Surveying of similar activities in other states and at other universities.
- k. Establishing a single point of contact to facilitate commercialization of research.

Sec. 98. Section 262B.5, Code 2003, is amended to read as follows:

262B.5 ~~REGENTS AND DEPARTMENT OF ECONOMIC DEVELOPMENT REPORTING.~~

The state board of regents and the Iowa department of economic development shall enter into an agreement under chapter 28E to coordinate and facilitate the activities of the ~~consortiums~~. The state board of regents ~~and with input from~~ the Iowa department of economic development shall report annually to the governor and the general assembly concerning the activities of the ~~consortiums~~ conducted pursuant to this chapter.

*Sec. 99. NEW SECTION. 262B.6 DIRECTOR OF TECHNOLOGY — TECHNOLOGY TRANSFER AGENTS.

1. The governor shall appoint a director of technology to serve within the office of the governor. A position is created for a deputy director of technology within the office of the governor. The director and the deputy director shall be responsible for advancing technology transfer and commercialization issues in the state and shall coordinate the related activities at the institutions of higher learning under the control of the state board of regents. The director shall have demonstrated expertise and experience in the areas of business, industry, and academics.

2. Each institution of higher learning under the control of the state board of regents shall designate an employee to serve as a technology transfer agent to coordinate the activities of the institution with the director of technology within the office of the governor.

3. By December 1, 2004, the director shall conduct a study and develop recommendations for the advancement of technology transfer and commercialization issues. The director shall compile and submit the recommendations in written form to the general assembly by December 1, 2004. The recommendations shall include specific and detailed proposed amendments to the Code of Iowa necessary to advance the proposed recommendations.*

Sec. 100. Section 262B.4, Code 2003, is repealed.

DIVISION X
IOWA ECONOMIC DEVELOPMENT
LOAN AND CREDIT GUARANTEE FUND

Sec. 101. NEW SECTION. 15E.221 SHORT TITLE.

This division shall be known and may be cited as the "Iowa Economic Development Loan and Credit Guarantee Fund Act".

Sec. 102. NEW SECTION. 15E.222 LEGISLATIVE FINDING — PURPOSES.

- 1. The general assembly finds all of the following:
 - a. That small and medium-sized businesses, in general, and certain targeted industry businesses and other qualified businesses, in particular, may not qualify for conventional financing.

* Item veto; see message at end of the Act

b. That the limited availability of credit for export transactions limits the ability of small and medium-sized businesses in this state to compete in international markets.

c. That, to enhance competitiveness and foster economic development, this state must focus on growth in certain specific targeted industry businesses and other qualified businesses, especially during a time of war.

d. That the challenge for the public economic sector is to create an atmosphere conducive to economic growth, in conjunction with financial institutions in the private sector, which fill the gaps in credit availability and export finance, and that allow the private sector to identify the lending opportunities and foster decision making at the local level.

2. The general assembly declares the purposes of this division to be all of the following:

a. To create incentives and assistance to increase the flow of private capital to targeted industry businesses and other qualified businesses.

b. To promote industrial modernization and technology adoption.

c. To encourage the retention and creation of jobs.

d. To encourage the export of goods and services sold by Iowa businesses in national and international markets.

Sec. 103. NEW SECTION. 15E.223 DEFINITIONS.

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

1. "Financial institution" means an institution listed in section 422.61, subsection 1, or such other financial institution as defined by the department for purposes of this division.

2. "Program" means the loan and credit guarantee program established in this division.

3. "Qualified business" means an existing or proposed business entity with an annual average number of employees not exceeding two hundred employees. "Qualified business" does not include businesses engaged primarily in retail sales, real estate, or the provision of health care or other professional services. "Qualified business" includes professional services businesses that provide services to targeted industry businesses or other entities.

4. "Targeted industry business" means an existing or proposed business entity, including an emerging small business or qualified business which is operated for profit and which has a primary business purpose of doing business in at least one of the targeted industries designated by the department which include life sciences, software and information technology, advanced manufacturing, value-added agriculture, and any other industry designated as a targeted industry by the loan and credit guarantee advisory board.

Sec. 104. NEW SECTION. 15E.224 LOAN AND CREDIT GUARANTEE PROGRAM.

1. The department shall, with the advice of the loan and credit guarantee advisory board, establish and administer a loan and credit guarantee program. The department, pursuant to agreements with financial institutions, shall provide loan and credit guarantees, or other forms of credit guarantees for qualified businesses and targeted industry businesses for eligible project costs. A loan or credit guarantee provided under the program may stand alone or may be used in conjunction with or to enhance other loans or credit guarantees, offered by private, state, or federal entities. The department may purchase insurance to cover defaulted loans meeting the requirements of the program. However, the department shall not in any manner directly or indirectly pledge the credit of the state. Eligible project costs include expenditures for productive equipment and machinery, working capital for operations and export transactions, research and development, marketing, and such other costs as the department may so designate.

2. A loan or credit guarantee or other form of credit guarantee provided under the program to a participating financial institution for a single qualified business or targeted industry business shall not exceed one million dollars in value. Loan or credit guarantees or other forms of credit guarantees provided under the program to more than one participating financial institution for a single qualified business or targeted industry business shall not exceed ten million dollars in value.

3. In administering the program, the department shall consult and cooperate with financial institutions in this state and with the loan and credit guarantee advisory board. Administrative procedures and application procedures, as practicable, shall be responsive to the needs of qualified businesses, targeted industry businesses, and financial institutions, and shall be consistent with prudent investment and lending practices and criteria.

4. Each participating financial institution shall identify and underwrite potential lending opportunities with qualified businesses and targeted industry businesses. Upon a determination by a participating financial institution that a qualified business or targeted industry business meets the underwriting standards of the financial institution, subject to the approval of a loan or credit guarantee, the financial institution shall submit the underwriting information and a loan or credit guarantee application to the department.

5. The department, with the advice of the loan and credit guarantee advisory board, shall adopt a loan or credit guarantee application procedure for a financial institution on behalf of a qualified business or targeted industry business.

6. Upon approval of a loan or credit guarantee, the department shall enter into a loan or credit guarantee agreement with the participating financial institution. The agreement shall specify all of the following:

- a. The fee to be charged to the financial institution.
- b. The evidence of debt assurance of, and security for, the loan or credit guarantee.
- c. A loan or credit guarantee that does not exceed fifteen years.
- d. Any other terms and conditions considered necessary or desirable by the department.

7. The department, with the advice of the loan and credit guarantee advisory board, may adopt loan and credit guarantee application procedures that allow a qualified business or targeted industry business to apply directly to the department for a preliminary guarantee commitment. A preliminary guarantee commitment may be issued by the department subject to the qualified business or targeted industry business securing a commitment for financing from a financial institution. The application procedures shall specify the process by which a financial institution may obtain a final loan and credit guarantee.

Sec. 105. NEW SECTION. 15E.225 TERMS — FEES.

1. When entering into a loan or credit guarantee agreement, the department, with the advice of the loan and credit guarantee advisory board, shall establish fees and other terms for participation in the program by qualified businesses and targeted industry businesses.

2. The department, with due regard for the possibility of losses and administrative costs and with the advice of the loan and credit guarantee advisory board, shall set fees and other terms at levels sufficient to assure that the program is self-financing.

3. For a preliminary guarantee commitment, the department may charge a qualified business or targeted industry business a preliminary guarantee commitment fee. The application fee shall be in addition to any other fees charged by the department under this section and shall not exceed one thousand dollars for an application.

Sec. 106. NEW SECTION. 15E.226 LOAN AND CREDIT GUARANTEE ADVISORY BOARD.

A loan and credit guarantee advisory board is established consisting of seven members appointed by the governor, subject to confirmation by the senate. The advisory board shall provide the department with technical advice regarding the administration of the program, including the adoption of administrative rules pursuant to chapter 17A. The advisory board shall review and provide recommendations regarding all applications under the program. Members of the advisory board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. Advisory board members may also be eligible to receive compensation as provided in section 7E.6. The director of the department shall budget moneys to pay the compensation and expenses of the advisory board. The provisions of this section relating to the adoption of administrative rules shall be construed narrowly.

DIVISION XI
ECONOMIC DEVELOPMENT ASSISTANCE AND DATA COLLECTION

Sec. 107. NEW SECTION. 15E.118 BUSINESS START-UP INFORMATION — INTERNET WEB SITE.

The department shall provide information through an internet web site and a toll-free telephone service to assist persons interested in establishing a commercial facility or engaging in a commercial activity. The information shall include all of the following:

1. Assistance, information, and guidance for start-up businesses.
2. Information gathered by the department pursuant to section 15E.17, subsection 2.
3. Personal and corporate income tax information.
4. Information regarding financial assistance and incentives available to businesses.
5. Workforce availability in the state presented in a regional format.

**Sec. 108. NEW SECTION. 15E.119 ECONOMIC DEVELOPMENT-RELATED DATA COLLECTION.*

1. The department shall interview any business that considered locating in Iowa but decided to locate elsewhere. The department shall attempt to determine factors that affected the location decision of the business.

2. The department shall interview any business that closes major operations in the state or dissolves the business's corporate status in an effort to identify factors that led to the closure or dissolution.

*3. By January 15 of each year, the department shall submit a written report to the general assembly that summarizes the information collected pursuant to this section and provides suggested amendments to the Code of Iowa and the Iowa administrative code designed to stimulate and expand the state's economy.**

Sec. 109. INTERNET WEB SITE DEVELOPMENT. In developing the internet web site required in section 15E.118, the department of economic development shall examine similar efforts in other states and incorporate the best practices.

DIVISION XII
CULTURAL AND ENTERTAINMENT DISTRICTS

Sec. 110. NEW SECTION. 303.3B CULTURAL AND ENTERTAINMENT DISTRICTS.

1. The department of cultural affairs shall establish and administer a cultural and entertainment district certification program. The program shall encourage the growth of communities through the development of areas within a city or county for public and private uses related to cultural and entertainment purposes.

2. A city or county may create and designate a cultural and entertainment district subject to certification by the department of cultural affairs, in consultation with the department of economic development. A cultural and entertainment district shall consist of a geographic area not exceeding one square mile in size. A cultural and entertainment district certification shall remain in effect for ten years following the date of certification. Two or more cities or counties may apply jointly for certification of a district that extends across a common boundary. Through the adoption of administrative rules, the department of cultural affairs shall develop a certification application for use in the certification process. The provisions of this subsection relating to the adoption of administrative rules shall be construed narrowly.

3. The department of cultural affairs shall encourage development projects and activities located in certified cultural and entertainment districts through incentives under cultural grant programs pursuant to section 303.3, chapter 303A, and any other grant programs.

* Item veto; see message at end of the Act

DIVISION XIII
UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM

Sec. 111. NEW SECTION. 262B.11 UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM.

1. The department of economic development shall establish and administer a university-based research utilization program for purposes of encouraging the utilization of university-based research, primarily in the area of high technology, in new or existing businesses. The program shall include the three universities under the control of the state board of regents and all accredited private universities located in the state.

2. A new or existing business that utilizes a technology developed by an employee at a university under the control of the state board of regents may apply to the department of economic development for approval to participate in the university-based research utilization program. The department shall approve an applicant if the applicant meets all of the following criteria:

a. The applicant utilizes a technology developed by an employee at a university under the control of the state board of regents, provided that the technology has received a patent after the effective date of this Act. If the applicant has been in existence more than one year prior to applying, the applicant shall organize a separate company to utilize the technology. For purposes of this section, the separate company shall be considered the applicant and, if approved, the approved business.

b. The applicant develops a five-year business plan approved by the department. The plan shall include information concerning the applicant's Iowa employment goals and projected impact on the Iowa economy. The department shall only approve plans showing sufficient potential impact on Iowa employment and economic development.

c. The applicant meets a minimum-size business standard determined by the department.

d. The applicant provides annual reports to the department that include employment statistics for the applicant and the total taxable wages paid to Iowa employees and reported to the department of revenue and finance pursuant to section 422.16.

3. A business approved under the program and the university employee responsible for the development of the technology utilized by the approved business shall be eligible for a tax credit. The credit shall be allowed against the taxes imposed in chapter 422, divisions II and III. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. A tax credit shall not be claimed under this subsection unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The amount of a tax credit allowed under this subsection shall equal the amount listed on a tax credit certificate issued by the department of economic development pursuant to subsection 4. A tax credit certificate shall not be transferable. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the taxpayer's tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

4. For the five tax years following the tax year in which a business is approved under the program, the department of revenue and finance shall provide the department of economic development with information required by the department of economic development from each tax return filed by the approved business. Upon receiving the tax return-related information, the department of economic development shall do all of the following:

a. Review the information provided by the department of revenue and finance pursuant to this subsection and the annual report submitted by the applicant pursuant to subsection 2, paragraph "d". If the department determines that the business activities of the applicant are not providing the benefits to Iowa employment and economic development projected in the applicant's approved five-year business plan, the department shall not issue tax credit certifi-

catates for that year to the applicant or university employee and shall determine any related university share to be equal to zero for that year.

b. Effective for the fiscal year beginning July 1, 2004, and for subsequent fiscal years, issue a tax credit certificate to the approved business and the university employee responsible for the development of the technology utilized by the approved business in an amount determined pursuant to subsection 5. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue and finance.

c. (1) Determine the university share which is equal to the value of thirty percent of the tax liability of the approved business for purposes of making an appropriation pursuant to section 262B.12, if enacted by 2003 Iowa Acts, House File 683¹ or another Act, to the university where the technology utilized by the approved business was developed. A university share shall not exceed two hundred twenty-five thousand dollars per year per technology utilized. For each technology utilized, the aggregate university share over a five-year period shall not exceed six hundred thousand dollars.

(2) The department shall maintain records for each university during each fiscal year regarding the university share each university is entitled to receive through the appropriation in section 262B.12, if enacted by 2003 Iowa Acts, House File 683² or another Act. A university shall be entitled to receive the total university share for that particular university during the previous fiscal year.

d. For the fiscal year beginning July 1, 2004, not more than two million dollars worth of certificates shall be issued pursuant to paragraph "b". For the fiscal year beginning July 1, 2005, and every fiscal year thereafter, not more than ten million dollars worth of certificates shall be issued pursuant to paragraph "b".

5. The tax credit certificates issued by the department for each of the five years following the tax year in which the business is approved under the program shall be for the following amounts:

a. For the approved business, the value of the tax credit certificate shall equal thirty percent of the tax liability of the approved business. The value of a certificate issued to an approved business shall not exceed two hundred twenty-five thousand dollars. The total aggregate value of certificates issued over a five-year period to an approved business shall not exceed six hundred thousand dollars.

b. For the university employee responsible for the development of the technology utilized by the approved business, the value of the tax credit certificate shall equal ten percent of the tax liability of the approved business. If more than one employee is responsible for the development of the technology, the value equal to ten percent of the tax liability of the approved business shall be divided equally and individual tax credit certificates shall be issued to each employee responsible for the development of the technology. Each year, the total value of a certificate or certificates issued for a utilized technology shall not exceed seventy-five thousand dollars. For each technology utilized, the total aggregate value of certificates issued over a five-year period to the university employee responsible for the development of the technology shall not exceed two hundred thousand dollars.

6. The department of economic development shall notify the department of revenue and finance when a tax credit certificate is issued pursuant to subsection 4. The notification shall include the name and tax identification number appearing on any tax credit certificate.

Sec. 112. NEW SECTION. 422.11H UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a university-based research utilization program tax credit authorized pursuant to section 262B.11.

Sec. 113. Section 422.33, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 14. The taxes imposed under this division shall be reduced by a

¹ See chapter 2, §82 herein

² See chapter 2, §82 herein

university-based research utilization program tax credit authorized pursuant to section 262B.11.

DIVISION XIV
FUTURE REPEAL

Sec. 114. The divisions of this Act designated the grow Iowa board and fund, the value-added agricultural products and processes financial assistance program, the endow Iowa grants, the technology transfer advisors, the Iowa economic development loan and credit guarantee fund, the economic development assistance and data collection, the cultural and entertainment districts, the workforce issues,³ and the university-based research utilization program, are repealed effective June 30, 2010.

DIVISION XV
LIABILITY REFORM

Sec. 115. Section 625A.9, Code 2003, is amended to read as follows:

625A.9 EXECUTION ON UNSTAYED PART OF JUDGMENT — SUPERSEDEAS BOND WAIVED.

1. The taking of the appeal from part of a judgment or order, and the filing of a bond as above directed, does not stay execution as to that part of the judgment or order not appealed from.

2. If the judgment or order appealed from is for money, such bond shall not exceed one hundred ten percent of the amount of the money judgment.

3. Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the state or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

*Sec. 116. Section 668.12, Code 2003, is amended to read as follows:

668.12 LIABILITY FOR PRODUCTS — STATE OF THE ART DEFENSE DEFENSES.

1. In any action brought pursuant to this chapter against an assembler, designer, supplier of specifications, distributor, manufacturer, or seller for damages arising from an alleged defect in the design, testing, manufacturing, formulation, packaging, warning, or labeling of a product, a percentage of fault shall not be assigned to such persons if they plead and prove that the product conformed to the state of the art in existence at the time the product was designed, tested, manufactured, formulated, packaged, provided with a warning, or labeled.

2. Nothing contained in this section subsection 1 shall diminish the duty of an assembler, designer, supplier of specifications, distributor, manufacturer or seller to warn concerning subsequently acquired knowledge of a defect or dangerous condition that would render the product unreasonably dangerous for its foreseeable use or diminish the liability for failure to so warn.

3. An assembler, designer, supplier of specifications, distributor, manufacturer, or seller shall not be subject to liability under a theory of civil conspiracy unless the person knowingly and voluntarily entered into an agreement, express or implied, to participate in a common plan with the intent to commit a tortious act upon another. Mere membership in a trade or industrial association or group is not, in and of itself, evidence of such an agreement.*

*Sec. 117. Section 668A.1, subsection 1, Code 2003, is amended to read as follows:

1. In a trial of a claim involving the request for punitive or exemplary damages, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating all of the following:

a. Whether, by a preponderance of clear, convincing, and satisfactory evidence, the conduct of the defendant from which the claim arose constituted willful and wanton disregard for the rights or safety of another.

b. Whether the conduct of the defendant was directed specifically at the claimant, or at the person from which the claimant's claim is derived.

³ The division of this Act designating workforce issues was in amendment H-1615 to House File 692; but it was stricken by amendment H-1623 to H-1615 to House File 692

* Item veto; see message at end of the Act

b. Whether, by a preponderance of clear and convincing evidence, the conduct of the defendant from which the claim arose constituted actual malice.*

*Sec. 118. NEW SECTION. 668A.2 DEFINITIONS.

As used in this chapter, the following terms shall have the following meanings:

1. "Clear and convincing evidence" means evidence which leaves no serious or substantial doubt about the correctness of the conclusions drawn from the evidence. It is more than a preponderance of evidence, but less than beyond a reasonable doubt.

2. "Malice" means either conduct which is specifically intended by the defendant to cause tangible or intangible serious injury to the plaintiff or conduct that is carried out by the defendant both with a flagrant indifference to the rights of the plaintiff and with a subjective awareness that such conduct will result in tangible serious injury.*

*Sec. 119. NEW SECTION. 668A.3 AWARD OF PUNITIVE OR EXEMPLARY DAMAGES — PROOF — STANDARD.

Punitive or exemplary damages shall only be awarded where the plaintiff proves by clear and convincing evidence that the plaintiff's harm was the result of actual malice. This burden of proof shall not be satisfied by proof of any degree of negligence, including gross negligence.*

Sec. 120. APPLICABILITY. This division of this Act, relating to liability reform, applies to cases filed on or after July 1, 2003.

DIVISION XVI WORKERS' COMPENSATION

*Sec. 121. Section 85.34, subsection 2, paragraph u, Code 2003, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. When an employee makes a claim for benefits under this subsection, the employer is not liable for that portion of the employee's present disability caused by a prior work-related injury or illness that was sustained by the employee while the employee was employed by a different employer. When an employee's present disability includes disability caused by a prior work-related injury or illness that was sustained by the employee while in the employ of the same employer, the employer is liable for compensating all of the employee's work-related disability sustained by the employee while in the employ of the employer, except that any portion of the disability that was previously compensated by the employer shall be deducted from the employer's obligation to pay benefits for the employee's present disability. If an employee's present disability is reduced by a portion of disability sustained from prior work-related injuries or illnesses for which the employee has already been compensated by the same employer, then the employee shall receive compensation for the remaining disability caused by the present work-related injury or illness plus an additional ten percent of the amount of the increase in disability.*

Sec. 122. Section 86.12, Code 2003, is amended to read as follows:

86.12 FAILURE TO REPORT.

The workers' compensation commissioner may require any employer to supply the information required by section 86.10 or to file a report required by section 86.11 or 86.13 or by agency rule, by written demand sent to the employer's last known address. Upon failure to supply such information or file such report within ~~twenty~~ thirty days, the employer may be ordered to appear and show cause why the employer should not be subject to civil penalty assessment of one ~~hundred thousand~~ dollars for each occurrence. Upon such hearing, the workers' compensation commissioner shall enter a finding of fact and may enter an order requiring such penalty assessment to be paid into the second injury fund created by sections 85.63 to 85.69. In the event the ~~civil penalty assessed~~ assessment is not voluntarily paid within thirty days the workers' compensation commissioner may file a certified copy of such finding and order with

* Item veto; see message at end of the Act

the clerk of the court for the district in which the employer maintains a place of business. If the employer maintains no place of business in this state service shall be made as provided in chapter 85 for nonresident employers. In such case the finding and order may be filed in any court of competent jurisdiction within this state.

The workers' compensation commissioner may thereafter petition the court for entry of judgment upon such order, serving notice of such petition on the employer and any other person in default. If the court finds the order valid, the court shall enter judgment against the person or persons in default for the amount due under the order. No fees shall be required for the filing of the order or for the petition for judgment, or for the entry of judgment or for any enforcement procedure thereupon. No supersedeas shall be granted by any court to a judgment entered under this section.

When a report is required under section 86.11 ~~or 86.13 or by agency rule, and that report has been submitted to the employer's insurance carrier and no report of injury has been filed with the workers' compensation commissioner~~ possesses the information necessary to file the report, the insurance carrier shall be responsible for filing the report ~~of injury~~ in the same manner and to the same extent as an employer under this section.

Sec. 123. NEW SECTION. 86.13A COMPLIANCE MONITORING AND ENFORCEMENT.

The workers' compensation commissioner shall monitor the rate of compliance of each employer and each insurer with the requirement to commence benefit payments within the time specified in section 85.30. The commissioner shall determine the percentage of reported injuries where the statutory standard was met and the average number of days that commencement of voluntary benefits was delayed for each employer and each insurer individually, and for all employers and all insurers as separate groups.

If during any fiscal year commencing after June 30, 2005, the general business practices of an employer or insurer result in the delay of the commencement of voluntary weekly compensation payments after the date specified in section 85.30 more frequently and for a longer number of days than the average number of days for the entire group of employers or insurers, the commissioner may impose an assessment on the employer or insurer payable to the second injury fund created in section 85.66. The amount of the assessment shall be ten dollars, multiplied by the average number of days that weekly compensation payments were delayed after the date specified in section 85.30, and multiplied by the number of injuries the employer or insurer reported during the fiscal year. Notwithstanding the foregoing, an assessment shall not be imposed if the employer or insurer commenced voluntary weekly compensation benefits within the time specified in section 85.30 for more than seventy-five percent of the injuries reported by the employer or insurer.

The commissioner may waive or reduce an assessment under this section if an employer or insurer demonstrates to the commissioner that atypical events during the fiscal year, including but not limited to a small number of cases, made the statistical data for that employer or insurer unrepresentative of the actual payout practices of the employer or insurer for that year.

Sec. 124. APPLICABILITY. This division of this Act, relating to workers' compensation, applies to an injury occurring on or after July 1, 2003.

DIVISION XVII
FINANCIAL SERVICES

Sec. 125. Section 537.2502, subsections 3 and 6, Code 2003, are amended to read as follows:

3. A delinquency charge shall not be collected under subsection 1, paragraph "a", on an installment ~~which that~~ is paid in full within ten days after its scheduled or deferred installment due date even though an earlier maturing installment or a delinquency or deferral charge on an earlier installment may not have been paid in full. For purposes of this subsection,

payments associated with a precomputed transaction are applied first to current installments and then to delinquent installments.

6. A delinquency charge shall not be collected under subsection 4 on a payment which associated with a precomputed transaction that is paid in full on or before its scheduled or deferred due date even though an earlier maturing payment or a delinquency or deferred charge on an earlier payment has not been paid in full. For purposes of this subsection, payments are applied first to amounts due for the current billing cycle and then to delinquent payments.

Sec. 126. Section 537.2601, subsection 1, Code 2003, is amended to read as follows:

1. ~~Except as provided in subsection 2, with~~ With respect to a credit transaction other than a consumer credit transaction, the parties may contract for the payment by the debtor of any finance or other charge as permitted by law. ~~Except with respect to debt obligations issued by a government, governmental agency or instrumentality, in calculating any finance charge contracted for, any month may be counted as one-twelfth of a year, but a day is to be counted as one three-hundred sixty-fifth of a year.~~

DIVISION XVIII UNEMPLOYMENT COMPENSATION SURCHARGE

Sec. 127. Section 96.7, subsection 12, paragraph a, Code 2003, is amended to read as follows:

a. An employer other than a governmental entity or a nonprofit organization, subject to this chapter, shall pay an administrative contribution surcharge equal in amount to one-tenth of one percent of federal taxable wages, as defined in section 96.19, subsection 37, paragraph "b", subject to the surcharge formula to be developed by the department under this paragraph. The department shall develop a surcharge formula that provides a target revenue level of no greater than six million five hundred twenty-five thousand dollars annually for calendar years 2003, 2004, and 2005 and a target revenue level of no greater than three million two hundred sixty-two thousand five hundred dollars for calendar year 2006 and each subsequent calendar year. The department shall reduce the administrative contribution surcharge established for any calendar year proportionate to any federal government funding that provides an increased allocation of moneys for workforce development offices, under the federal employment services financing reform legislation. Any administrative contribution surcharge revenue that is collected in calendar year ~~2002 2003, 2004, or 2005~~ in excess of six million five hundred twenty-five thousand dollars or in calendar year 2006 or a subsequent calendar year in excess of three million two hundred sixty-two thousand five hundred dollars shall be deducted from the amount to be collected in the subsequent calendar year 2003 before the department establishes the administrative contribution surcharge. The department shall recompute the amount as a percentage of taxable wages, as defined in section 96.19, subsection 37, and shall add the percentage surcharge to the employer's contribution rate determined under this section. The percentage surcharge shall be capped at a maximum of seven dollars per employee. The department shall adopt rules prescribing the manner in which the surcharge will be collected. Interest shall accrue on all unpaid surcharges under this subsection at the same rate as on regular contributions and shall be collectible in the same manner. Interest accrued and collected under this paragraph and interest earned and credited to the fund under paragraph "b" shall be used by the department only for the purposes set forth in paragraph "c".

Sec. 128. Section 96.7, subsection 12, paragraph d, Code 2003, is amended to read as follows:

d. This subsection is repealed July 1, ~~2003 2006~~, and the repeal is applicable to contribution rates for calendar year ~~2004 2007~~ and subsequent calendar years.

Sec. 129. EFFECTIVE DATE. This division of this Act, concerning the unemployment compensation surcharge, being deemed of immediate importance, takes effect upon enactment.

DIVISION XIX
ECONOMIC DEVELOPMENTSec. 130. NEW SECTION. 15E.18 CITIES, COUNTIES, AND REGIONS — SITE PREPARATION FOR TARGETED ECONOMIC DEVELOPMENT.

1. For purposes of this section, “region” means a group of two or more contiguous counties that establishes a single, focused economic development effort.

2. A city, county, or region, subject to the approval of the property owner, may designate an area within the boundaries of the city, county, or region for a specific type of targeted economic development. The specific type of targeted economic development shall be one of the following:

- a. Manufacturing.
- b. Light industrial.
- c. Warehouse and distribution.
- d. Office parks.
- e. Business and commerce parks.
- f. Research and development.

3. A city, county, or region that designates an area for a specific type of targeted economic development may apply to the department for purposes of certifying the area as a preapproved development site. The department shall develop criteria for the certification process.

4. Prior to a specific project being developed, a city, county, or region designating the area for targeted economic development pursuant to this section may apply for and obtain appropriate licenses, permits, and approvals for the type of targeted economic development project desired for the area.

Sec. 131. NEW SECTION. 15E.19 REGULATORY ASSISTANCE.

1. The department of economic development shall coordinate all regulatory assistance for the state of Iowa. Each state agency with regulatory programs for business shall maintain a coordinator within the office of the director or the administrative division of the state agency. Each coordinator shall do all of the following:

- a. Serve as the department of economic development’s primary contact for regulatory affairs.
- b. Provide regulatory requirements to businesses and represent the agency in the private sector.
- c. Monitor permit applications and provide timely permit status information to the department of economic development.
- d. Have the ability to require regulatory staff participation in negotiations and discussions with businesses.
- e. Notify the department of economic development regarding proposed rulemaking activities that impact a regulatory program and any subsequent changes to a regulatory program.

2. The department of economic development shall, in consultation with the coordinators described in this section, examine, and to the extent permissible, assist in the implementation of methods, including the possible establishment of an electronic database, to streamline the process for issuing permits to business.

3. By January 15 of each year, the department of economic development shall submit a written report to the general assembly regarding the provision of regulatory assistance by state agencies, including the department’s efforts, and its recommendations and proposed solutions, to streamline the process of issuing permits to business.

DIVISION XX
UTILITY SALES TAX EXEMPTION

*Sec. 132. *Section 422.45, subsection 61, paragraph b, subparagraphs (2), (3), (4), and (5), Code 2003, are amended to read as follows:*

(2) *If the date of the utility billing or meter reading cycle of the residential customer for the*

* Item veto; see message at end of the Act

sale, furnishing, or service of metered gas and electricity is on or after January 1, 2003, through ~~December 31, 2003~~ June 30, 2008, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occurs on or after January 1, 2003, through ~~December 31, 2003~~ June 30, 2008, the rate of tax is three percent of the gross receipts.

(3) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after ~~January 1, 2004~~ July 1, 2008, through ~~December 31, 2004~~ June 30, 2009, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occurs on or after ~~January 1, 2004~~ July 1, 2008, through ~~December 31, 2004~~ June 30, 2009, the rate of tax is two percent of the gross receipts.

(4) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after ~~January 1, 2005~~ July 1, 2009, through ~~December 31, 2005~~ June 30, 2010, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occurs on or after ~~January 1, 2005~~ July 1, 2009, through ~~December 31, 2005~~ June 30, 2010, the rate of tax is one percent of the gross receipts.

(5) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after ~~January 1, 2006~~ July 1, 2010, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occurs on or after ~~January 1, 2006~~ July 1, 2010, the rate of tax is zero percent of the gross receipts.*

DIVISION XXI EFFECTIVE DATE

Sec. 133. EFFECTIVE DATE. Unless otherwise provided in this Act, this Act takes effect July 1, 2003.

Approved June 19, 2003, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit House File 692, an Act concerning regulatory, taxation, and statutory requirements affecting individuals and business relating to taxation of property, income and utilities, liability reform, workers' compensation, financial services, unemployment compensation, employer surcharges, economic development, and including effective date, applicability, and retroactive applicability provisions.

House File 692 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the items designated as Divisions II, III, and IV that consist of Sections 44 through 72, in their entirety. These sections would provide for a reduction in personal income taxes. I have repeatedly called on legislative leaders to reform and simplify the Iowa personal income tax code in a manner that would be revenue neutral. I laid out very clear parameters. I specifically told the Legislature I would not sign any personal income tax reduction that jeopardizes our ability to educate our children, provide health care to our senior citizens and families, protect our natural resources, and maintain the public safety.

Instead of reforming our tax system, which is still needed, the Legislature's plan would ultimately cost an estimated \$310 million with no reliable and fair source of state revenue to replace the lost dollars at a time when all sectors of our state, like other states, are adversely af-

* Item veto; see message at end of the Act

fectured by the national economic downturn. This would jeopardize the delivery of state services and would severely hinder budget planning in the future. It does not even provide any meaningful tax relief to lower-income Iowans who would receive refunds of between only 3 cents and 50 cents per week under this plan. The cuts in personal income taxes are really nothing more than cuts in services to all Iowans.

I am unable to approve the item designated as Section 99 in its entirety. This section directs the creation of two technology transfer advisors in the office of the governor. The governor's office performs many functions in a variety of different areas. The present staff is assigned to duties and receives administrative support in a manner that assures the efficient functioning of this office. Section 99 would disrupt the administration of this office and affect the delivery of services to the state. Furthermore, I believe the office of the governor should be able to control the administration of its funds and decide how best to staff its office. Section 99 would diminish this control by imposing on the governor's staffing and administrative decisions.

I am unable to approve the item designated as Section 108, which requires the Department of Economic Development to collect data about companies that considered locating in Iowa but decided to locate elsewhere, in its entirety. Requiring collection of such data would impose an additional burden on the Department of Economic Development and its resources and adversely impact the department's efficient delivery of services to the public.

I am unable to approve the items designated as Sections 116-120 in their entirety. The Sections will make it much harder to hold those who hurt others with unsafe products, on particularly egregious conduct, accountable for the harm they cause. I am not persuaded by the argument that Iowa has a poor business climate. Those who advance such an argument discount the work of highly productive Iowa workers and the study prepared by the U.S. Chamber of Commerce ranking Iowa the third best liability climate.

I am unable to approve the item designated as Section 121 in its entirety. While I appreciate the need for continued improvement to our workers' compensation system to maintain a just and balanced approach, Section 121 overreaches. A worker injured multiple times could be significantly under compensated for his or her injuries under Section 121. Section 121 in its current form destroys the just and balanced approach, which should be our goal.

I am unable to approve the item designated as Division XX that consists of Section 132, in its entirety. Section 132 postpones the phase out of the sales tax on residential utilities passed by the Iowa Legislature in 2001. The utility sales tax cut, as promised in current law, reflected recognition by the Legislature that escalating energy costs hit all consumers hard. Postponing the phase out of the utility tax will unnecessarily increase the utility bills of low- and middle-income Iowans, at a time when heating prices are expected to rise dramatically next winter.

I invite the Legislature to work in a bipartisan way to reform our income tax system and work for common sense improvements to our civil justice system and workers' compensation system.

For the above reasons, I respectfully disapprove these items in accordance with Article 3, Section 16 of the Constitution of the State of Iowa. All other items in House File 692 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 2

MISCELLANEOUS APPROPRIATIONS AND REVISIONS,
 SALES AND USE TAX REVISIONS,
 CRIMINAL CODE REVISIONS, AND OTHER CHANGES

H.F. 683

AN ACT relating to economic development, financial, taxation, and regulatory matters, making and revising appropriations, modifying penalties, providing a fee, and including effective, applicability, and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
 STATE EMPLOYEE SALARIES

Section 1. 2003 Iowa Acts, Senate File 458,¹ section 48, unnumbered paragraphs 1 and 2, if enacted, are amended to read as follows:

There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, and to the state board of regents for those persons employed at the state school for the deaf and the Iowa braille and sight saving school, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the amount of ~~\$28,000,000~~ \$30,000,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

Of the amount appropriated in this section, ~~\$2,668,000~~ \$2,818,000 shall be allocated to the judicial branch for the purpose of funding annual pay adjustments, expense reimbursements, and related benefits implemented for judicial branch employees. In distributing the remainder of the amount appropriated in this section, the department of management, in order to address essential public protection functions and recognizing the availability of funds appropriated in other Acts of the general assembly and other sources, shall give priority, in descending order, to the department of corrections, department of human services, and department of public safety, and then to the remaining state departments, boards, commissions, councils, and agencies to which the appropriation is applicable.

Sec. 2. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. Of the amount allocated for the judicial branch in 2003 Iowa Acts, Senate File 458,² section 48, if enacted, \$150,000 is allocated to fund the changes in this section to the salaries of justices, judges, and magistrates.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated during the fiscal year beginning July 1, 2003, effective with the pay period beginning December 5, 2003, and for subsequent pay periods:

a. Chief justice of the supreme court:	\$	127,040
b. Each justice of the supreme court:	\$	122,500
c. Chief judge of the court of appeals:	\$	122,380
d. Each associate judge of the court of appeals:	\$	117,850
e. Each chief judge of a judicial district:	\$	116,760
f. Each district judge except the chief judge of a judicial district:	\$	112,010

¹ 2003 Iowa Acts, Regular Session, chapter 179 herein

² 2003 Iowa Acts, Regular Session, chapter 179 herein

g. Each district associate judge:	\$	97,610
.....		
h. Each associate juvenile judge:	\$	97,610
.....		
i. Each associate probate judge:	\$	97,610
.....		
j. Each judicial magistrate:	\$	29,100
.....		
k. Each senior judge:	\$	6,500
.....		

3. Persons receiving the salary rates established under subsection 2 shall not receive any additional salary adjustments provided by 2003 Iowa Acts, Senate File 458,³ division V.

DIVISION II
 APPROPRIATIONS AND APPROPRIATIONS REVISIONS
 INSURANCE DIVISION

Sec. 3. INSURANCE STUDY. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the insurance division to implement the school health insurance reform team study in accordance with 2003 Iowa Acts, Senate File 386:⁴

.....	\$	15,000
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DEPARTMENT OF MANAGEMENT

Sec. 4. LOCAL GOVERNMENT INNOVATION FUND APPROPRIATION. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the local government innovation fund created in section 8.64:

.....	\$	1,000,000
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Notwithstanding section 8.64, subsection 4, if enacted by 2003 Iowa Acts, Senate File 453,⁵ section 27, the local government innovation fund committee may provide up to 20 percent of the amount appropriated in this section in the form of forgivable loans or as grants for those projects that propose a new and innovative sharing initiative that would serve as an important model for cities and counties.

DEPARTMENT OF HUMAN SERVICES

Sec. 5. COUNTY HOSPITALS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purpose designated:

For support of mental health care services provided to persons who are elderly or poor by county hospitals in counties having a population of two hundred twenty-five thousand or more:

.....	\$	312,000
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Sec. 6. 2003 Iowa Acts, House File 667,⁶ section 13, subsection 2, is amended to read as follows:

2. The department may either continue or reprocure the contract existing on June 30, 2003, with the department's fiscal agent. If the department initiates reprocurement of the contract, of the amount appropriated in this Act for the medical assistance program, up to \$500,000 may be used to begin the implementation process.

³ 2003 Iowa Acts, Regular Session, chapter 179 herein
⁴ 2003 Iowa Acts, Regular Session, chapter 83 herein
⁵ 2003 Iowa Acts, Regular Session, chapter 178 herein
⁶ 2003 Iowa Acts, Regular Session, chapter 175 herein

DEPARTMENT OF CORRECTIONS

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

- 1. For expansion of the Luster Heights facility into a community-based corrections facility and an institutional work and substance abuse treatment center:

.....	\$	92,000
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- 2. For conversion of the Clarinda lodge into minimum security bed space:

.....	\$	730,400
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Sec. 8. 2003 Iowa Acts, Senate File 439,⁷ section 4, subsection 1, paragraphs b and g, as enacted, are amended to read as follows:

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	24,531,917
		<u>25,196,085</u>
..... FTEs		375.75
		<u>385.25</u>

Moneys are provided within this appropriation for one full-time substance abuse counselor for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility. Of the funds appropriated in this paragraph "b", \$664,168 is allocated for implementation costs associated with expansion of the Luster Heights facility.

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	18,595,788
		<u>19,389,220</u>
..... FTEs		291.76
		<u>304.58</u>

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.

Of the funds appropriated in this paragraph "g", \$793,432 is allocated for implementation costs associated with expansion of the conversion of the Clarinda lodge, with \$277,500 of the allocation for one-time costs and \$515,932 for ongoing costs.

PUBLIC TRANSIT

Sec. 9. 2003 Iowa Acts, Senate File 458,⁸ section 8, if enacted, is amended to read as follows:

SEC. 8. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. Notwithstanding section 312.2, subsection 14, the amount appropriated from the general fund of the state under section 312.2, subsection 14, to the state department of transportation for public transit assistance under chapter 324A for the fiscal year beginning July 1, 2003, and ending June 30, 2004, is reduced by the following amount:

.....	\$	1,298,675
		<u>2,582,800</u>

OFFICE OF THE GOVERNOR

Sec. 10. 2003 Iowa Acts, House File 655,⁹ section 5, subsection 1, if enacted, is amended to read as follows:

1. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the

⁷ 2003 Iowa Acts, Regular Session, chapter 174 herein
⁸ 2003 Iowa Acts, Regular Session, chapter 179 herein
⁹ 2003 Iowa Acts, Regular Session, chapter 181 herein

governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

.....	\$	1,243,643
		<u>1,493,643</u>
.....	FTEs	17.25
		<u>19.25</u>

Of the amount appropriated in this section, \$250,000 is allocated for two full-time equivalent positions in the office of the governor that were previously funded by other state departments and agencies.

DEPARTMENT OF REVENUE

Sec. 11. 2003 Iowa Acts, House File 655,¹⁰ section 31, if enacted, is amended to read as follows:

SEC. 31. DEPARTMENT OF REVENUE. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsection 1:

.....	FTEs	378.87
		<u>380.87</u>

Of the full-time equivalent positions authorized in this section, two full-time equivalent positions are allocated for new positions to assist in preparation of information for the revenue estimating conference and in improving the turnaround time for processing corporate tax filings.

1. COMPLIANCE — INTERNAL RESOURCES MANAGEMENT — STATE FINANCIAL MANAGEMENT — STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	23,259,111
		<u>23,359,111</u>

Of the funds appropriated pursuant to this subsection, \$400,000 shall be used to pay the direct costs of compliance related to the collection and distribution of local sales and services taxes imposed pursuant to chapters 422B and 422E.

The director of revenue shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

2. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

.....	\$	28,166
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DEPARTMENT OF PUBLIC HEALTH

Sec. 12. 2003 Iowa Acts, House File 667,¹¹ section 2, subsection 8, as enacted, is amended to read as follows:

8. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

.....	\$	977,340
		<u>1,074,888</u>
.....	FTEs	36.90

DIVISION III
MISCELLANEOUS PROVISIONS

Sec. 13. GOVERNMENT OVERSIGHT COMMITTEE — REVIEW OF CONTINUING CARE RETIREMENT COMMUNITIES — ASSISTED LIVING PROGRAM APPLICABILITY.

¹⁰ 2003 Iowa Acts, Regular Session, chapter 181 herein

¹¹ 2003 Iowa Acts, Regular Session, chapter 175 herein

The government oversight committees shall review the application of chapter 231C, relating to assisted living programs, to continuing care retirement communities, as defined in section 523D.1. The committees shall submit recommendations for any legislation deemed necessary for consideration during the 2004 regular legislative session.

Sec. 14. Section 7J.1, subsection 1, as enacted by 2003 Iowa Acts, Senate File 453,¹² section 32, and amended by 2003 Iowa Acts, Senate File 458,¹³ section 85, is amended to read as follows:

1. DESIGNATION OF CHARTER AGENCIES — PURPOSE. The governor may, by executive order, designate state departments or agencies, as described in section 7E.5, or the Iowa lottery authority established in chapter 99G, other than the department of administrative services, if the department is established in law, or the department of management, as a charter agency by July 1, 2003. The designation of a charter agency shall be for a period of five years which shall terminate as of June 30, 2008. The purpose of designating a charter agency is to grant the agency additional authority as provided by this chapter while reducing the total appropriations to the agency.

Sec. 15. Section 15E.193B, subsection 4, Code 2003, as amended by 2003 Iowa Acts, Senate File 458,¹⁴ section 100, if enacted, is amended to read as follows:

4. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business becoming ineligible and subject to the repayment requirements and penalties enumerated in subsection 7. The department may extend the prescribed two-year completion period for any current or future project which has not been completed if the department determines that completion within the two-year period is impossible or impractical as a result of a substantial loss caused by flood, fire, earthquake, storm, or other catastrophe. For purposes of this subsection, "substantial loss" means damage or destruction in an amount in excess of thirty percent of the project's expected eligible basis as set forth in the eligible housing business's application.

Sec. 16. Section 215.14, Code 2003, is amended to read as follows:

215.14 APPROVAL BY DEPARTMENT.

A commercial weighing and measuring device shall not be installed in this state unless approved by the department. ~~All livestock scales and~~

1. A pit type scales scale or any other scale installed in a pit, regardless of capacity, that is installed on or after July 1, 1990, shall have a clearance of not less than four feet from the finished floor line of the scale to the bottom of the "I" beam of the scale bridge. Livestock shall not be weighed on any scale other than a livestock scale or pit type scale.

2. An electronic pitless scale shall be placed on concrete footings with concrete floor. The concrete floor shall allow for adequate drainage away from the scale as required by the department. There shall be a clearance of not less than eight inches between the weigh bridge and the concrete floor to facilitate inspection and cleaning.

3. After approval by the department, the specifications for a commercial weighing and measuring device shall be furnished to the purchaser of the device by the manufacturer. The approval shall be based upon the recommendation of the United States national institute of standards and technology.

Sec. 17. Section 231C.17, subsection 4, if enacted by 2003 Iowa Acts, House File 675,¹⁵ section 24, is amended by striking the subsection and inserting in lieu thereof the following:

4. A continuing care retirement community, as defined in section 523D.1, may provide limited personal care services and emergency response services to its independent living tenants if all of the following conditions are met:

a. The provision of such personal care services or emergency response services does not

¹² 2003 Iowa Acts, Regular Session, chapter 178 herein

¹³ 2003 Iowa Acts, Regular Session, chapter 179 herein

¹⁴ 2003 Iowa Acts, Regular Session, chapter 179 herein

¹⁵ 2003 Iowa Acts, Regular Session, chapter 166 herein

result in inadequate staff coverage to meet the service needs of all tenants of the continuing care retirement community.

b. The staff providing the personal care or emergency response services is trained or qualified to the extent necessary to provide such services.

c. The continuing care retirement community documents the date, time, and nature of the personal care or emergency response services provided.

d. Emergency response services are only provided in situations which constitute an urgent need for immediate action or assistance due to unforeseen circumstances.

This subsection shall not be construed to prohibit an independent living tenant of a continuing care retirement community from contracting with a third party for personal care or emergency response services.

Sec. 18. NEW SECTION. 237A.25 CONSUMER INFORMATION.

1. The department shall develop consumer information material to assist parents in selecting a child care provider. In developing the material, the department shall consult with department of human services staff, department of education staff, the state child care advisory council, the Iowa empowerment board, and child care resource and referral services. In addition, the department may consult with other entities at the local, state, and national level.

2. The consumer information material developed by the department for parents and other consumers of child care services shall include but is not limited to all of the following:

a. A pamphlet or other printed material containing consumer-oriented information on locating a quality child care provider.

b. Information explaining important considerations a consumer should take into account in selecting a licensed or registered child care provider.

c. Information explaining how a consumer can identify quality services, including what questions to ask of providers and what a consumer might expect or demand to know before selecting a provider.

d. An explanation of the applicable laws and regulations written in layperson's terms.

e. An explanation of what it means for a provider to be licensed, registered, or unregistered.

f. An explanation of the information considered in registry and record background checks.

g. Other information deemed relevant to consumers.

3. The department shall implement and publicize an internet page or site that provides all of the following:

a. The written information developed pursuant to subsections 1 and 2.

b. Regular informational updates, including when a child care provider was last subject to a state quality review or inspection and, based upon a final score or review, the results indicating whether the provider passed or failed the review or inspection.

c. Capability for a consumer to be able to access information concerning child care providers, such as informational updates, identification of provider location, name, and capacity, and identification of providers participating in the state child care assistance program and those participating in the child care food program, by sorting the information or employing other means that provide the information in a manner that is useful to the consumer. Information regarding provider location shall identify providers located in the vicinity of an address selected by a consumer and provide contact information without listing the specific addresses of the providers.

d. Other information deemed appropriate by the department.

Sec. 19. Section 384.84, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 9. Notwithstanding subsection 3, a lien shall not be filed against the land if the premises are located on leased land. If the premises are located on leased land, a lien may be filed against the premises only.

Sec. 20. Section 422E.3A, subsection 2, paragraph a, if enacted by 2003 Iowa Acts, Senate File 445,¹⁶ section 8, is amended to read as follows:

a. A school district that is located in whole or in part in a county that voted on and approved

¹⁶ 2003 Iowa Acts, Regular Session, chapter 157 herein

prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student above the guaranteed school infrastructure amount shall receive for the remainder of the term of the tax an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, unless the school board passes a resolution by October 1, 2003, agreeing to receive a distribution pursuant to paragraph “b”, subparagraph (1).

Sec. 21. Section 422E.3A, subsection 2, paragraph b, subparagraph (1), if enacted by 2003 Iowa Acts, Senate File 445,¹⁷ section 8, is amended to read as follows:

(1) A school district that is located in whole or in part in a county that voted on and approved prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student below its guaranteed school infrastructure amount shall receive for the remainder of the term of the tax an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 422E.3, subsection 5, paragraph “d”, plus an amount equal to its supplemental school infrastructure amount, unless the school district passes a resolution by October 1, 2003, agreeing to receive only an amount equal to its pro rata share as provided in section 422E.3, subsection 5, paragraph “d”, in all subsequent years.

Sec. 22. Section 422E.3A, subsection 3, paragraph a, as enacted by 2003 Iowa Acts, Senate File 445,¹⁸ is amended to read as follows:

a. The director of revenue and finance by June 1 preceding each fiscal year shall compute the guaranteed school infrastructure amount for each school district, each school district’s sales tax capacity per student for each county, ~~the statewide tax revenues per student,~~ and the supplemental school infrastructure amount for the coming fiscal year.

Sec. 23. Section 422E.3A, subsection 3, paragraph b, subparagraph (3), as enacted by 2003 Iowa Acts, Senate File 445,¹⁹ is amended by striking the subparagraph and inserting in lieu thereof the following:

(3) “Statewide tax revenues per student” means five hundred seventy-five dollars per student. The general assembly shall review this amount annually to determine its appropriateness.

Sec. 24. Section 422E.3A, subsection 5, as enacted by 2003 Iowa Acts, Senate File 445,²⁰ is amended to read as follows:

5. In the case of a deficiency in the fund to pay the supplemental school infrastructure amounts in full, the amount available in the fund less the sales and services tax revenues for school infrastructure purposes attributed to each school district should be allocated ~~based on the proportion of actual enrollment in the district to the combined actual enrollment in the counties where the sales and services tax for school infrastructure purposes has been imposed and the school districts in the counties qualify for the supplemental school infrastructure amount~~ first to increase the school district with the lowest sales tax capacity per student to an amount equal to the school district or school districts with the next lowest sales tax capacity per student and then increase the school districts to an amount equal to the school district or school districts with the next lowest sales tax capacity per student and continue on in this manner until money is no longer available or all school districts reach their guaranteed school infrastructure amount.

Sec. 25. Section 422E.3A, subsection 6, unnumbered paragraph 1, as enacted by 2003 Iowa Acts, Senate File 445,²¹ is amended to read as follows:

A school district ~~with less than two hundred fifty actual enrollment or less than one hundred actual enrollment in the high school~~ shall not expend the supplemental school infrastructure

¹⁷ 2003 Iowa Acts, Regular Session, chapter 157 herein

¹⁸ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

¹⁹ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

²⁰ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

²¹ See 2003 Iowa Acts, Regular Session, chapter 157, §8 herein

amount received for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount without prior application to the department of education and receipt of a certificate of need pursuant to this subsection. However, a certificate of need is not required for the payment of outstanding bonds issued for new construction pursuant to section 296.1, before April 1, 2003. A certificate of need is also not required for repairing schoolhouses or buildings, equipment, technology, or transportation equipment for transporting students as provided in section 298.3, or for construction necessary for compliance with the federal Americans With Disabilities Act pursuant to 42 U.S.C. § 12101-12117. In determining whether a certificate of need shall be issued or denied, the department shall consider all of the following:

Sec. 26. Section 435.26A, subsection 5, as enacted by 2003 Iowa Acts, Senate File 134,²² section 7, and as amended by 2003 Iowa Acts, Senate File 458,²³ section 128, if enacted, is amended to read as follows:

5. An owner of a manufactured home who has surrendered a certificate of title under this section and requires another certificate of title for the manufactured home is required to apply for a certificate of title under ~~section 321.42~~ chapter 321. If supporting documents for the reissuance of a title are not available or sufficient, the procedure for the reissuance of a title specified in the rules of the department of transportation shall be used.

Sec. 27. Section 459.315, Code 2003, as amended by 2003 Iowa Acts, House File 644,²⁴ if enacted, is amended by adding the following new subsection:

NEWSUBSECTION. 4A. This section shall not require a person to be certified as a confinement site manure applicator if the person applies manure which originates from a manure storage structure which is part of a small animal feeding operation.

Sec. 28. Section 508.31A, subsection 2, paragraph a, subparagraph (4), as enacted by 2003 Iowa Acts, House File 647,²⁵ section 7, is amended to read as follows:

(4) A person other than a natural person for the purpose of providing collateral security for securities ~~issued by such person and~~ registered with the federal securities and exchange commission.

Sec. 29. 2003 Iowa Acts, Senate File 401,²⁶ section 5, subsection 1, is amended to read as follows:

1. Notwithstanding any provision of law to the contrary, the section of this Act creating section 453A.2, subsection 5A, is applicable to violations pending on the effective date of this Act for which a penalty has not been assessed under section 453A.22, subsection 2. Notwithstanding this subsection, however, if a county health department, a city health department, or a city assesses a penalty under section 453A.22, subsection 2, on or after April 11, 2003 but prior to June 30, 2003, for a violation of section 453A.2, subsection 1, which was pending on April 11, 2003, the county health department, city health department or city assessing the penalty shall be deemed to have jurisdiction to assess the penalty and the penalty assessed is deemed valid.

Sec. 30. 2003 Iowa Acts, Senate File 458,²⁷ section 21, unnumbered paragraph 3, if enacted, is amended to read as follows:

Of the funds appropriated in this section, up to \$10,000 is transferred to the ~~Iowa~~ department of ~~public health~~ human services for allocation to community mental health centers to provide counseling services to persons who are members of the national guard and reservists activated but as yet not sent to combat zones and to the persons' family members. The sessions shall be provided on a first come, first served basis and shall be limited to three visits per family.

²² 2003 Iowa Acts, Regular Session, chapter 24 herein

²³ 2003 Iowa Acts, Regular Session, chapter 179 herein

²⁴ 2003 Iowa Acts, Regular Session, chapter 163 herein

²⁵ 2003 Iowa Acts, Regular Session, chapter 91 herein

²⁶ 2003 Iowa Acts, Regular Session, chapter 26 herein

²⁷ 2003 Iowa Acts, Regular Session, chapter 179 herein

Sec. 31. 2003 Iowa Acts, Senate File 458,²⁸ section 149, if enacted, is amended to read as follows:

SEC. 149. SUPPLEMENTAL PAYMENT ADJUSTMENTS FOR PHYSICIAN SERVICES. To the extent that, pursuant to law enacted by the Eightieth General Assembly, 2003 Session, supplemental payment adjustments are implemented for physician services provided to medical assistance program participants at publicly owned acute care hospitals, the department of human services shall not, directly or indirectly, recoup the supplemental payment adjustments for any reason, unless an amount equivalent to the amount of adjustment funds that were is first transferred to the department by the state university of Iowa college of medicine is transferred by the department to the qualifying physicians. Any such amount transferred and identified as a supplemental payment under this section shall then be refunded to the department of human services, per the agreement executed for this purpose between the department and the university of Iowa.

Sec. 32. 2003 Iowa Acts, House File 667,²⁹ section 27, subsection 1, unnumbered paragraph 2, is amended to read as follows:

For costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	2,675,179
.....	FTEs	46.00
		<u>57.00</u>

Sec. 33. EFFECTIVE DATE — RETROACTIVE APPLICABILITY.

1. The section of this division of this Act amending section 231C.17, being deemed of immediate importance, takes effect upon enactment.
2. The section of this division of this Act amending 2003 Iowa Acts, Senate File 401,³⁰ being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to April 11, 2003.

DIVISION IV
CORRECTIVE PROVISIONS

Sec. 34. Section 8A.505, as enacted by 2003 Iowa Acts, House File 534,³¹ section 87, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. There is appropriated annually from the increase in indirect cost reimbursements over the amount of indirect cost reimbursements received during the fiscal year beginning July 1, 2002, to the office of grants enterprise management of the department of management the sum of up to one hundred twenty-five thousand dollars. The director shall transfer the funds appropriated to the department of management as provided in this paragraph and shall make the funds resulting from the increase in reimbursements available during the fiscal year to the department of management on a monthly basis. If the amount of the increase in indirect cost reimbursements is insufficient to pay the maximum appropriation provided for in this paragraph, the amount appropriated is equal to the amount of such increase.

Sec. 35. Section 12C.4, Code 2003, as amended by 2003 Iowa Acts, House File 289,³² section 2, is amended to read as follows:

12C.4 LOCATION OF DEPOSITORYES.

Deposits by the treasurer of state shall be in depositories located in this state; by a county

²⁸ 2003 Iowa Acts, Regular Session, chapter 179 herein
²⁹ 2003 Iowa Acts, Regular Session, chapter 175 herein
³⁰ 2003 Iowa Acts, Regular Session, chapter 26 herein
³¹ 2003 Iowa Acts, Regular Session, chapter 145 herein
³² 2003 Iowa Acts, Regular Session, chapter 18 herein

officer or county public hospital officer or merged area hospital officer, in depositories located in the county or in an adjoining county within this state; by a memorial hospital treasurer, in a depository located within this state which shall be selected by the memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in depositories located in the county in which the city is located or in an adjoining county, but if there is no depository in the county in which the city is located or in an adjoining county then in any other depository located in this state which shall be selected as a depository by the city council; by a school treasurer or by a school secretary in a depository within this state which shall be selected by the board of directors or the trustees of the school district; by a township clerk in a depository located within this state which shall be selected by the township clerk and approved by the trustees of the township. However, deposits may be made in depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when the deposit is made not more than ten days before the date the principal or interest becomes due. Further, the treasurer of state may maintain an account or accounts outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts. Deposits made for the purpose of completing an electronic financial transaction pursuant to section 14B.203 8A.222 or 331.427 may be made in any depository located in this state.

Sec. 36. Section 29A.28, subsection 3, as enacted by 2003 Iowa Acts, House File 674,³³ section 3, is amended to read as follows:

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry ~~onto~~ into state active duty, active state service, or federal service or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, active state service, or federal service. Under this subsection, "position" includes the geographical location of the position.

Sec. 37. Section 70A.39, subsection 1, paragraph b, as enacted by 2003 Iowa Acts, House File 381,³⁴ section 1, is amended to read as follows:

b. ~~"Vascularized~~ "Vascular organ" means a heart, lung, liver, pancreas, kidney, intestine, or other organ that requires the continuous circulation of blood to remain useful for purposes of transplantation.

Sec. 38. Section 99B.7, subsection 1, paragraph 1, subparagraph (1), Code 2003, as amended by 2003 Iowa Acts, Senate File 453,³⁵ section 104, if enacted, is amended to read as follows:

(1) No other gambling is engaged in at the same location, except that lottery tickets or shares issued by the Iowa lottery division of the department of revenue and finance authority may be sold pursuant to chapter 99G.

Sec. 39. Section 507A.4, subsection 9, paragraph e, as enacted by 2003 Iowa Acts, House File 647,³⁶ section 4, is amended to read as follows:

e. When not otherwise provided, a foreign or domestic multiple ~~employee employer~~ employee employer welfare arrangement doing business in this state shall pay to the commissioner of insurance the fees as required in section 511.24.

Sec. 40. Section 556.11, subsection 5, Code 2003, as amended by 2003 Iowa Acts, Senate File 180,³⁷ section 2, is amended to read as follows:

5. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the

³³ 2003 Iowa Acts, Regular Session, chapter 142 herein

³⁴ 2003 Iowa Acts, Regular Session, chapter 32 herein

³⁵ 2003 Iowa Acts, Regular Session, chapter 178 herein

³⁶ 2003 Iowa Acts, Regular Session, chapter 91 herein

³⁷ 2003 Iowa Acts, Regular Session, chapter 64 herein

holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. A holder is not required to make a due diligence mailing to owners whose property has an aggregate value of less than fifty dollars. The treasurer of state may charge a holder that fails to timely exercise due diligence, as required in this subsection, five dollars for each name and address account reported if thirty-five percent of or more of the accounts are claimed within the twenty-four months immediately following the filing of the holder report.

Sec. 41. 2003 Iowa Acts, Senate File 438,³⁸ section 3, is repealed.

Sec. 42. 2003 Iowa Acts, Senate File 453,³⁹ section 11, if enacted, is amended to read as follows:

SEC. 11. Sections 403.23, 405A.1, 405A.2, 405A.3, 405A.4, 405A.5, 405A.6, 405A.7, 405A.8, 405A.9, 405A.10, 422.65, 427A.12, and 427B.19B, Code 2003, are repealed.

Sec. 43. 2003 Iowa Acts, Senate File 458,⁴⁰ section 159, if enacted, is amended to read as follows:

SEC. 159. EFFECTIVE DATES. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The amendments to sections 8.23, 8.31, and 8.57 which are first applicable to appropriations made for the fiscal year beginning July 1, 2003.
2. The amendment to section 12E.12.
3. The amendments to sections 15E.42, 15E.43, 15E.45, and 15E.51, which apply retroactively to January 1, 2002, for tax years beginning on or after that date.
4. The amendment to section 15E.193B.
5. The amendment to section 435.26A.
6. The amendment to section 453A.2, which shall only take effect if 2003 Iowa Acts, Senate File 401,⁴¹ is enacted by the Eightieth General Assembly, 2003 Regular Session.
7. The amendments to sections 453C.1 and 453C.2 and the related severability provision.
8. The amendments to sections 518.18 and 518A.35.
9. The section directing the department of corrections to develop a plan for selling certain land.
10. The section relating to the sales and use tax refund.
11. The section relating to the school district reimbursement claim.

The sections of this division of this Act amending section 80B.5 and enacting section 80B.5A are applicable to the appointment of the director of the Iowa law enforcement academy for the term beginning May 1, 2004.

~~Section 29C.8, subsection 3, paragraph "f", as enacted in this division of this Act, and the amendment to section 29C.20, subsection 1, as enacted in this division of this Act, take effect July 1, 2004.~~

Sec. 44. 2003 Iowa Acts, House File 171,⁴² section 112, the bill section amending clause, is amended to read as follows:

Section 656.2, subsection 2, paragraph a, unnumbered paragraph ~~1~~ 3, Code 2003, is amended to read as follows:

Sec. 45. 2003 Iowa Acts, House File 662,⁴³ section 5, subsection 8, paragraphs a and b, if enacted, are amended to read as follows:

- a. Of the amount appropriated in this ~~section~~ subsection, \$347,371 shall be allocated to the

³⁸ 2003 Iowa Acts, Regular Session, chapter 99 herein

³⁹ 2003 Iowa Acts, Regular Session, chapter 178 herein

⁴⁰ 2003 Iowa Acts, Regular Session, chapter 179 herein

⁴¹ 2003 Iowa Acts, Regular Session, chapter 26 herein

⁴² 2003 Iowa Acts, Regular Session, chapter 108 herein

⁴³ 2003 Iowa Acts, Regular Session, chapter 182 herein

public broadcasting division for purposes of providing support for functions related to the Iowa communications network, including but not limited to the following functions: development of distance learning applications; development of a central information source on the internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council.

b. Of the amount appropriated in this ~~section~~ subsection, \$1,272,285 shall be allocated to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

Sec. 46. 2003 Iowa Acts, House File 662,⁴⁴ section 6, unnumbered paragraph 2, if enacted, is amended to read as follows:

The funds allocated in this ~~subsection~~ section shall be distributed as follows:

Sec. 47. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this division of this Act amending section 29A.28, subsection 3, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003.

2. The section of this division of this Act amending 2003 Iowa Acts, Senate File 458,⁴⁵ section 159, being deemed of immediate importance, takes effect upon enactment.

3. 2003 Iowa Acts, Senate File 458,⁴⁶ section 140, relating to nonreversion of funds appropriated in 1996 Iowa Acts, chapter 1218, and 1997 Iowa Acts, chapter 215, if enacted, being deemed of immediate importance, takes effect upon enactment of this Act.

DIVISION V CRIMINAL OFFENDERS AND INMATES

Sec. 48. Section 321J.2, subsection 2, paragraph a, subparagraph (1), Code 2003, is amended to read as follows:

(1) Imprisonment in the county jail for not less than forty-eight hours, to be served as ordered by the court, less credit for any time the person was confined in a jail or detention facility following arrest or for any time the person spent in a court-ordered operating-while-intoxicated program that provides law enforcement security. However, the court, in ordering service of the sentence and in its discretion, may accommodate the defendant's work schedule.

Sec. 49. NEW SECTION. 811.2A PRETRIAL RELEASE.

A person, who has been released under a plan of pretrial release or on the person's own recognizance and who is subsequently arrested for a new criminal offense while under the plan of pretrial release or released on the person's own recognizance, shall not be eligible for another release pursuant to pretrial release guidelines or released on the person's own recognizance, if all of the following apply:

1. The arrest for the new criminal offense is based on a set of facts or an event that is different than involved in the earlier arrest.

2. The new criminal offense is classified as greater than a serious misdemeanor.

However, a person may be admitted to bail if eligible pursuant to section 811.1.

Sec. 50. Section 901.4, Code 2003, is amended to read as follows:

901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL — DISTRIBUTION.

The presentence investigation report is confidential and the court shall provide safeguards to ensure its confidentiality, including but not limited to sealing the report, which may be opened only by further court order. At least three days prior to the date set for sentencing, the

⁴⁴ 2003 Iowa Acts, Regular Session, chapter 182 herein

⁴⁵ 2003 Iowa Acts, Regular Session, chapter 179 herein

⁴⁶ 2003 Iowa Acts, Regular Session, chapter 179 herein

court shall serve all of the presentence investigation report upon the defendant's attorney and the attorney for the state, and the report shall remain confidential except upon court order. However, the court may conceal the identity of the person who provided confidential information. The report of a medical examination or psychological or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. The reports are part of the record but shall be sealed and opened only on order of the court. If the defendant is committed to the custody of the Iowa department of corrections and is not a class "A" felon, a copy of the presentence investigation report shall be forwarded to the director with the order of commitment by the clerk of the district court and to the board of parole at the time of commitment. ~~The Pursuant to section 904.602, the~~ presentence investigation report may also be released by the department of corrections or a judicial district department of correctional services ~~pursuant to section 904.602 to another jurisdiction for the purpose of providing interstate probation and parole compact services or evaluations, or to a substance abuse or mental health services provider when referring a defendant for services.~~ The defendant or the defendant's attorney may file with the presentence investigation report, a denial or refutation of the allegations, or both, contained in the report. The denial or refutation shall be included in the report. If the person is sentenced for an offense which requires registration under chapter 692A, the court shall release the report to the department which is responsible under section 692A.13A for performing the assessment of risk.

Sec. 51. Section 901B.1, subsection 1, paragraph c, subparagraph (5), Code 2003, is amended to read as follows:

(5) A substance abuse treatment facility as established and operated by the Iowa department of public health ~~or the department of corrections.~~

Sec. 52. Section 903A.2, subsection 1, paragraph a, Code 2003, is amended to read as follows:

a. Category "A" sentences are those sentences which are not subject to a maximum accumulation of earned time of fifteen percent of the total sentence of confinement under section 902.12. To the extent provided in subsection 5, category "A" sentences also include life sentences imposed under section 902.1. An inmate of an institution under the control of the department of corrections who is serving a category "A" sentence is eligible for a reduction of sentence equal to one and two-tenths days for each day the inmate demonstrates good conduct and satisfactorily participates in any program or placement status identified by the director to earn the reduction. The programs include but are not limited to the following:

- (1) Employment in the institution.
- (2) Iowa state industries.
- (3) An employment program established by the director.
- (4) A treatment program established by the director.
- (5) An inmate educational program approved by the director.

An inmate serving a category "A" sentence is eligible for an additional reduction of sentence of up to three hundred sixty-five days of the full term of the sentence of the inmate for exemplary acts. In accordance with section 903A.4, the director shall by policy identify what constitutes an exemplary act that may warrant an additional reduction of sentence.

Sec. 53. Section 903A.3, subsection 2, Code 2003, is amended to read as follows:

2. The orders of the administrative law judge are subject to appeal to the superintendent or warden of the institution, or the superintendent's or warden's designee, who may either affirm, modify, remand for correction of procedural errors, or reverse an order. However, sanctions shall not be increased on appeal. ~~A decision of the superintendent, warden, or designee is subject to review by the director of the Iowa department of corrections who may either affirm, modify, remand for correction of procedural errors, or reverse the decision. However, sanctions shall not be increased on review.~~

Sec. 54. NEW SECTION. 904.117 INTERSTATE COMPACT FUND.

An interstate compact fund is established under the control of the department. All interstate compact fees collected by the department pursuant to section 907B.5 shall be deposited into the fund and the moneys shall be used by the department to offset the costs of complying with the interstate compact for adult offender supervision in chapter 907B. Notwithstanding section 8.33, moneys remaining in the fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, interest and earnings deposited in the fund shall be credited to the fund.

Sec. 55. Section 904.503, subsection 2, Code 2003, is amended to read as follows:

2. When the director has cause to believe that an inmate in a state correctional institution is mentally ill, the Iowa department of corrections may cause the inmate to be transferred to the Iowa medical and classification center, or to another appropriate facility within the department, for examination, diagnosis, or treatment. The inmate shall be confined at that ~~institution center or facility~~ or a state hospital for persons with mental illness until the expiration of the inmate's sentence or until the inmate is pronounced in good mental health. If the inmate is pronounced in good mental health before the expiration of the inmate's sentence, the inmate shall be returned to the state correctional institution until the expiration of the inmate's sentence.

Sec. 56. Section 904.508, subsection 2, Code 2003, is amended to read as follows:

2. ~~The Pursuant to section 904.702, the director shall establish and maintain an inmate savings fund in an interest-bearing account for the deposit of all or part of an inmate's allowances, as provided in section 904.702 and amounts, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department.~~ All or part of an inmate's allowances and amounts, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, from a source other than the department shall be deposited into the savings fund, until the inmate's deposit is equal to ~~the amount due the inmate upon discharge, parole, or placement on work release, one hundred dollars~~ as provided in section 906.9. If an inmate's deposits ~~are~~ equal this amount to or in excess of one hundred dollars, the inmate may voluntarily withdraw from the savings fund. The director shall notify the inmate of this right to withdraw and shall provide the inmate with a written request form to facilitate the withdrawal. If the inmate withdraws and the inmate's deposits exceed the amount due as provided in section 906.9, the director shall disburse the excess amount as provided for allowances under section 904.702, except the director shall not deposit the excess amount in the inmate savings fund. If the inmate chooses to continue to participate in the savings fund, the inmate's deposits shall be returned to the inmate upon discharge, parole, or placement on work release. Otherwise, the inmate's deposits shall be disposed of as provided in subsection 3. An inmate's deposits into the savings fund may be used to provide the money due the inmate upon discharge, parole, or placement on work release, as required under section 906.9. Interest earned from the savings fund shall be placed in a separate account, and may be used for purchases approved by the director to directly and collectively benefit inmates.

Sec. 57. Section 904.508A, Code 2003, is amended to read as follows:

904.508A INMATE TELEPHONE ~~REBATE~~ FUND.

The department is authorized to establish and maintain an inmate telephone ~~rebate~~ rebate fund in ~~each institution~~ for the deposit of moneys received for inmate telephone ~~rebates~~ calls. All funds deposited in this fund shall be used for the benefit of inmates. The director shall adopt rules providing for the disbursement of moneys from the fund.

Sec. 58. Section 904.513, subsection 1, paragraph b, subparagraph (4), Code 2003, is amended to read as follows:

(4) Assignment may also be made on the basis of the offender's treatment program perfor-

mance, as a disciplinary measure, for medical needs, and for space availability at community residential facilities. If there is insufficient space at a community residential facility, the court may order an offender to be released to the supervision of the judicial district department of correctional services, or held in jail, or committed to the custody of the director of the department of corrections for assignment to an appropriate correctional facility until there is sufficient space at a community residential facility.

Sec. 59. Section 904.702, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If allowances are paid pursuant to section 904.701, the director shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund as required under section 904.508, subsection 2. In addition to deducting a portion of the allowance, the director may also deduct from an inmate account any amount, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department of corrections for deposit in the inmate savings fund as required under section 904.508, subsection 2, until the amount in the fund equals the amount due the inmate upon discharge, parole, or placement on work release. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct or damage to the property of others. The director may deduct from the inmate's account an amount sufficient to pay for the inmate's share of the costs of health services requested by the inmate and for the treatment of injuries inflicted by the inmate on the inmate or others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 60. Section 907.4, Code 2003, is amended to read as follows:
907.4 DEFERRED JUDGMENT DOCKET.

A deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court, or the clerk's designee, to the state court administrator for entry in the deferred judgment docket. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall request of the state court administrator a search of the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, judicial district departments of correctional services, and

county attorneys requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, judicial district department of correctional services, or county attorney.

Sec. 61. Section 907.9, subsections 1, 2, and 4, Code 2003, are amended to read as follows:

1. At any time that the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid ~~to or waived by the judicial district department of correctional services~~ or on condition that unpaid supervision fees be paid, the court may order the discharge of a person from probation.

2. At any time that a probation officer determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid ~~to or waived by the judicial district department of correctional services~~ or on condition that unpaid supervision fees be paid, the officer may order the discharge of a person from probation after approval of the district director and notification of the sentencing court and the county attorney who prosecuted the case.

4. At the expiration of the period of probation and if the fees imposed under section 905.14 have been paid ~~to or waived by the judicial district department of correctional services~~ or on condition that unpaid supervision fees be paid, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 62. NEW SECTION. 907B.4 INTERSTATE COMPACT FEE.

The department of corrections may assess a fee, not to exceed one hundred dollars, for an application to transfer out of the state under the interstate compact for adult offender supervision. The fee may be waived by the department. The moneys collected pursuant to this section shall be deposited into the interstate compact fund established in section 904.117 and shall be used to offset the costs of complying with the interstate compact for adult offender supervision.

Sec. 63. Section 910.3B, Code 2003, is amended to read as follows:

910.3B RESTITUTION FOR DEATH OF VICTIM.

1. In all criminal cases in which the offender is convicted of a felony in which the act or acts committed by the offender caused the death of another person, in addition to the amount determined to be payable and ordered to be paid to a victim for pecuniary damages, as defined under section 910.1, and determined under section 910.3, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate if the victim died testate. If the victim died intestate the court shall order the offender to pay the restitution to the victim's heirs at law as determined pursuant to section 633.210. The obligation to pay the additional amount shall not be dischargeable in any proceeding under the federal Bankruptcy Act. Payment of the additional amount shall have the same priority as payment of a victim's pecuniary damages under section 910.2, in the offender's plan for restitution.

2. An award under this section does not preclude or supersede the right of a victim's estate or heirs at law to bring a civil action against the offender for damages arising out of the same facts or event. However, no evidence relating to the entry of the judgment against the offender pursuant to this section or the amount of the award ordered pursuant to this section shall be permitted to be introduced in any civil action for damages arising out of the same facts or event.

3. An offender who is ordered to pay a victim's estate or heirs at law under this section is

precluded from denying the elements of the felony offense which resulted in the order for payment in any subsequent civil action for damages arising out of the same facts or event.

Sec. 64. Section 915.100, subsection 2, paragraph c, Code 2003, is amended to read as follows:

c. In cases where the act committed by an offender causes the death of another person, in addition to the amount ordered for payment of the victim's pecuniary damages, the court shall also order the offender to pay at least one hundred fifty thousand dollars in restitution to the victim's estate or heirs at law, pursuant to the provisions of section 910.3B.

DIVISION VI
ECONOMIC DEVELOPMENT APPROPRIATIONS

Sec. 65. MARKETING APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁴⁷ or another Act, to the department of economic development, for the fiscal period beginning July 1, 2003, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For implementing and administering the marketing strategy approved under section 15G.108, if enacted by 2003 Iowa Acts, House File 692⁴⁸ or another Act:

FY 2003-2004	\$	2,500,000
FY 2004-2005	\$	7,500,000
FY 2005-2006	\$	10,000,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

Sec. 66. DEPARTMENT OF ECONOMIC DEVELOPMENT APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁴⁹ or another Act, to the department of economic development for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For programs administered by the department of economic development:

FY 2003-2004	\$	45,000,000
FY 2004-2005	\$	41,000,000
FY 2005-2006	\$	44,000,000
FY 2006-2007	\$	48,000,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

3. Each year that moneys are appropriated under this section, the grow Iowa values board shall allocate a percentage of the moneys for each of the following types of activities:

- a. Business start-ups.
- b. Business expansion.
- c. Business modernization.
- d. Business attraction.
- e. Business retention.
- f. Marketing.

4. An applicant for moneys appropriated under this section shall be required by the department to include in the application a statement regarding the intended return on investment. A recipient of moneys appropriated under this section shall annually submit a statement to the department regarding the progress achieved on the intended return on investment stated in the application. The department, in cooperation with the department of revenue and finance,

⁴⁷ Chapter 1, §84 herein
⁴⁸ Chapter 1, §85 herein
⁴⁹ Chapter 1, §84 herein

shall develop a method of identifying and tracking each new job created through financial assistance from moneys appropriated under this section.

5. The department may use moneys appropriated under this section to procure technical assistance from either the public or private sector, for information technology purposes, and for rail, air, or river port transportation-related purposes. The use of moneys appropriated for rail, air, or river port transportation-related purposes must be directly related to an economic development project and the moneys must be used to leverage other financial assistance moneys.

6. Of the moneys appropriated under this section, the department may use one-half of one percent for administrative purposes.

7. The grow Iowa values board is required to approve or deny applications for financial assistance from moneys appropriated under this section.

Sec. 67. UNIVERSITY AND COLLEGE FINANCIAL ASSISTANCE APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁰ or another Act, to the grow Iowa values board for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For financial assistance for institutions of higher learning under the control of the state board of regents and for accredited private institutions as defined in section 261.9 for multiuse, goods manufacturing processes approved by the food and drug administration of the United States department of health and human services, protein purification facilities for plant, animal, and chemical manufactured proteins; accelerating new business creation; innovation accelerators and business parks; incubator facilities; upgrading food and drug administration drug approval laboratories in Iowa City to a larger multiclient, goods manufacturing processes facility; crop and animal livestock facilities for the growing of transgenic crops and livestock, protein extraction facilities, containment facilities, and bioanalytical, biochemical, chemical, and microbiological support facilities; a national center for food safety and security; and advanced laboratory space:

FY 2003-2004	\$	6,000,000
FY 2004-2005	\$	7,000,000
FY 2005-2006	\$	7,000,000
FY 2006-2007	\$	7,000,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

3. In the distribution of moneys appropriated pursuant to this section, the grow Iowa values board shall examine the potential for using moneys appropriated pursuant to this section to leverage other moneys for financial assistance to accredited private institutions.

4. In awarding moneys appropriated pursuant to this section, the grow Iowa values board shall consider whether the purchase of suitable existing infrastructure is more cost-efficient than building new infrastructure.

5. An institution of higher learning under the control of the state board of regents may apply to use financial assistance moneys under this section for purposes of a public and private joint venture to acquire infrastructure assets or research facilities or to leverage moneys in a manner consistent with meeting the goals and performance measures provided in section 15G.106, if enacted by 2003 Iowa Acts, House File 692⁵¹ or another Act.

6. Of the moneys appropriated under this section and provided applications are submitted meeting the requirements of the grow Iowa values board, not less than \$10,000,000 in financial assistance shall be awarded to the university of Iowa, not less than \$10,000,000 in financial assistance shall be awarded to Iowa state university of science and technology, and not less than \$5,000,000 in financial assistance shall be awarded to the university of northern Iowa.

Sec. 68. REHABILITATION PROJECT TAX CREDITS APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if

⁵⁰ Chapter 1, §84 herein

⁵¹ Chapter 1, §83 herein

enacted by 2003 Iowa Acts, House File 692⁵² or another Act, to the general fund of the state, for the fiscal period beginning July 1, 2005, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For payment of tax credits approved pursuant to section 404A.4 for projects located in certified cultural and entertainment districts:

FY 2005-2006	\$	500,000
FY 2006-2007	\$	500,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

Sec. 69. LOAN AND CREDIT GUARANTEE FUND APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵³ or another Act, to the department of economic development for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the loan and credit guarantee fund created in section 15E.227:

FY 2003-2004	\$	2,500,000
FY 2004-2005	\$	5,000,000
FY 2005-2006	\$	7,500,000
FY 2006-2007	\$	7,500,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purpose during the succeeding fiscal year.

Sec. 70. ENDOW IOWA TAX CREDITS.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁴ or another Act, to the general fund of the state, for the fiscal period beginning July 1, 2004, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For payment of endow Iowa tax credits authorized pursuant to section 15E.305:

FY 2004-2005	\$	250,000
FY 2005-2006	\$	250,000
FY 2006-2007	\$	500,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

Sec. 71. ENDOW IOWA GRANTS APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁵ or another Act, to the department of economic development for the fiscal period beginning July 1, 2004, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For endow Iowa grants to lead philanthropic entities pursuant to section 15E.304:

FY 2004-2005	\$	250,000
FY 2005-2006	\$	250,000
FY 2006-2007	\$	500,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

Sec. 72. STATE PARKS AND DESTINATION PARKS APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if

⁵² See chapter 1, §84 herein

⁵³ See chapter 1, §84 herein

⁵⁴ See chapter 1, §84 herein

⁵⁵ See chapter 1, §84 herein

enacted by 2003 Iowa Acts, House File 692⁵⁶ or another Act, to the grow Iowa values board for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing financial assistance for projects in targeted state parks and destination parks:

FY 2003-2004	\$	500,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0
FY 2006-2007	\$	500,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

3. The department of natural resources, in cooperation with the department of economic development, shall submit a plan to the grow Iowa values board for the expenditure of moneys appropriated under this section. The plan shall focus on improving state parks and destination parks for economic development purposes. Based on the report submitted, the grow Iowa values board shall provide financial assistance to the department of natural resources for support of state parks and destination parks.

Sec. 73. IOWA CULTURAL TRUST FUND APPROPRIATION.

1. There is appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁷ or another Act, to the office of the treasurer of state, for the fiscal period beginning July 1, 2003, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the Iowa cultural trust fund created in section 303A.4:

FY 2003-2004	\$	500,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0
FY 2006-2007	\$	500,000

2. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

Sec. 74. ANTICIPATED FEDERAL MONEYS — APPROPRIATION.

1. There is appropriated from the fund created by section 8.41, for the fiscal period beginning July 1, 2003, and ending June 30, 2005, the following amounts to be used for the purpose designated:

For deposit in the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁸ or another Act:

FY 2003-2004	\$	59,000,000
FY 2004-2005	\$	41,000,000

2. Moneys appropriated in this section are moneys anticipated to be received from the federal government for state and local government fiscal relief under the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 and shall be expended as provided in the federal law making the moneys available and in conformance with chapter 17A.

3. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

Sec. 75. STREAMLINED SALES AND USE TAX REVENUE — APPROPRIATION.

1. There is appropriated from the general fund of the state from moneys credited to the general fund of the state as a result of entering into the streamlined sales and use tax agreement, for the fiscal period beginning July 1, 2003, and ending June 30, 2010, the following amounts to be used for the purpose designated:

⁵⁶ See chapter 1, §84 herein
⁵⁷ See chapter 1, §84 herein
⁵⁸ See chapter 1, §84 herein

For deposit in the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁵⁹ or another Act:

FY 2003-2004	\$	5,000,000
FY 2004-2005	\$	23,000,000
FY 2005-2006	\$	75,000,000
FY 2006-2007	\$	75,000,000
FY 2007-2008	\$	75,000,000
FY 2008-2009	\$	75,000,000
FY 2009-2010	\$	75,000,000

2. For purposes of this section, “moneys credited to the general fund of the state as a result of entering into the streamlined sales and use tax agreement” means the amount of sales and use tax receipts credited to the general fund of the state during a fiscal year that exceeds by two percent or more the total sales and use tax receipts credited to the general fund of the state during the previous fiscal year.

a. If the moneys credited to the general fund of the state as a result of entering into the streamlined sales and use tax agreement during a fiscal year total less than the amount appropriated in this section, the appropriation in this section shall be reduced to equal the total amount of the moneys so credited.

b. If the appropriation for a fiscal year is reduced pursuant to paragraph “a”, all appropriations made from the grow Iowa values fund for the same fiscal year shall be reduced proportionately to the amount reduced due to paragraph “a”.

3. Notwithstanding section 8.33, moneys that remain unexpended at the end of a fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

DIVISION VII WORKFORCE-RELATED ISSUES

Sec. 76. NEW SECTION. 260C.18A WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS.

1. a. A workforce training and economic development fund is created for each community college. Moneys shall be deposited and expended from a fund as provided under this section.

b. Moneys in the funds shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department of economic development from federal sources or private sources for placement in the funds. Notwithstanding section 8.33, moneys in the funds at the end of each fiscal year shall not revert to any other fund but shall remain in the funds for expenditure in subsequent fiscal years.

2. On July 1 of each year for the fiscal year beginning July 1, 2003, and for every fiscal year thereafter, moneys from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁶⁰ or another Act, are appropriated to the department of economic development for deposit in the workforce training and economic development funds in amounts determined pursuant to subsection 3. Moneys deposited in the funds and disbursed to community colleges for a fiscal year shall be expended for the following purposes, provided seventy percent of the moneys shall be used on projects in the areas of advanced manufacturing, information technology and insurance, and life sciences which include the areas of biotechnology, health care technology, and nursing care technology:

a. Projects in which an agreement between a community college and an employer located within the community college’s merged area meet all of the requirements of the accelerated career education program under chapter 260G.

b. Projects in which an agreement between a community college and a business meet all the requirements of the Iowa jobs training Act under chapter 260F.

c. For the development and implementation of career academies designed to provide new career preparation opportunities for high school students that are formally linked with post-secondary career and technical education programs. For purposes of this section, “career

⁵⁹ See chapter 1, §84 herein

⁶⁰ See chapter 1, §84 herein

academy” means a program of study that combines a minimum of two years of secondary education with an associate degree, or the equivalent, career preparatory program in a nonduplicative, sequential course of study that is standards based, integrates academic and technical instruction, utilizes work-based and worksite learning where appropriate and available, utilizes an individual career planning process with parent involvement, and leads to an associate degree or postsecondary diploma or certificate in a career field that prepares an individual for entry and advancement in a high-skill and reward career field and further education. The department of economic development, in conjunction with the state board of education and the division of community colleges and workforce preparation of the department of education, shall adopt administrative rules for the development and implementation of such career academies pursuant to section 256.11, subsection 5, paragraph “h”, section 260C.1, and Title II of Pub. L. No. 105-332, Carl D. Perkins Vocational and Technical Education Act of 1998.

d. Programs and courses that provide vocational and technical training, and programs for in-service training and retraining under section 260C.1, subsections 2 and 3.

e. Job retention projects under section 260F.9.

3. Of the moneys appropriated in this section, for the fiscal period beginning July 1, 2003, and ending June 30, 2006, the following amounts shall be designated for the purposes of funding job retention projects under section 260F.9:

a. One million dollars for the fiscal year beginning July 1, 2003.

b. One million dollars for the fiscal year beginning July 1, 2004.

c. One million dollars for the fiscal year beginning July 1, 2005.

4. The maximum cumulative total amount of moneys that may be deposited in all the workforce training and economic development funds for distribution to community colleges in a fiscal year shall be determined as follows:

a. Five million dollars for the fiscal year beginning July 1, 2003.

b. Five million dollars for the fiscal year beginning July 1, 2004.

c. Five million dollars for the fiscal year beginning July 1, 2005.

d. Ten million dollars for the fiscal year beginning July 1, 2006.

e. For the fiscal year beginning July 1, 2007, and each succeeding fiscal year, the grow Iowa values board shall make a determination if sufficient moneys exist in the grow Iowa values fund to distribute to community colleges.

5. The department of economic development shall allocate the moneys appropriated pursuant to this section to the community college workforce training and economic development funds utilizing the same distribution formula used for the allocation of state general aid to the community colleges.

6. Each community college shall do all of the following:

a. Adopt a two-year workforce training and economic development fund plan outlining the community college’s proposed use of moneys appropriated under subsection 2.

b. Update the two-year plan annually.

c. Prepare an annual progress report on the two-year plan’s implementation.

d. Annually submit the two-year plan and progress report to the department of economic development in a manner prescribed by rules adopted by the department pursuant to chapter 17A and annually file a copy of the plan and progress report with the grow Iowa values board. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in the workforce training and economic development fund of that community college unless the grow Iowa values board approves the annual progress report of the community college.

7. Any individual project using over one million dollars of moneys from a workforce training and economic development fund shall require prior approval from the grow Iowa values board.

Sec. 77. NEW SECTION. 260F.9 JOB RETENTION PROGRAM.

1. The department of economic development shall administer the job retention program. The department shall adopt rules pursuant to chapter 17A necessary for the administration of

this section. By January 15 of each year, the department shall submit a written report to the general assembly and the governor regarding the activities of the job retention program during the previous calendar year.

2. A community college and the department may enter into an agreement to establish a job retention project. A job retention project agreement shall include, but not be limited to, the following:

- a. The date of the agreement.
 - b. The anticipated number of employees to be trained.
 - c. The estimated cost of training.
 - d. A statement regarding the number of employees employed by the participating business on the date of the agreement which must equal at least the lesser of one thousand employees or four percent or more of the county's resident labor force based on the most recent annual labor force statistics from the department of workforce development.
 - e. A commitment that the participating business shall invest at least fifteen million dollars to retool the workplace and upgrade the facilities of the participating business.
 - f. A commitment that the participating business shall not move the business operation out of this state or close the business operation for at least ten years following the date of the agreement.
 - g. Other criteria established by the department of economic development.
3. A job retention project agreement entered into pursuant to this section must be approved by the board of trustees of the applicable community college, the department of economic development, and the participating business.

Sec. 78. NEW SECTION. 260F.101 REPORTING.

A community college entering into an agreement pursuant to this chapter shall submit an annual written report by the end of each calendar year with the grow Iowa values board created in section 15G.102, if enacted by 2003 Iowa Acts, House File 692⁶¹ or another Act. The report shall provide information regarding how the agreement affects the achievement of the goals and performance measures provided in section 15G.106, if enacted by 2003 Iowa Acts, House File 692⁶² or another Act.

Sec. 79. Section 260G.3, subsection 2, Code 2003, is amended to read as follows:

2. An agreement may include reasonable and necessary provisions to implement the accelerated career education program. If an agreement that utilizes program job credits is entered into, the community college and the employer shall notify the department of revenue and finance as soon as possible. The community college shall also file a copy of the agreement with the department of economic development as required in section 260G.4B. The agreement shall provide for program costs, including deferred costs, which may be paid from any of the following sources:

- a. Program job credits which the employer receives based on the number of program job positions agreed to by the employer to be available under the agreement.
- b. Cash or in-kind contributions by the employer toward the program cost. At a minimum, the employer contribution shall be twenty percent of the program costs.
- c. Tuition, student fees, or special charges fixed by the board of directors to defray program costs.
- d. Guarantee by the employer of payments to be received under paragraphs "a" and "b".
- e. Moneys from a workforce training and economic development fund created in section 260C.18A, based on the number of program job positions agreed to by the employer to be available under the agreement, the amount of which shall be calculated in the same manner as the program job credits provided for in section 260G.4A.

Sec. 80. NEW SECTION. 260G.101 REPORTING.

A community college entering into an agreement pursuant to this chapter shall submit an annual written report by the end of each calendar year with the grow Iowa values board

⁶¹ See chapter 1, §78 herein

⁶² See chapter 1, §§83 herein

created in section 15G.102, if enacted by 2003 Iowa Acts, House File 692⁶³ or another Act. The report shall provide information regarding how the agreement affects the achievement of the goals and performance measures provided in section 15G.106, if enacted by 2003 Iowa Acts, House File 692⁶⁴ or another Act.

DIVISION VIII
LOAN AND CREDIT GUARANTEE FUND

Sec. 81. NEW SECTION. 15E.227 LOAN AND CREDIT GUARANTEE FUND.

1. A loan and credit guarantee fund is created and established as a separate and distinct fund in the state treasury. Moneys in the fund shall only be used for purposes provided in this section. The moneys in the fund are appropriated to the department to be used for all of the following purposes:

a. Payment of claims pursuant to loan and credit guarantee agreements entered into under this division.

b. Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the program.

c. Purchase or buyout of superior or prior liens, mortgages, or security interests.

d. Purchase of insurance to cover the default of loans made pursuant to the requirements of the loan and credit guarantee program.

2. Moneys in the loan and credit guarantee fund shall consist of all of the following:

a. Moneys appropriated by the general assembly for that purpose and any other moneys available to and obtained or accepted by the department for placement in the fund.

b. Proceeds from collateral assigned to the department, fees for guarantees, gifts, and moneys from any grant made to the fund by any federal agency.

c. Moneys appropriated from the grow Iowa values fund created in section 15G.107, if enacted by 2003 Iowa Acts, House File 692⁶⁵ or another Act.

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

4. a. The department shall only pledge moneys in the loan and credit guarantee fund and not any other moneys of the department. In a fiscal year, the department may pledge an amount not to exceed the total amount appropriated to the fund for the same fiscal year to assure the repayment of loan and credit guarantees or other extensions of credit made to or on behalf of qualified businesses or targeted industry businesses for eligible project costs.

b. The department shall not pledge the credit or taxing power of this state or any political subdivision of this state or make debts payable out of any moneys except for those in the loan and credit guarantee fund.

DIVISION IX
UNIVERSITY-BASED RESEARCH UTILIZATION
PROGRAM APPROPRIATION

Sec. 82. NEW SECTION. 262B.12 APPROPRIATION.

On July 1 of each year there is appropriated from the general fund of the state to each university under the control of the state board of regents, an amount equal to the amount determined by the department of economic development pursuant to section 262B.11, subsection 4, paragraph "c", subparagraph (2), if enacted by 2003 Iowa Acts, House File 692⁶⁶ or another Act.

DIVISION X
ENDOW IOWA TAX CREDIT

Sec. 83. NEW SECTION. 15E.305 ENDOW IOWA TAX CREDIT.

1. For tax years beginning on or after January 1, 2003, a tax credit shall be allowed against

⁶³ See chapter 1, §78 herein

⁶⁴ See chapter 1, §83 herein

⁶⁵ See chapter 1, §84 herein

⁶⁶ See chapter 1, §111 herein

the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24 equal to twenty percent of a taxpayer's endowment gift to a qualified community foundation. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. A tax credit shall be allowed only for an endowment gift made to a qualified community foundation for a permanent endowment fund established to benefit a charitable cause in this state. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

2. The aggregate amount of tax credits authorized pursuant to this section shall not exceed a total of two million dollars. The maximum amount of tax credits granted to a taxpayer shall not exceed five percent of the aggregate amount of tax credits authorized.

3. A tax credit shall not be transferable to any other taxpayer.

4. A tax credit shall not be authorized pursuant to this section after December 31, 2005.

5. The department shall develop a system for registration and authorization of tax credits under this section and shall control the distribution of all tax credits to taxpayers providing an endowment gift subject to this section. The department shall adopt administrative rules pursuant to chapter 17A for the qualification and administration of endowment gifts.

Sec. 84. NEW SECTION. 422.11H ENDOW IOWA TAX CREDIT.

The tax imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 85. Section 422.33, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 14. The taxes imposed under this division shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 86. Section 422.60, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 7. The taxes imposed under this division shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 87. NEW SECTION. 432.12D ENDOW IOWA TAX CREDIT.

The tax imposed under this chapter shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 88. Section 533.24, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The moneys and credits tax imposed under this section shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 89. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2003, for tax years beginning on or after that date.

DIVISION XI REHABILITATION PROJECT TAX CREDITS

Sec. 90. Section 404A.4, subsection 4, Code 2003, is amended to read as follows:

4. The total amount of tax credits that may be approved for a fiscal year under this chapter shall not exceed two million four hundred thousand dollars. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional five hundred thousand dollars of tax credits may be

approved each fiscal year for purposes of projects located in cultural and entertainment districts certified pursuant to section 303.3B, if enacted by 2003 Iowa Acts, House File 692⁶⁷ or another Act. Any of the additional tax credits allocated for projects located in certified cultural and entertainment districts that are not approved during a fiscal year may be carried over to the succeeding fiscal year. Tax credit certificates shall be issued on the basis of the earliest awarding of certifications of completion as provided in subsection 1. The departments of economic development and revenue and finance shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

DIVISION XII
STATE ASSISTANCE FOR EDUCATIONAL INFRASTRUCTURE FUND

Sec. 91. Section 8.57, subsection 5, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. There is appropriated from the rebuild Iowa infrastructure fund to the secure an advanced vision for education fund created in section 422E.3A, for each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, 2014, the amount of the moneys in excess of the first forty-seven million dollars credited to the rebuild Iowa infrastructure fund during the fiscal year, not to exceed ten million dollars.

Sec. 92. NEW SECTION. 292A.3A APPROPRIATION.

There is appropriated from the general fund of the state from moneys credited to the general fund of the state as a result of the state entering into the streamlined sales and use tax agreement to the secure an advanced vision for education fund created in section 422E.3A, the sum of five million dollars for each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, 2014. The appropriation in this section shall be made after the appropriation from the same source to the grow Iowa fund created in 2003 Iowa Acts, House File 692⁶⁸ or another Act. For purposes of this section, "moneys credited to the general fund of the state as a result of entering into the streamlined sales and use tax agreement" means the amount of sales and use tax receipts credited to the general fund of the state during a fiscal year that exceeds by two percent or more the total sales and use tax receipts credited to the general fund of the state during the previous fiscal year.

DIVISION XIII
REPEALS

Sec. 93. The divisions of this Act designated economic development appropriations, work-force-related issues, loan and credit guarantee fund, university-based research utilization program appropriation, endow Iowa tax credit, and rehabilitation project tax credits are repealed effective June 30, 2010.

DIVISION XIV
STREAMLINED SALES AND USE TAXES
SUBCHAPTER I
DEFINITIONS

Sec. 94. NEW SECTION. 423.1 DEFINITIONS.

As used in this chapter the following words, terms, and phrases have the meanings ascribed to them by this section, except where the context clearly indicates that a different meaning is intended:

1. "Agent" means a person appointed by a seller to represent the seller before the member states.
2. "Agreement" means the streamlined sales and use tax agreement authorized by subchap-

⁶⁷ See chapter 1, §110 herein

⁶⁸ Chapter 1 herein

ter IV of this chapter to provide a mechanism for establishing and maintaining a cooperative, simplified system for the application and administration of sales and use taxes.

3. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise, and production from aquaculture. "Agricultural products" includes flowering, ornamental, or vegetable plants and those products of aquaculture.

4. "Business" includes any activity engaged in by any person or caused to be engaged in by the person with the object of gain, benefit, or advantage, either direct or indirect.

5. "Certificate of title" means a certificate of title issued for a vehicle or for manufactured housing under chapter 321.

6. "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

7. "Certified service provider" means an agent certified under the agreement to perform all of a seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases.

8. "Computer" means an electronic device that accepts information in digital or similar form and manipulates the information for a result based on a sequence of instructions.

9. "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

10. "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

11. "Delivery charges" means charges assessed by a seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing charges.

12. "Department" means the department of revenue and finance.

13. "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

14. "Director" means the director of revenue and finance.

15. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

16. "Farm deer" means the same as defined in section 189A.2.

17. "Farm machinery and equipment" means machinery and equipment used in agricultural production.

18. "First use of a service". A "first use of a service" occurs, for the purposes of this chapter, when a service is rendered, furnished, or performed in Iowa or if rendered, furnished, or performed outside of Iowa, when the product or result of the service is used in Iowa.

19. "Goods, wares, or merchandise" means the same as tangible personal property.

20. "Governing board" means the group comprised of representatives of the member states of the agreement which is created by the agreement to be responsible for the agreement's administration and operation.

21. "Installed purchase price" is the amount charged, valued in money whether paid in money or otherwise, by a building contractor to convert manufactured housing from tangible personal property into realty. "Installed purchase price" includes, but is not limited to, amounts charged for installing a foundation and electrical and plumbing hookups. "Installed purchase price" excludes any amount charged for landscaping in connection with the conversion.

22. "Lease or rental".

a. "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

b. "Lease or rental" includes agreements covering motor vehicles and trailers when the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1).

c. "Lease or rental" does not include any of the following:

(1) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(2) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments, and payment of any option price does not exceed the greater of one hundred dollars or one percent of the total required payments.

(3) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property.

d. This definition shall be used for sales and use tax purposes regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Uniform Commercial Code, or other provisions of federal, state, or local law.

23. "Livestock" includes but is not limited to an animal classified as an ostrich, rhea, emu, bison, or farm deer.

24. "Manufactured housing" means "manufactured home" as defined in section 321.1.

25. "Member state" is any state which has signed the agreement.

26. "Mobile home" means "manufactured or mobile home" as defined in section 321.1.

27. "Model 1 seller" is a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

28. "Model 2 seller" is a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

29. "Model 3 seller" is a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a "seller" includes an affiliated group of sellers using the same proprietary system.

30. "Nonresidential commercial operations" means industrial, commercial, mining, or agricultural operations, whether for profit or not, but does not include apartment complexes or mobile home parks.

31. "Not registered under the agreement" means lack of registration by a seller with the member states under the central registration system referenced in section 423.11, subsection 4.

32. "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

33. "Place of business" means any warehouse, store, place, office, building, or structure where goods, wares, or merchandise are offered for sale at retail or where any taxable amusement is conducted, or each office where gas, water, heat, communication, or electric services are offered for sale at retail.

When a retailer or amusement operator sells merchandise by means of vending machines or operates music or amusement devices by coin-operated machines at more than one location within the state, the office, building, or place where the books, papers, and records of the taxpayer are kept shall be deemed to be the taxpayer's place of business.

34. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. The combining of two or more prewritten computer software pro-

grams or prewritten portions of prewritten programs does not cause the combination to be other than prewritten computer software. "Prewritten computer software" also means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser.

When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion of the prewritten software that is modified or enhanced to any degree, when such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software. However, when there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

35. "Property purchased for resale in connection with the performance of a service" means property which is purchased for resale in connection with the rendition, furnishing, or performance of a service by a person who renders, furnishes, or performs the service if all of the following occur:

- a. The provider and user of the service intend that a sale of the property will occur.
- b. The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value.
- c. The sale is evidenced by a separate charge for the identifiable piece of property.

36. "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

37. "Purchase price" means the same as "sales price" as defined in this section.

38. "Purchaser" is a person to whom a sale of personal property is made or to whom a service is furnished.

39. "Receive" and "receipt" mean any of the following:

- a. Taking possession of tangible personal property.
- b. Making first use of a service.
- c. Taking possession or making first use of digital goods, whichever comes first.

"Receive" and "receipt" do not include possession by a shipping company on behalf of a purchaser.

40. "Registered under the agreement" means registration by a seller under the central registration system referenced in section 423.11, subsection 4.

41. "Relief agency" means the state, any county, city and county, city, or district thereof, or any agency engaged in actual relief work.

42. "Retailer" means and includes every person engaged in the business of selling tangible personal property or taxable services at retail, or the furnishing of gas, electricity, water, or communication service, and tickets or admissions to places of amusement and athletic events or operating amusement devices or other forms of commercial amusement from which revenues are derived. However, when in the opinion of the director it is necessary for the efficient administration of this chapter to regard any salespersons, representatives, truckers, peddlers, or canvassers as agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain tangible personal property sold by them irrespective of whether or not they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them, and may regard such dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this chapter. "Retailer" includes a seller obligated to collect sales or use tax.

43. "Retailer maintaining a place of business in this state" or any like term includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

44. "Retailers who are not model sellers" means all retailers other than model 1, model 2, or model 3 sellers.

45. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent.

46. "Sales" or "sale" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

47. "Sales price" applies to the measure subject to sales tax.

a. "Sales price" means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(1) The seller's cost of the property sold.

(2) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expenses of the seller.

(3) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges.

(4) Delivery charges.

(5) Installation charges.

(6) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(7) Credit for any trade-in authorized by section 423.3, subsection 58.

b. "Sales price" does not include:

(1) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale.

(2) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(3) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(4) The amounts received for charges included in paragraph "a", subparagraphs (3) through (7), if they are separately contracted for and separately stated on the invoice, billing, or similar document given to the purchaser.

48. "Sales tax" means the tax levied under subchapter II of this chapter.

49. "Seller" means any person making sales, leases, or rentals of personal property or services.

50. "Services" means all acts or services rendered, furnished, or performed, other than services used in processing of tangible personal property for use in retail sales or services, for an employer, as defined in section 422.4, subsection 3, for a valuable consideration by any person engaged in any business or occupation specifically enumerated in section 423.2. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user of the service.

51. "Services used in the processing of tangible personal property" includes the reconditioning or repairing of tangible personal property of the type normally sold in the regular course of the retailer's business and which is held for sale.

52. "State" means any state of the United States and the District of Columbia.

53. "System" means the central electronic registration system maintained by Iowa and other states which are signatories to the agreement.

54. "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software.

55. "Taxpayer" includes any person who is subject to a tax imposed by this chapter, whether acting on the person's own behalf or as a fiduciary.

56. "Trailer" shall mean every trailer, as is now or may be hereafter so defined by chapter

321, which is required to be registered or is subject only to the issuance of a certificate of title under chapter 321.

57. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property. A retailer's or building contractor's sale of manufactured housing for use in this state, whether in the form of tangible personal property or of realty, is a use of that property for the purposes of this chapter.

58. "Use tax" means the tax levied under subchapter III of this chapter for which the retailer collects and remits tax to the department.

59. "User" means the immediate recipient of the services who is entitled to exercise a right of power over the product of such services.

60. "Value of services" means the price to the user exclusive of any direct tax imposed by the federal government or by this chapter.

61. "Vehicles subject to registration" means any vehicle subject to registration pursuant to section 321.18.

SUBCHAPTER II SALES TAX

Sec. 95. NEW SECTION. 423.2 TAX IMPOSED.

1. There is imposed a tax of five percent upon the sales price of all sales of tangible personal property, consisting of goods, wares, or merchandise, sold at retail in the state to consumers or users except as otherwise provided in this subchapter.

a. For the purposes of this subchapter, sales of the following services are treated as if they were sales of tangible personal property:

(1) Sales of engraving, photography, retouching, printing, and binding services.

(2) Sales of vulcanizing, recapping, and retreading services.

(3) Sales of prepaid telephone calling cards and prepaid authorization numbers.

(4) Sales of optional service or warranty contracts, except residential service contracts regulated under chapter 523C, which provide for the furnishing of labor and materials and require the furnishing of any taxable service enumerated under this section. The sales price is subject to tax even if some of the services furnished are not enumerated under this section. Additional sales, services, or use taxes shall not be levied on services, parts, or labor provided under optional service or warranty contracts which are subject to tax under this subsection.

If the optional service or warranty contract is a computer software maintenance or support service contract and there is no separately stated fee for the taxable personal property or for the nontaxable service, the tax imposed by this subsection shall be imposed on fifty percent of the sales price from the sale of such contract. If the contract provides for technical support services only, no tax shall be imposed under this subsection. The provisions of this subparagraph (4) also apply to the use tax.

(5) Renting of rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. "Renting" and "rent" include any kind of direct or indirect charge for such rooms, apartments, or sleeping quarters, or their use. However, the tax does not apply to the sales price from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

b. Sales of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property are retail sales of tangible personal property in whatever quantity sold. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the person shall purchase such items of tangible personal property without liability for the tax if such property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes. The sales tax shall be due in the reporting period when the materials,

supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail. The tax shall not be due when materials are withdrawn from inventory for use in construction outside of Iowa and the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials in the performance by the manufacturer or its subcontractor of construction outside of Iowa. The sale of carpeting is not a sale of building materials. The sale of carpeting to owners, contractors, subcontractors, or builders shall be treated as the sale of ordinary tangible personal property and subject to the tax imposed under this subsection and the use tax.

c. The use within this state of tangible personal property by the manufacturer thereof, as building materials, supplies, or equipment, in the performance of construction contracts in Iowa, shall, for the purpose of this subchapter, be construed as a sale at retail of tangible personal property by the manufacturer who shall be deemed to be the consumer of such tangible personal property. The tax shall be computed upon the cost to the manufacturer of the fabrication or production of the tangible personal property.

2. A tax of five percent is imposed upon the sales price of the sale or furnishing of gas, electricity, water, heat, pay television service, and communication service, including the sales price from such sales by any municipal corporation or joint water utility furnishing gas, electricity, water, heat, pay television service, and communication service to the public in its proprietary capacity, except as otherwise provided in this subchapter, when sold at retail in the state to consumers or users.

3. A tax of five percent is imposed upon the sales price of all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions. A tax of five percent is imposed on the sales price of an entry fee or like charge imposed solely for the privilege of participating in an activity at a place of amusement, fair, or athletic event unless the sales price of tickets or admissions charges for observing the same activity are taxable under this subchapter. A tax of five percent is imposed upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

4. A tax of five percent is imposed upon the sales price derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, operated or conducted within the state, the tax to be collected from the operator in the same manner as for the collection of taxes upon the sales price of tickets or admission as provided in this section. Nothing in this subsection shall legalize any games of skill or chance or slot-operated devices which are now prohibited by law.

The tax imposed under this subsection covers the total amount from the operation of games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, and musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, slot-operated devices selling merchandise not subject to the general sales taxes and on the total amount from devices or systems where prizes are in any manner awarded to patrons and upon the receipts from fees charged for participation in any game or other form of amusement, and generally upon the sales price from any source of amusement operated for profit, not specified in this section, and upon the sales price from which tax is not collected for tickets or admission, but tax shall not be imposed upon any activity exempt from sales tax under section 423.3, subsection 78. Every person receiving any sales price from the sources described in this section is subject to all provisions of this subchapter relating to retail sales tax and other provisions of this chapter as applicable.

5. There is imposed a tax of five percent upon the sales price from the furnishing of services as defined in section 423.1.

6. The sales price of any of the following enumerated services is subject to the tax imposed by subsection 5: alteration and garment repair; armored car; vehicle repair; battery, tire, and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; vehicle wash and wax; campgrounds; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; excavating and grading; farm implement

repair of all kinds; flying service; furniture, rug, carpet, and upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; gun and camera repair; house and building moving; household appliance, television, and radio repair; janitorial and building maintenance or cleaning; jewelry and watch repair; lawn care, landscaping, and tree trimming and removal; limousine service, including driver; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pay television; pet grooming; pipe fitting and plumbing; wood preparation; executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; reflexology; security and detective services; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; tanning beds or salons; taxidermy services; telephone answering service; test laboratories, including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; Turkish baths, massage, and reducing salons, excluding services provided by massage therapists licensed under chapter 152C; water conditioning and softening; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables; wrecking service; wrecker and towing.

For the purposes of this subsection, the sales price of a lease or rental includes rents, royalties, and copyright and license fees. For the purposes of this subsection, "financial institutions" means all national banks, federally chartered savings and loan associations, federally chartered savings banks, federally chartered credit unions, banks organized under chapter 524, savings and loan associations and savings banks organized under chapter 534, and credit unions organized under chapter 533.

7. a. A tax of five percent is imposed upon the sales price from the sales, furnishing, or service of solid waste collection and disposal service.

For purposes of this subsection, "solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from nonresidential commercial operations, but does not include auto hulks; street sweepings; ash; construction debris; mining waste; trees; tires; lead acid batteries; used oil; hazardous waste; animal waste used as fertilizer; earthen fill, boulders, or rock; foundry sand used for daily cover at a sanitary landfill; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, or dissolved materials in irrigation return flows; or source, special nuclear, or by-product material defined by the federal Atomic Energy Act of 1954.

A recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least eighty-five percent is exempt from the tax imposed by this subsection if the waste exempted is collected and disposed of separately from other solid waste.

b. A person who transports solid waste generated by that person or another person without compensation shall pay the tax imposed by this subsection at the collection or disposal facility based on the disposal charge or tipping fee. However, the costs of a service or portion of a service to collect and manage recyclable materials separated from solid waste by the waste generator are exempt from the tax imposed by this subsection.

8. a. A tax of five percent is imposed upon the sales price from sales of bundled services contracts. For purposes of this subsection, a "bundled services contract" means an agreement providing for a retailer's performance of services, one or more of which is a taxable service enumerated in this section and one or more of which is not, in return for a consumer's or user's single payment for the performance of the services, with no separate statement to the con-

sumer or user of what portion of that payment is attributable to any one service which is a part of the contract.

b. For purposes of the administration of the tax on bundled services contracts, the director may enter into agreements of limited duration with individual retailers, groups of retailers, or organizations representing retailers of bundled services contracts. Such an agreement shall impose the tax rate only upon that portion of the sales price from a bundled services contract which is attributable to taxable services provided under the contract.

9. A tax of five percent is imposed upon the sales price from any mobile telecommunications service which this state is allowed to tax by the provisions of the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et seq. For purposes of this subsection, taxes on mobile telecommunications service, as defined under the federal Mobile Telecommunications Sourcing Act that are deemed to be provided by the customer's home service provider, shall be paid to the taxing jurisdiction whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications service originates, terminates, or passes through and shall in all other respects be taxed in conformity with the federal Mobile Telecommunications Sourcing Act. All other provisions of the federal Mobile Telecommunications Sourcing Act are adopted by the state of Iowa and incorporated into this subsection by reference. With respect to mobile telecommunications service under the federal Mobile Telecommunications Sourcing Act, the director shall, if requested, enter into agreements consistent with the provisions of the federal Act.

10. All revenues arising under the operation of the provisions of this section shall be deposited into the general fund of the state.

Sec. 96. NEW SECTION. 423.3 EXEMPTIONS.

There is exempted from the provisions of this subchapter and from the computation of the amount of tax imposed by it the following:

1. The sales price from sales of tangible personal property and services furnished which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

2. The sales price of sales for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with the furnishing of taxable services.

3. The sales price of agricultural breeding livestock and domesticated fowl.

4. The sales price of commercial fertilizer.

5. The sales price of agricultural limestone, herbicide, pesticide, insecticide, including adjuvants, surfactants, and other products directly related to the application enhancement of those products, food, medication, or agricultural drain tile, including installation of agricultural drain tile, any of which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market.

6. The sales price of tangible personal property which will be consumed as fuel in creating heat, power, or steam for grain drying, or for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, or for use in cultivation of agricultural products by aquaculture, or in implements of husbandry engaged in agricultural production.

7. The sales price of services furnished by specialized flying implements of husbandry used for agricultural aerial spraying.

8. The sales price exclusive of services of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if the following conditions are met:

a. The farm machinery and equipment shall be directly and primarily used in production of agricultural products.

b. The farm machinery and equipment shall constitute self-propelled implements or implements customarily drawn or attached to self-propelled implements or the farm machinery or equipment is a grain dryer.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in the production of agricultural products.

Vehicles subject to registration, as defined in section 423.1, or replacement parts for such vehicles, are not eligible for this exemption.

9. The sales price of wood chips, sawdust, hay, straw, paper, or other materials used for bedding in the production of agricultural livestock or fowl.

10. The sales price of gas, electricity, water, or heat to be used in implements of husbandry engaged in agricultural production.

11. The sales price exclusive of services of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment and replacement parts, if all of the following conditions are met:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production, aquaculture production, or the production of flowering, ornamental, or vegetable plants.

b. The implement is not a self-propelled implement or implement customarily drawn or attached to self-propelled implements.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production, aquaculture production, or the production of flowering, ornamental, or vegetable plants.

12. The sales price, exclusive of services, from sales of irrigation equipment used in farming operations.

13. The sales price from the sale or rental of irrigation equipment, whether installed above or below ground, to a contractor or farmer if the equipment will be primarily used in agricultural operations.

14. The sales price from the sales of horses, commonly known as draft horses, when purchased for use and so used as draft horses.

15. The sales price from the sale of property which is a container, label, carton, pallet, packing case, wrapping, baling wire, twine, bag, bottle, shipping case, or other similar article or receptacle sold for use in agricultural, livestock, or dairy production.

16. The sales price from the sale of feed and feed supplements and additives when used for consumption by farm deer or bison.

17. The sales price of all goods, wares, or merchandise, or services, used for educational purposes sold to any private nonprofit educational institution in this state. For the purpose of this subsection, "educational institution" means an institution which primarily functions as a school, college, or university with students, faculty, and an established curriculum. The faculty of an educational institution must be associated with the institution and the curriculum must include basic courses which are offered every year. "Educational institution" includes an institution primarily functioning as a library.

18. The sales price of tangible personal property sold, or of services furnished, to the following nonprofit corporations:

a. Residential care facilities and intermediate care facilities for persons with mental retardation and residential care facilities for persons with mental illness licensed by the department of inspections and appeals under chapter 135C.

b. Residential facilities licensed by the department of human services pursuant to chapter 237, other than those maintained by individuals as defined in section 237.1, subsection 7.

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for persons with mental retardation and other persons with developmental disabilities and adult day care services approved for reimbursement by the state department of human services.

d. Community mental health centers accredited by the department of human services pursuant to chapter 225C.

e. Community health centers as defined in 42 U.S.C. § 254(c) and migrant health centers as defined in 42 U.S.C. § 254(b).

19. The sales price of tangible personal property sold to a nonprofit organization which was organized for the purpose of lending the tangible personal property to the general public for use by them for nonprofit purposes.

20. The sales price of tangible personal property sold, or of services furnished, to nonprofit legal aid organizations.

21. The sales price of goods, wares, or merchandise, or of services, used for educational, scientific, historic preservation, or aesthetic purpose sold to a nonprofit private museum.

22. The sales price from sales of goods, wares, or merchandise, or from services furnished, to a nonprofit private art center to be used in the operation of the art center.

23. The sales price of tangible personal property sold, or of services furnished, by a fair society organized under chapter 174.

24. The sales price from services furnished by the notification center established pursuant to section 480.3, and the vendor selected pursuant to section 480.3 to provide the notification service.

25. The sales price of food and beverages sold for human consumption by a nonprofit organization which principally promotes a food or beverage product for human consumption produced, grown, or raised in this state and whose income is exempt from federal taxation under section 501(c) of the Internal Revenue Code.

26. The sales price of tangible personal property sold, or of services furnished, to a statewide nonprofit organ procurement organization, as defined in section 142C.2.

27. The sales price of tangible personal property sold, or of services furnished, to a nonprofit hospital licensed pursuant to chapter 135B to be used in the operation of the hospital.

28. The sales price of tangible personal property sold, or of services furnished, to a free-standing nonprofit hospice facility which operates a hospice program as defined in 42 C.F.R., ch. IV, § 418.3, which property or services are to be used in the hospice program.

29. The sales price of all goods, wares, or merchandise sold, or of services furnished, which are used in the fulfillment of a written construction contract with a nonprofit hospital licensed pursuant to chapter 135B if all of the following apply:

a. The sales and delivery of the goods, wares, or merchandise, or the services furnished occurred between July 1, 1998, and December 31, 2001.

b. The written construction contract was entered into prior to December 31, 1999, or bonds to fund the construction were issued prior to December 31, 1999.

c. The sales or services were purchased by a contractor as the agent for the hospital or were purchased directly by the hospital.

30. The sales price of livestock ear tags sold by a nonprofit organization whose income is exempt from federal taxation under section 501(c)(6) of the Internal Revenue Code where the proceeds are used in bovine research programs selected or approved by such organization.

31. The sales price of goods, wares, or merchandise sold to and of services furnished, and used for public purposes sold to a tax-certifying or tax-levying body of the state or a governmental subdivision of the state, including regional transit systems, as defined in section 324A.1, the state board of regents, department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which have no earnings going to the benefit of an equity investor or stockholder, except any of the following:

a. The sales price of goods, wares, or merchandise sold to, or of services furnished, and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity, heat, or pay television service to the general public.

b. The sales price of furnishing of sewage services to a county or municipality on behalf of nonresidential commercial operations.

c. The furnishing of solid waste collection and disposal service to a county or municipality on behalf of nonresidential commercial operations located within the county or municipality.

The exemption provided by this subsection shall also apply to all such sales of goods, wares, or merchandise or of services furnished and subject to use tax.

32. The sales price of tangible personal property sold, or of services furnished, by a county or city. This exemption does not apply to any of the following:

a. The tax specifically imposed under section 423.2 on the sales price from sales or furnishing of gas, electricity, water, heat, pay television service, or communication service to the public by a municipal corporation in its proprietary capacity.

b. The sale or furnishing of solid waste collection and disposal service to nonresidential commercial operations.

c. The sale or furnishing of sewage service for nonresidential commercial operations.

d. Fees paid to cities and counties for the privilege of participating in any athletic sports.

33. The sales price of mementos and other items relating to Iowa history and historic sites, the general assembly, and the state capitol, sold by the legislative service bureau and its legislative information office on the premises of property under the control of the legislative council, at the state capitol, and on other state property.

34. The sales price from sales of mementos and other items relating to Iowa history and historic sites by the department of cultural affairs on the premises of property under its control and at the state capitol.

35. The sales price from sales or services furnished by the state fair organized under chapter 173.

36. The sales price from sales of tangible personal property or of the sale or furnishing of electrical energy, natural or artificial gas, or communication service to another state or political subdivision of another state if the other state provides a similar reciprocal exemption for this state and political subdivision of this state.

37. The sales price of services on or connected with new construction, reconstruction, alteration, expansion, remodeling, or the services of a general building contractor, architect, or engineer.

38. The sales price from the sale of building materials, supplies, or equipment sold to rural water districts organized under chapter 504A as provided in chapter 357A and used for the construction of facilities of a rural water district.

39. The sales price from "casual sales".

"Casual sales" means:

a. Sales of tangible personal property, or the furnishing of services, of a nonrecurring nature, by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section 423.2.

b. The sale of all or substantially all of the tangible personal property or services held or used by a seller in the course of the seller's trade or business for which the seller is required to hold a sales tax permit when the seller sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

40. The sales price from the sale of automotive fluids to a retailer to be used either in providing a service which includes the installation or application of the fluids in or on a motor vehicle, which service is subject to section 423.2, subsection 6, or to be installed in or applied to a motor vehicle which the retailer intends to sell, which sale is subject to section 423.26. For purposes of this subsection, automotive fluids are all those which are refined, manufactured, or otherwise processed and packaged for sale prior to their installation in or application to a motor vehicle. They include but are not limited to motor oil and other lubricants, hydraulic fluids, brake fluid, transmission fluid, sealants, undercoatings, antifreeze, and gasoline additives.

41. The sales price from the rental of motion picture films, video and audio tapes, video and audio discs, records, photos, copy, scripts, or other media used for the purpose of transmitting that which can be seen, heard, or read, if either of the following conditions are met:

a. The lessee imposes a charge for the viewing of such media and the charge for the viewing is subject to taxation under this subchapter or is subject to use tax.

b. The lessee broadcasts the contents of such media for public viewing or listening.

42. The sales price from the sale of tangible personal property consisting of advertising

material including paper to a person in Iowa if that person or that person's agent will, subsequent to the sale, send that advertising material outside this state and the material is subsequently used solely outside of Iowa. For the purpose of this subsection, "advertising material" means any brochure, catalog, leaflet, flyer, order form, return envelope, or similar item used to promote sales of property or services.

43. The sales price from the sale of property or of services performed on property which the retailer transfers to a carrier for shipment to a point outside of Iowa, places in the United States mail or parcel post directed to a point outside of Iowa, or transports to a point outside of Iowa by means of the retailer's own vehicles, and which is not thereafter returned to a point within Iowa, except solely in the course of interstate commerce or transportation. This exemption shall not apply if the purchaser, consumer, or their agent, other than a carrier, takes physical possession of the property in Iowa.

44. The sales price from the sale of property which is a container, label, carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case, or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing.

45. The sales price from sales or rentals to a printer or publisher of the following: acetate; anti-halation backing; antistatic spray; back lining; base material used as a carrier for light sensitive emulsions; blankets; blow-ups; bronze powder; carbon tissue; codas; color filters; color separations; contacts; continuous tone separations; creative art; custom dies and die cutting materials; dampener sleeves; dampening solution; design and styling; diazo coating; dot etching; dot etching solutions; drawings; drawsheets; driers; duplicate films or prints; electronically digitized images; electrotypes; end product of image modulation; engravings; etch solutions; film; finished art or final art; fix; fixative spray; flats; flying pasters; foils; goldenrod paper; gum; halftones; illustrations; ink; ink paste; keylines; lacquer; lasering images; layouts; lettering; line negatives and positives; linotypes; lithographic offset plates; magnesium and zinc etchings; masking paper; masks; masters; mats; mat service; metal toner; models and modeling; mylar; negatives; nonoffset spray; opaque film process paper; opaquing; padding compound; paper stock; photographic materials: acids, plastic film, desensitizer emulsion, exposure chemicals, fix, developers, and paper; photography, day rate; photopolymer coating; photographs; photostats; photo-display tape; phototypesetter materials; ph-indicator sticks; positives; press pack; printing cylinders; printing plates, all types; process lettering; proof paper; proofs and proof processes, all types; pumice powder; purchased author alterations; purchased composition; purchased phototypesetting; purchased stripping and pasteups; red litho tape; reducers; roller covering; screen tints; sketches; stepped plates; stereotypes; strip types; substrate; tints; tissue overlays; toners; transparencies; tympan; typesetting; typography; varnishes; veloxes; wood mounts; and any other items used in a like capacity to any of the above enumerated items by the printer or publisher to complete a finished product for sale at retail. Expendable tools and supplies which are not enumerated in this subsection are excluded from the exemption. "Printer" means that portion of a person's business engaged in printing that completes a finished product for ultimate sale at retail or means that portion of a person's business used to complete a finished printed packaging material used to package a product for ultimate sale at retail. "Printer" does not mean an in-house printer who prints or copyrights its own materials.

46. a. The sales price from the sale or rental of computers, machinery, and equipment, including replacement parts, and materials used to construct or self-construct computers, machinery, and equipment if such items are any of the following:

- (1) Directly and primarily used in processing by a manufacturer.
- (2) Directly and primarily used to maintain the integrity of the product or to maintain unique environmental conditions required for either the product or the computers, machinery, and equipment used in processing by a manufacturer, including test equipment used to control quality and specifications of the product.

(3) Directly and primarily used in research and development of new products or processes of processing.

(4) Computers used in processing or storage of data or information by an insurance company, financial institution, or commercial enterprise.

(5) Directly and primarily used in recycling or reprocessing of waste products.

(6) Pollution-control equipment used by a manufacturer, including but not limited to that required or certified by an agency of this state or of the United States government.

b. The sales price from the sale of fuel used in creating heat, power, steam, or for generating electrical current, or from the sale of electricity, consumed by computers, machinery, or equipment used in an exempt manner described in paragraph "a", subparagraph (1), (2), (3), (5), or (6).

c. The sales price from the sale or rental of the following shall not be exempt from the tax imposed by this subchapter:

(1) Hand tools.

(2) Point-of-sale equipment and computers.

(3) Industrial machinery, equipment, and computers, including pollution-control equipment within the scope of section 427A.1, subsection 1, paragraphs "h" and "i".

(4) Vehicles subject to registration, except vehicles subject to registration which are directly and primarily used in recycling or reprocessing of waste products.

d. As used in this subsection:

(1) "Commercial enterprise" includes businesses and manufacturers conducted for profit and centers for data processing services to insurance companies, financial institutions, businesses, and manufacturers, but excludes professions and occupations and nonprofit organizations.

(2) "Financial institution" means as defined in section 527.2.

(3) "Insurance company" means an insurer organized or operating under chapter 508, 514, 515, 518, 518A, 519, or 520, or authorized to do business in Iowa as an insurer or an insurance producer under chapter 522B.

(4) "Manufacturer" means as defined in section 428.20, but also includes contract manufacturers. A contract manufacturer is a manufacturer that otherwise falls within the definition of manufacturer under section 428.20, except that a contract manufacturer does not sell the tangible personal property the contract manufacturer processes on behalf of other manufacturers. A business engaged in activities subsequent to the extractive process of quarrying or mining, such as crushing, washing, sizing, or blending of aggregate materials, is a manufacturer with respect to these activities.

(5) "Processing" means a series of operations in which materials are manufactured, refined, purified, created, combined, or transformed by a manufacturer, ultimately into tangible personal property. Processing encompasses all activities commencing with the receipt or producing of raw materials by the manufacturer and ending at the point products are delivered for shipment or transferred from the manufacturer. Processing includes but is not limited to refinement or purification of materials; treatment of materials to change their form, context, or condition; maintenance of the quality or integrity of materials, components, or products; maintenance of environmental conditions necessary for materials, components, or products; quality control activities; and construction of packaging and shipping devices, placement into shipping containers or any type of shipping devices or medium, and the movement of materials, components, or products until shipment from the processor.

(6) "Receipt or producing of raw materials" means activities performed upon tangible personal property only. With respect to raw materials produced from or upon real estate, the receipt or producing of raw materials is deemed to occur immediately following the severance of the raw materials from the real estate.

47. The sales price from the furnishing of the design and installation of new industrial machinery or equipment, including electrical and electronic installation.

48. The sales price from the sale of carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services when used by a manufacturer of food products to

produce marketable food products for human consumption, including but not limited to treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture.

49. The sales price of sales of electricity, steam, or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail.

50. The sales price of tangible personal property sold for processing. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that the property will, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail; or for generating electric current; or the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing tangible personal property which is intended to be sold ultimately at retail or consumed in the maintenance or repair of fabric or clothing, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides is a retail sale for purposes of the processing exemption set out in this subsection and in subsection 49.

51. The sales price from the sale of argon and other similar gases to be used in the manufacturing process.

52. The sales price from the sale of electricity to water companies assessed for property tax pursuant to sections 428.24, 428.26, and 428.28 which is used solely for the purpose of pumping water from a river or well.

53. The sales price from the sale of wind energy conversion property to be used as an electric power source and the sale of the materials used to manufacture, install, or construct wind energy conversion property used or to be used as an electric power source.

For purposes of this subsection, "wind energy conversion property" means any device, including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation, which converts wind energy to a form of usable energy.

54. The sales price from the sales of newspapers, free newspapers, or shoppers guides and the printing and publishing of such newspapers and shoppers guides, and envelopes for advertising.

55. The sales price from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the sales price from the sales of ethanol blended gasoline, as defined in section 452A.2.

56. The sales price from all sales of food and food ingredients. However, as used in this subsection, "food" does not include alcoholic beverages, candy, dietary supplements, food sold through vending machines, prepared food, soft drinks, and tobacco.

For the purposes of this subsection:

a. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

b. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration.

c. "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that contains one or more of the following dietary ingredients:

- (1) A vitamin.
- (2) A mineral.

- (3) An herb or other botanical.
- (4) An amino acid.
- (5) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(6) A concentrate, metabolite, constituent, extract, or combination of any of the ingredients in subparagraphs (1) through (5) that is intended for ingestion in tablet, capsule, powder, soft-gel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label and as required pursuant to 21 C.F.R. § 101.36.

d. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

e. "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment, other than food which would be qualified for exemption under subsection 57 if purchased with a coupon described in subsection 57.

f. "Prepared food" means any of following:

- (1) Food sold in a heated state or heated by the seller, including food sold by a caterer.
- (2) Two or more food ingredients mixed or combined by the seller for sale as a single item.
- (3) "Prepared food", for the purposes of this paragraph, does not include food that is any of the following:

- (a) Only cut, repackaged, or pasteurized by the seller.
- (b) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States food and drug administration in chapter 3, part 401.11 of its food code, so as to prevent food borne illnesses.

- (c) Bakery items sold by the seller which baked them. The words "bakery items" includes but is not limited to breads, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

- (d) Food sold without eating utensils provided by the seller in an unheated state as a single item which is priced by weight or volume.

- (4) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport food.

g. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

f. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

57. The sales price from the sale of items purchased with coupons issued under the federal Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq.

58. In transactions in which tangible personal property is traded toward the sales price of other tangible personal property, that portion of the sales price which is not payable in money to the retailer is exempted from the taxable amount if the following conditions are met:

- a. The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.

- b. The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail or is intended to be used by the retailer or another in the remanufacturing of a like item.

59. The sales price from the sale or rental of prescription drugs or medical devices intended for human use or consumption.

For the purposes of this subsection:

- a. "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages which is any of the following:

(1) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplement to any of them.

(2) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(3) Intended to affect the structure or any function of the body.

b. "Medical device" means equipment or a supply, intended to be prescribed by a practitioner, including orthopedic or orthotic devices. However, "medical device" also includes prosthetic devices, ostomy, urological, and tracheostomy equipment and supplies, and diabetic testing materials, hypodermic syringes and needles, anesthesia trays, biopsy trays and biopsy needles, cannula systems, catheter trays and invasive catheters, dialyzers, drug infusion devices, fistula sets, hemodialysis devices, insulin infusion devices, intraocular lenses, irrigation solutions, intravenous administering sets, solutions and stopcocks, myelogram trays, nebulizers, small vein infusion kits, spinal puncture trays, transfusion sets, venous blood sets, and oxygen equipment, intended to be dispensed for human use with or without a prescription to an ultimate user.

c. "Practitioner" means a practitioner as defined in section 155A.3, or a person licensed to prescribe drugs.

d. "Prescription drug" means a drug intended to be dispensed to an ultimate user pursuant to a prescription drug order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner, or oxygen or insulin dispensed for human consumption with or without a prescription drug order or medication order.

e. "Prosthetic device" means a replacement, corrective, or supportive device including repair and replacement parts for the same worn on or in the body to do any of the following:

(1) Artificially replace a missing portion of the body.

(2) Prevent or correct physical deformity or malfunction.

(3) Support a weak or deformed portion of the body.

f. "Ultimate user" means an individual who has lawfully obtained and possesses a prescription drug or medical device for the individual's own use or for the use of a member of the individual's household, or an individual to whom a prescription drug or medical device has been lawfully supplied, administered, dispensed, or prescribed.

60. The sales price from services furnished by aerial commercial and charter transportation services.

61. The sales price from the sale of raffle tickets for a raffle licensed pursuant to section 99B.5.

62. The sales price from the sale of tangible personal property which will be given as prizes to players in games of skill, games of chance, raffles, and bingo games as defined in chapter 99B.

63. The sales price from the sale of a modular home, as defined in section 435.1, to the extent of the portion of the purchase price of the modular home which is not attributable to the cost of the tangible personal property used in the processing of the modular home. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the modular home is forty percent.

64. The sales price from charges paid to a provider for access to on-line computer services. For purposes of this subsection, "on-line computer service" means a service that provides or enables computer access by multiple users to the internet or to other information made available through a computer server.

65. The sales price from the sale or rental of information services. "Information services" means every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a buyer or its agent of such information through any tangible or intangible medium. Information accumulated, prepared, or organized for a buyer or its agent is an information service even though it may incorporate preexisting components of data or other information. "Information services" includes, but is not limited to, database files, mailing lists, subscription files, market research, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, and scouting reports, or other similar items.

66. The sales price of a sale at retail if the substance of the transaction is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics.

67. a. The sales price from the sale of an article of clothing designed to be worn on or about the human body if all of the following apply:

(1) The sales price of the article is less than one hundred dollars.

(2) The sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the following Saturday.

b. This subsection does not apply to any of the following:

(1) Sport or recreational equipment and protective equipment.

(2) Clothing accessories or equipment.

(3) The rental of clothing.

c. For purposes of this subsection:

(1) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to the following: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers (children and adults, including disposable diapers); earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoelaces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel.

"Clothing" does not include the following: belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies (including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles); and sewing materials that become part of clothing (including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers).

(2) "Clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. "Clothing accessories or equipment" includes, but is not limited to, the following: briefcases; cosmetics; hair notions (including, but not limited to, barrettes, hair bows, and hair nets); handbags; handkerchiefs; jewelry; sunglasses, nonprescription; umbrellas; wallets; watches; and wigs and hairpieces.

(3) "Protective equipment" means items for human wear and designed as protection for the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. "Protective equipment" includes, but is not limited to, the following: breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welders gloves and masks.

(4) "Sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. "Sport or recreational equipment" includes, but is not limited to, the following: ballet and tap shoes; cleated or spiked athletic shoes; gloves (including, but not limited to, baseball, bowling, boxing, hockey, and golf); goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads; ski boots; waders; and wetsuits and fins.

*68. a. *Subject to paragraph "b", the sales price from the sale or furnishing of metered gas, electricity, and fuel, including propane and heating oil, to residential customers which is used to provide energy for residential dwellings and units of apartment and condominium complexes used for human occupancy.*

b. *The exemption in this subsection shall be phased in by means of a reduction in the tax rate as follows:*

(1) *If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after January 1, 2002, through December 31, 2002, or if the sale or furnishing of fuel for purposes of residential energy and the delivery*

* Item veto; see message at end of the Act

of the fuel occurs on or after January 1, 2002, through December 31, 2002, the rate of tax is four percent of the sales price.

(2) If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after January 1, 2003, through June 30, 2008, or if the sale or furnishing of fuel for purposes of residential energy and the delivery of the fuel occurs on or after January 1, 2003, through June 30, 2008, the rate of tax is three percent of the sales price.

(3) If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after July 1, 2008, through June 30, 2009, or if the sale or furnishing of fuel for purposes of residential energy and the delivery of the fuel occurs on or after July 1, 2008, through June 30, 2009, the rate of tax is two percent of the sales price.

(4) If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after July 1, 2009, through June 30, 2010, or if the sale or furnishing of fuel for purposes of residential energy and the delivery of the fuel occurs on or after July 1, 2009, through June 30, 2010, the rate of tax is one percent of the sales price.

(5) If the date of the utility billing or meter reading cycle of the residential customer for the sale or furnishing of metered gas and electricity is on or after July 1, 2010, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occurs on or after July 1, 2010, the rate of tax is zero percent of the sales price.

c. The exemption in this subsection does not apply to local option sales and services tax imposed pursuant to chapters 423B and 423E.*

69. The sales price from charges paid for the delivery of electricity or natural gas if the sale or furnishing of the electricity or natural gas or its use is exempt from the tax on sales prices imposed under this subchapter or from the use tax imposed under subchapter III.

70. The sales price from the sales, furnishing, or service of transportation service except the rental of recreational vehicles or recreational boats, except the rental of motor vehicles subject to registration which are registered for a gross weight of thirteen tons or less for a period of sixty days or less, and except the rental of aircraft for a period of sixty days or less. This exemption does not apply to the transportation of electric energy or natural gas.

71. The sales price from sales of tangible personal property used or to be used as railroad rolling stock for transporting persons or property, or as materials or parts therefor.

72. The sales price from the sales of special fuel for diesel engines consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire on rivers bordering on the state if the fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such a river.

73. The sales price from sales of vehicles subject to registration or subject only to the issuance of a certificate of title and sales of aircraft subject to registration under section 328.20.

74. The sales price from the sale of aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

75. The sales price from the sale or rental of aircraft; the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the sales price of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation administration certificated air carrier operation.

76. The sales price from the sale or rental of tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and the sales price of all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means

* Item veto; see message at end of the Act

aircraft used in nonscheduled interstate federal aviation administration certificated air carrier operation operating under 14 C.F.R. ch. 1, pt. 135.

77. The sales price from the sale of aircraft to an aircraft dealer who in turn rents or leases the aircraft if all of the following apply:

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.
- c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

If an aircraft exempt under this subsection is used for any purpose other than leasing or renting, or the conditions in paragraphs "a", "b", and "c" are not continuously met, the dealer claiming the exemption under this subsection is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price.

78. The sales price from sales or rental of tangible personal property, or services rendered by any entity where the profits from the sales or rental of the tangible personal property, or services rendered are used by or donated to a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code, a government entity, or a nonprofit private educational institution, and where the entire proceeds from the sales, rental, or services are expended for any of the following purposes:

- a. Educational.
- b. Religious.
- c. Charitable. A charitable act is an act done out of goodwill, benevolence, and a desire to add to or to improve the good of humankind in general or any class or portion of humankind, with no pecuniary profit inuring to the person performing the service or giving the gift.

This exemption does not apply to the sales price from games of skill, games of chance, raffles, and bingo games as defined in chapter 99B. This exemption is disallowed on the amount of the sales price only to the extent the profits from the sales, rental, or services are not used by or donated to the appropriate entity and expended for educational, religious, or charitable purposes.

79. The sales price from the sale or rental of tangible personal property or from services furnished to a recognized community action agency as provided in section 216A.93 to be used for the purposes of the agency.

80. a. For purposes of this subsection, "designated exempt entity" means an entity which is designated in section 423.4, subsection 1.

b. If a contractor, subcontractor, or builder is to use building materials, supplies, and equipment in the performance of a construction contract with a designated exempt entity, the person shall purchase such items of tangible personal property without liability for the tax if such property will be used in the performance of the construction contract and a purchasing agent authorization letter and an exemption certificate, issued by the designated exempt entity, are presented to the retailer.

c. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the tax shall not be due when materials are withdrawn from inventory for use in construction performed for a designated exempt entity if an exemption certificate is received from such entity.

d. Tax shall not apply to tangible personal property purchased and consumed by a manufacturer as building materials, supplies, or equipment in the performance of a construction contract for a designated exempt entity, if a purchasing agent authorization letter and an exemption certificate are received from such entity and presented to a retailer.

81. The sales price from the sales of lottery tickets or shares pursuant to chapter 99G.

82. The sales price from the sale or rental of core and mold making equipment and sand handling equipment directly and primarily used in the mold making process by a foundry.

83. The sales price from noncustomer point of sale or noncustomer automated teller machine access or service charges assessed by a financial institution. For purposes of this subsection, "financial institution" means the same as defined in section 527.2.

Sec. 97. NEW SECTION. 423.4 REFUNDS.

1. A private nonprofit educational institution in this state, nonprofit private museum in this state, tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which do not have earnings going to the benefit of an equity investor or stockholder, may make application to the department for the refund of the sales or use tax upon the sales price of all sales of goods, wares, or merchandise, or from services furnished to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency, or instrumentality of the state or a political subdivision, a private nonprofit educational institution in this state, or a nonprofit private museum in this state if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, is devoted to educational uses, or becomes a nonprofit private museum; except goods, wares, or merchandise, or services furnished which are used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public or in connection with the operation of a municipal pay television system; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares, or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares, or merchandise, or services furnished and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit, private nonprofit educational institution, or nonprofit private museum which has made any written contract for performance by the contractor. The forms shall be filed by the contractor with the governmental unit, educational institution, or nonprofit private museum before final settlement is made.

b. Such governmental unit, educational institution, or nonprofit private museum shall, not more than one year after the final settlement has been made, make application to the department for any refund of the amount of the sales or use tax which shall have been paid upon any goods, wares, or merchandise, or services furnished, the application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit the claim and, if approved, issue a warrant to the governmental unit, educational institution, or nonprofit private museum in the amount of the sales or use tax which has been paid to the state of Iowa under the contract.

Refunds authorized under this subsection shall accrue interest at the rate in effect under section 421.7 from the first day of the second calendar month following the date the refund claim is received by the department.

c. Any contractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition shall be liable for the payment of the tax and any applicable penalty and interest.

2. The refund of sales and use tax paid on transportation construction projects let by the state department of transportation is subject to the special provisions of this subsection.

a. A contractor awarded a contract for a transportation construction project is considered the consumer of all building materials, building supplies, and equipment and shall pay sales tax to the supplier or remit consumer use tax directly to the department.

b. The contractor is not required to file information with the state department of transportation stating the amount of goods, wares, or merchandise, or services rendered, furnished, or performed and used in the performance of the contract or the amount of sales or use tax paid.

c. The state department of transportation shall file a refund claim based on a formula that considers the following:

(1) The quantity of material to complete the contract, and quantities of items of work.

(2) The estimated cost of these materials included in the items of work, and the state sales or use tax to be paid on the tax rate in effect in section 423.2. The quantity of materials shall be determined after each letting based on the contract quantities of all items of work let to contract. The quantity of individual component materials required for each item shall be determined and maintained in a database. The total quantities of materials shall be determined by multiplying the quantities of component materials for each contract item of work by the total quantities of each contract item for each letting. Where variances exist in the cost of materials, the lowest cost shall be used as the base cost.

d. Only the state sales or use tax is refundable. Local option taxes paid by the contractor are not refundable.

3. A relief agency may apply to the director for refund of the amount of sales or use tax imposed and paid upon sales to it of any goods, wares, merchandise, or services furnished, used for free distribution to the poor and needy.

a. The refunds may be obtained only in the following amounts and manner and only under the following conditions:

(1) On forms furnished by the department, and filed within the time as the director shall provide by rule, the relief agency shall report to the department the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, merchandise, or services furnished, used for free distribution to the poor and needy.

(2) On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency.

(3) The relief agency must prove to the satisfaction of the director that the person making the sales has included the amount thereof in the computation of the sales price of such person and that such person has paid the tax levied by this subchapter or subchapter III, based upon such computation of the sales price.

b. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the relief agency.

SUBCHAPTER III USE TAX

Sec. 98. NEW SECTION. 423.5 IMPOSITION OF TAX.

An excise tax at the rate of five percent of the purchase price or installed purchase price is imposed on the following:

1. The use in this state of tangible personal property as defined in section 423.1, including aircraft subject to registration under section 328.20, purchased for use in this state. For the purposes of this subchapter, the furnishing or use of the following services is also treated as the use of tangible personal property: optional service or warranty contracts, except residential service contracts regulated under chapter 523C, vulcanizing, recapping, or retreading services, engraving, photography, retouching, printing, or binding services, and communication service when furnished or delivered to consumers or users within this state.

2. The use of manufactured housing in this state, on the purchase price if the manufactured housing is sold in the form of tangible personal property or on the installed purchase price if the manufactured housing is sold in the form of realty.

3. The use of leased vehicles, on the amount subject to tax as calculated pursuant to section 423.27.

4. Purchases of tangible personal property made from the government of the United States or any of its agencies by ultimate consumers shall be subject to the tax imposed by this section. Services purchased from the same source or sources shall be subject to the service tax imposed by this subchapter and apply to the user of the services.

5. The use in this state of services enumerated in section 423.2. This tax is applicable where services are furnished in this state or where the product or result of the service is used in this state.

6. The excise tax is imposed upon every person using the property within this state until the tax has been paid directly to the county treasurer, the state department of transportation, a retailer, or the department. This tax is imposed on every person using the services or the product of the services in this state until the user has paid the tax either to an Iowa use tax permit holder or to the department.

7. For the purpose of the proper administration of the use tax and to prevent its evasion, evidence that tangible personal property was sold by any person for delivery in this state shall be prima facie evidence that such tangible personal property was sold for use in this state.

Sec. 99. NEW SECTION. 423.6 EXEMPTIONS.

The use in this state of the following tangible personal property and services is exempted from the tax imposed by this subchapter:

1. Tangible personal property and enumerated services, the sales price from the sale of which are required to be included in the measure of the sales tax, if that tax has been paid to the department or the retailer. This exemption does not include vehicles subject to registration or subject only to the issuance of a certificate of title.

2. The sale of tangible personal property or the furnishing of services in the regular course of business.

3. Property used in processing. The use of property in processing within the meaning of this subsection shall mean and include any of the following:

a. Any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, and containers used in the collection, recovery, or return of empty beverage containers subject to chapter 455C.

b. Fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

c. Chemicals, solvents, sorbents, or reagents, which are directly used and are consumed, dissipated, or depleted in processing tangible personal property which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product.

d. The distribution to the public of free newspapers or shoppers guides shall be deemed a retail sale for purposes of the processing exemption in this subsection.

4. All articles of tangible personal property brought into the state of Iowa by a nonresident individual for the individual's use or enjoyment while within the state.

5. Services exempt from taxation by the provisions of section 423.3.

6. Tangible personal property or services the sales price of which is exempt from the sales tax under section 423.3, except subsections 39 and 73, as it relates to the sale, but not the lease or rental, of vehicles subject to registration or subject only to the issuance of a certificate of title and as it relates to aircraft subject to registration under section 328.20.

7. Advertisement and promotional material and matter, seed catalogs, envelopes for same, and other similar material temporarily stored in this state which are acquired outside of Iowa and which, subsequent to being brought into this state, are sent outside of Iowa, either singly or physically attached to other tangible personal property sent outside of Iowa.

8. Vehicles, as defined in section 321.1, subsections 41, 64A, 71, 85, and 88, except such vehicles subject to registration which are designed primarily for carrying persons, when purchased for lease and actually leased to a lessee for use outside the state of Iowa and the subsequent sole use in Iowa is in interstate commerce or interstate transportation.

9. Tangible personal property which, by means of fabrication, compounding, or manufacturing, becomes an integral part of vehicles, as defined in section 321.1, subsections 41, 64A, 71, 85, and 88, manufactured for lease and actually leased to a lessee for use outside the state of Iowa and the subsequent sole use in Iowa is in interstate commerce or interstate transporta-

tion. Vehicles subject to registration which are designed primarily for carrying persons are excluded from this subsection.

10. Vehicles subject to registration which are transferred from a business or individual conducting a business within this state as a sole proprietorship, partnership, or limited liability company to a corporation formed by the sole proprietorship, partnership, or limited liability company for the purpose of continuing the business when all of the stock of the corporation so formed is owned by the sole proprietor and the sole proprietor's spouse, by all the partners in the case of a partnership, or by all the members in the case of a limited liability company. This exemption is equally available where the vehicles subject to registration are transferred from a corporation to a sole proprietorship, partnership, or limited liability company formed by that corporation for the purpose of continuing the business when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

This exemption also applies where the vehicles subject to registration are transferred from a corporation as part of the liquidation of the corporation to its stockholders if within three months of such transfer the stockholders retransfer those vehicles subject to registration to a sole proprietorship, partnership, or limited liability company for the purpose of continuing the business of the corporation when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

10A. Vehicles subject to registration which are transferred from a corporation that is primarily engaged in the business of leasing vehicles subject to registration to a corporation that is primarily engaged in the business of leasing vehicles subject to registration when the transferor and transferee corporations are part of the same controlled group for federal income tax purposes.

11. Vehicles registered or operated under chapter 326 and used substantially in interstate commerce, section 423.5, subsection 7, notwithstanding. For purposes of this subsection, "substantially in interstate commerce" means that a minimum of twenty-five percent of the miles operated by the vehicle accrues in states other than Iowa. This subsection applies only to vehicles which are registered for a gross weight of thirteen tons or more.

For purposes of this subsection, trailers and semitrailers registered or operated under chapter 326 are deemed to be used substantially in interstate commerce and to be registered for a gross weight of thirteen tons or more.

For the purposes of this subsection, if a vehicle meets the requirement that twenty-five percent of the miles operated accrues in states other than Iowa in each year of the first four-year period of operation, the exemption from use tax shall continue until the vehicle is sold or transferred. If the vehicle is found to have not met the exemption requirements or the exemption was revoked, the value of the vehicle upon which the use tax shall be imposed is the book or market value, whichever is less, at the time the exemption requirements were not met or the exemption was revoked.

12. Mobile homes and manufactured housing the use of which has previously been subject to the tax imposed under this subchapter and for which that tax has been paid.

13. Mobile homes to the extent of the portion of the purchase price of the mobile home which is not attributable to the cost of the tangible personal property used in the processing of the mobile home, and manufactured housing to the extent of the purchase price or the installed purchase price of the manufactured housing which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the mobile home is forty percent and the portion of the purchase price or installed purchase price which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing is forty percent.

14. Tangible personal property used or to be used as a ship, barge, or waterborne vessel which is used or to be used primarily in or for the transportation of property or cargo for hire on the rivers bordering the state or as materials or parts of such ship, barge, or waterborne vessel.

15. Vehicles subject to registration in any state when purchased for rental or registered and titled by a motor vehicle dealer licensed pursuant to chapter 322 for rental use, and held for rental for a period of one hundred twenty days or more and actually rented for periods of sixty days or less by a person regularly engaged in the business of renting vehicles including, but not limited to, motor vehicle dealers licensed pursuant to chapter 322 who rent automobiles to users, if the rental of the vehicles is subject to taxation under chapter 423C.

16. Motor vehicles subject to registration which were registered and titled between July 1, 1982, and July 1, 1992, to a motor vehicle dealer licensed under chapter 322 and which were rented to a user as defined in section 423C.2 if the following occurred:

- a. The dealer kept the vehicle on the inventory of vehicles for sale at all times.
- b. The vehicle was to be immediately taken from the user of the vehicle when a buyer was found.
- c. The user was aware of this situation.

17. Vehicles subject to registration under chapter 321, with a gross vehicle weight rating of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, when purchased for lease and titled by the lessor licensed pursuant to chapter 321F and actually leased for a period of twelve months or more if the lease of the vehicle is subject to taxation under section 423.27.

A lessor may maintain the exemption from use tax under this subsection for a qualifying lease that terminates at the conclusion or prior to the contracted expiration date, if the lessor does not use the vehicle for any purpose other than for lease. Once the vehicle is used by the lessor for a purpose other than for lease, the exemption from use tax under this subsection no longer applies and, unless there is an exemption from the use tax, use tax is due on the fair market value of the vehicle determined at the time the lessor uses the vehicle for a purpose other than for lease, payable to the department. If the lessor holds the vehicle exclusively for sale, use tax is due and payable on the purchase price of the vehicle at the time of purchase pursuant to this subchapter.

18. Aircraft for use in a scheduled interstate federal aviation administration certificated air carrier operation.

19. Aircraft; tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a scheduled interstate federal aviation administration certificated air carrier operation.

20. Tangible personal property permanently affixed or attached as a component part of the aircraft, including but not limited to repair or replacement materials or parts; and all services used for aircraft repair, remodeling, and maintenance services when such services are performed on aircraft, aircraft engines, or aircraft component materials or parts. For the purposes of this exemption, "aircraft" means aircraft used in a nonscheduled interstate federal aviation administration certificated air carrier operation operating under 14 C.F.R., ch. 1, pt. 135.

21. Aircraft sold to an aircraft dealer who in turn rents or leases the aircraft if all of the following apply:

- a. The aircraft is kept in the inventory of the dealer for sale at all times.
- b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.
- c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

If an aircraft exempt under this subsection is used for any purpose other than leasing or renting, or the conditions in paragraphs "a", "b", and "c" are not continuously met, the dealer claiming the exemption under this subsection is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price.

22. The use in this state of building materials, supplies, or equipment, the sale or use of which is not treated as a retail sale or a sale at retail under section 423.2, subsection 1.

23. Exempted from the purchase price of any vehicle subject to registration is:
- a. The amount of any cash rebate which is provided by a motor vehicle manufacturer to the purchaser of the vehicle subject to registration so long as the rebate is applied to the purchase price of the vehicle.
 - b. That in transactions, except those subject to paragraph "c", in which tangible personal property is traded toward the purchase price of other tangible personal property the purchase price is only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:
 - (1) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.
 - (2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail or is intended to be used by the retailer or another in the remanufacturing of a like item.
 - c. In a transaction between persons, neither of which is a retailer of vehicles subject to registration, in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration, the amount of the trade-in value allowed on the vehicle subject to registration traded.

SUBCHAPTER IV
UNIFORM SALES AND USE TAX ADMINISTRATION ACT

Sec. 100. NEW SECTION. 423.7 TITLE.

This subchapter shall be known and may be cited as the "Uniform Sales and Use Tax Administration Act".

Sec. 101. NEW SECTION. 423.8 LEGISLATIVE FINDING AND INTENT.

The general assembly finds that Iowa should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. It is the intent of the general assembly that entering into this agreement will lead to simplification and modernization of the sales and use tax law and not to the imposition of new taxes or an increase or decrease in the existing number of exemptions, unless such a result is unavoidable under the terms of the agreement.

Sec. 102. NEW SECTION. 423.9 AUTHORITY TO ENTER AGREEMENT AND TO REPRESENT THE STATE.

The director is authorized and directed to enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

The director is further authorized to take other actions reasonably required to implement the provisions set forth in this chapter. Other actions authorized by this section include, but are not limited to, the adoption of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The director or the director's designee is authorized to be a member of the governing board established pursuant to the agreement and to represent Iowa before that body.

Sec. 103. NEW SECTION. 423.10 RELATIONSHIP TO STATE LAW.

Entry into the agreement by the director does not amend or modify any law of this state. Implementation of any condition of the agreement in this state, whether adopted before, at, or after membership of this state in the agreement, shall be by action of the general assembly.

Sec. 104. NEW SECTION. 423.11 AGREEMENT REQUIREMENTS.

The director shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

1. UNIFORM STATE RATE. The agreement must set restrictions to achieve more uniform state rates through the following:
 - a. Limiting the number of state rates.
 - b. Limiting the application of maximums on the amount of state tax that is due on a transaction.
 - c. Limiting the application of thresholds on the application of state tax.
2. UNIFORM STANDARDS. The agreement must establish uniform standards for the following:
 - a. The sourcing of transactions to taxing jurisdictions.
 - b. The administration of exempt sales.
 - c. The allowances a seller can take for bad debts.
 - d. Sales and use tax returns and remittances.
3. UNIFORM DEFINITIONS. The agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.
4. CENTRAL REGISTRATION. The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all member states.
5. NO NEXUS ATTRIBUTION. The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the member states must not be used as a factor in determining whether the seller has nexus with a state for any tax.
6. LOCAL SALES AND USE TAXES. The agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:
 - a. Restricting variances between the state and local tax bases.
 - b. Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes must not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.
 - c. Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.
 - d. Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.
7. MONETARY ALLOWANCES. The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers.
8. STATE COMPLIANCE. The agreement must require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.
9. CONSUMER PRIVACY. The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.
10. ADVISORY COUNCILS. The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

Sec. 105. NEW SECTION. 423.12 LIMITED BINDING AND BENEFICIAL EFFECT.

1. The agreement binds and inures only to the benefit of Iowa and the other member states. A person, other than a member state, is not an intended beneficiary of the agreement. Any benefit to a person other than a member state is established by the law of Iowa and not by the terms of the agreement.
2. A person shall not have any cause of action or defense under the agreement or by virtue of this state's entry into the agreement. A person may not challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

3. A law of this state, or the application of it, shall not be declared invalid as to any such person or circumstance on the ground that the provision or application is inconsistent with the agreement.

SUBCHAPTER V
SALES AND USE TAX ACT — ADMINISTRATION OF
RETAILERS NOT REGISTERED UNDER THE AGREEMENT AND OF
CONSUMERS OBLIGATED TO PAY USE TAX DIRECTLY

Sec. 106. NEW SECTION. 423.13 PURPOSE OF THIS SUBCHAPTER.

The purpose of this subchapter is to provide for the administration and collection of sales or use tax on the part of retailers who are not registered under the agreement and for the collection of use tax on the part of consumers who are obligated to pay that tax directly. Any application of the sections of this subchapter to retailers registered under the agreement is only by way of incorporation by reference into subchapter VI of this chapter.

Sec. 107. NEW SECTION. 423.14 SALES AND USE TAX COLLECTION.

1. a. Sales tax, other than that described in paragraph "c", shall be collected by sellers who are retailers or by their agents. Sellers or their agents shall, as far as practicable, add the sales tax, or the average equivalent thereof, to the sales price or charge, less trade-ins allowed and taken and when added such tax shall constitute a part of the sales price or charge, shall be a debt from consumer or user to seller or agent until paid, and shall be recoverable at law in the same manner as other debts.

b. In computing the tax to be collected as the result of any transaction, the tax computation must be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax must be rounded up to the next whole cent; whenever the third decimal place is four or less, the tax must be rounded downward to a whole cent. Sellers may elect to compute the tax due on transactions on an item or invoice basis. Sellers are not required to use a bracket system.

c. The tax imposed upon those sales of motor vehicle fuel which are subject to tax and refund under chapter 452A shall be collected by the state treasurer by way of deduction from refunds otherwise allowable under that chapter. The treasurer shall transfer the amount of such deductions from the motor vehicle fuel tax fund to the special tax fund.

2. Use tax shall be collected in the following manner:

a. The tax upon the use of all vehicles subject to registration or subject only to the issuance of a certificate of title or the tax upon the use of manufactured housing shall be collected by the county treasurer or the state department of transportation pursuant to sections 423.26 and 423.27. The county treasurer shall retain one dollar from each tax payment collected, to be credited to the county general fund.

b. The tax upon the use of all tangible personal property other than that enumerated in paragraph "a", which is sold by a seller who is a retailer maintaining a place of business in this state, or by such other retailer or agent as the director shall authorize pursuant to section 423.30, shall be collected by the retailer or agent and remitted to the department, pursuant to the provisions of paragraph "e", and sections 423.24, 423.29, 423.30, 423.32, and 423.33.

c. The tax upon the use of all tangible personal property not paid pursuant to paragraphs "a" and "b" shall be paid to the department directly by any person using the property within this state, pursuant to the provisions of section 423.34.

d. The tax imposed on the use of services enumerated in section 423.5 shall be collected, remitted, and paid to the department of revenue and finance in the same manner as use tax on tangible personal property is collected, remitted, and paid under this subchapter.

e. All persons obligated by paragraph "a", "b", or "d", to collect use tax shall, as far as practicable, add that tax, or the average equivalent thereof, to the purchase price, less trade-ins allowed and taken, and when added the tax shall constitute a part of the purchase price. Use tax which this section requires to be collected by a retailer and any tax collected pursuant to

this section by a retailer shall constitute a debt owed by the retailer to this state. Tax which must be paid directly to the department, pursuant to paragraph "c" or "d", is to be computed and added by the consumer or user to the purchase price in the same manner as this paragraph requires a seller to compute and add the tax. The tax shall be a debt from the consumer or user to the department until paid, and shall be recoverable at law in the same manner as other debts.

Sec. 108. NEW SECTION. 423.15 GENERAL SOURCING RULES.

All sellers obligated to collect Iowa sales or use tax shall use the standards set out in this section to determine where sales of products occur, excluding sales enumerated in section 423.16. These provisions apply regardless of the characterization of a product as tangible personal property, a digital good, or a service, excluding telecommunications services. This section only applies to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of a product. This section does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions in which the use occurs. A seller's obligation to collect Iowa sales tax or Iowa use tax only occurs if the sale is sourced to this state. The application of whether Iowa sales tax applies to sales sourced to Iowa depends upon where the sale is consummated by delivery.

1. Sales, excluding leases or rentals other than leases or rentals set out in subsection 2, of products shall be sourced as follows:

a. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

b. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

c. When paragraphs "a" and "b" do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

d. When paragraphs "a", "b", and "c" do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

e. When paragraphs "a", "b", "c", and "d" do not apply, including the circumstance where the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided disregarding for these purposes any location that merely provided the digital transfer of the product sold.

2. The lease or rental of tangible personal property, other than property identified in subsection 3 or section 423.16, shall be sourced as follows:

a. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection 1. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

b. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection 1.

c. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

3. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection 1, notwithstanding the exclusion of lease or rental in that subsection. "Transportation equipment" means any of the following:

a. Locomotives or railcars that are utilized for the carriage of persons or property in interstate commerce.

b. Trucks and truck-tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that meet both of the following requirements:

(1) Are registered through the international registration plan.

(2) Are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

c. Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

d. Containers designed for use on and component parts attached or secured on the items set forth in paragraphs "a" through "c".

Sec. 109. NEW SECTION. 423.16 TRANSACTIONS TO WHICH THE GENERAL SOURCING RULES DO NOT APPLY.

Section 423.15 does not apply to sales or use taxes levied on the following:

1. The retail sale or transfer of watercraft, modular homes, manufactured housing, or mobile homes, and the retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in section 423.15, subsection 3.

2. The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in section 423.15, subsection 3, which shall be sourced in accordance with section 423.17.

3. Transactions to which the multiple points use exemption is applicable, which shall be sourced in accordance with section 423.18.

4. Transactions to which direct mail sourcing is applicable, which shall be sourced in accordance with section 423.19.

5. Telecommunications services, as set out in section 423.20, which shall be sourced in accordance with section 423.20, subsection 2.

Sec. 110. NEW SECTION. 423.17 SOURCING RULES FOR VARIOUS TYPES OF LEASED OR RENTED EQUIPMENT WHICH IS NOT TRANSPORTATION EQUIPMENT.

The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in section 423.15, subsection 3, shall be sourced as follows:

1. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of section 423.15, subsection 1.

3. This section does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Sec. 111. NEW SECTION. 423.18 MULTIPLE POINTS OF USE EXEMPTION FORMS.

A business purchaser that is not a holder of a direct pay tax permit pursuant to section 423.36

that knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase a "multiple points of use" or "MPU" exemption form disclosing this fact.

1. Upon receipt of the MPU exemption form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

2. A purchaser delivering the MPU exemption form may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

3. The MPU exemption form will remain in effect for all future sales by the seller to the purchaser except as to the subsequent sale's specific apportionment that is governed by the principle of subsection 2 and the facts existing at the time of the sale until it is revoked in writing.

4. A holder of a direct pay tax permit under section 423.36 shall not be required to deliver an MPU exemption form to the seller. A direct pay tax permit holder shall follow the provisions of subsection 2 in apportioning the tax due on a digital good, computer software delivered electronically, or service that will be concurrently available for use in more than one jurisdiction.

Sec. 112. NEW SECTION. 423.19 DIRECT MAIL SOURCING.

1. Notwithstanding section 423.15, a purchaser of direct mail that is not a holder of a direct pay tax permit pursuant to section 423.36 shall provide to the seller in conjunction with the purchase either a direct mail form or information to show the jurisdictions to which the direct mail is delivered to recipients.

a. Upon receipt of the direct mail form, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

b. Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

2. If the purchaser of direct mail does not have a direct pay tax permit and does not provide the seller with either a direct mail form or delivery information, as required by subsection 1, the seller shall collect the tax according to section 423.15, subsection 1, paragraph "e". Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

3. If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a direct mail form or delivery information to the seller.

Sec. 113. NEW SECTION. 423.20 TELECOMMUNICATIONS SERVICE SOURCING.

1. As used in this section:

a. "Air-to-ground radiotelephone service" means a radio service, as that term is used in 47 C.F.R. § 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

b. "Call-by-call basis" means any method of charging for the telecommunications service where the price is measured by individual calls.

c. "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

d. "Customer" means the person or entity that contracts with the seller of the telecommunications service. If the end user of the telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunica-

tions service, but this sentence only applies for the purpose of sourcing sales of the telecommunications service under this section. "Customer" does not include a reseller of a telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

e. "Customer channel termination point" means the location where the customer either inputs or receives the communications.

f. "End user" means the person who utilizes the telecommunications service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

g. "Home service provider" means the same as that term is defined in the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 124(5).

h. "Mobile telecommunications service" means the same as that term is defined in federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 124(7).

i. "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, "place of primary use" must be within the licensed service area of the home service provider.

j. "Postpaid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A "postpaid calling service" includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunications service.

k. "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

l. "Private communication service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

m. "Service address" means one of the following:

(1) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(2) If the location in subparagraph (1) is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) If the locations in subparagraphs (1) and (2) are not known, the "service address" means the location of the customer's place of primary use.

2. Sales of telecommunications services shall be sourced in the following manner:

a. Except for the defined telecommunications services in paragraph "c", the sale of telecommunications services sold on a call-by-call basis shall be sourced to one of the following:

(1) Each level of taxing jurisdiction where the call originates and terminates in that jurisdiction.

(2) Each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

b. Except for the defined telecommunications services in paragraph "c", a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.

c. Sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service or prepaid calling service is sourced to the customer's place of primary use as required by the federal Mobile Telecommunications Sourcing Act.

(2) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either of the following:

(a) The seller's telecommunications system.

(b) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service is sourced in accordance with section 423.15. However, in the case of a sale of mobile telecommunications services that is a prepaid telecommunications service, the rule provided in section 423.15, subsection 1, paragraph "e", shall include as an option the location associated with the mobile telephone number.

(4) A sale of a private telecommunications service is sourced as follows:

(a) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(b) Service where all customer termination points are located entirely within one jurisdiction or level of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

Sec. 114. NEW SECTION. 423.21 BAD DEBT DEDUCTIONS.

1. For the purposes of this section, "bad debt" means an amount properly calculated pursuant to section 166 of the Internal Revenue Code then adjusted to exclude financing charges or interest, sales or use taxes charged on the purchase price, uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.

2. In computing the amount of tax due, a seller may deduct bad debts from the total amount upon which the tax is calculated for any return. Any deduction taken or refund paid which is attributed to bad debts shall not include interest.

3. A seller may deduct bad debts on the return for the period during which the bad debt is written off as uncollectible in the seller's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subsection, a seller who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the seller's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the seller were required to file a federal income tax return.

4. If a deduction is taken for a bad debt and the seller subsequently collects the debt in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

5. A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable sales within the period allowed for refund claims by section 423.47. However, the period allowed for refund claims shall be measured from the due date of the return on which the bad debt could first be claimed.

6. For the purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the property or service and tax thereon, proportionally, and secondly to interest, service charges, and any other charges.

Sec. 115. NEW SECTION. 423.22 TAXATION IN ANOTHER STATE.

If any person who causes tangible personal property to be brought into this state or who uses in this state services enumerated in section 423.2 has already paid a tax in another state in respect to the sale or use of the property or the performance of the service, or an occupation tax in respect to the property or service, in an amount less than the tax imposed by subchapter II or III, the provisions of those subchapters shall apply, but at a rate measured by the difference only between the rate fixed by subchapter II or III and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If the tax imposed and paid in the other state is equal to or more than the tax imposed by those subchapters, then a tax is not due in this state on the personal property or service.

Sec. 116. NEW SECTION. 423.23 SELLERS' AGREEMENTS.

Agreements between competing sellers, or the adoption of appropriate rules and regulations by organizations or associations of sellers to provide uniform methods for adding sales or use tax or the average equivalent thereof, and which do not involve price-fixing agreements otherwise unlawful, are expressly authorized and shall be held not in violation of chapter 553 or other antitrust laws of this state. The director shall cooperate with sellers, organizations, or associations in formulating agreements and rules.

Sec. 117. NEW SECTION. 423.24 ABSORBING TAX PROHIBITED.

A seller shall not advertise or hold out or state to the public or to any purchaser, consumer, or user, directly or indirectly, that the taxes or any parts thereof imposed by subchapter II or III will be assumed or absorbed by the seller or the taxes will not be added to the sales price of the property sold, or if added that the taxes or any part thereof will be refunded. Any person violating any of the provisions of this section within this state is guilty of a simple misdemeanor.

Sec. 118. NEW SECTION. 423.25 DIRECTOR'S POWER TO ADOPT RULES.

The director shall have the power to adopt rules for adding the taxes imposed by subchapters II and III, or the average equivalents thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling the retailers to add and collect, as far as practicable, the amounts of those taxes.

Sec. 119. NEW SECTION. 423.26 VEHICLES SUBJECT TO REGISTRATION OR ONLY TO THE ISSUANCE OF TITLE — MANUFACTURED HOUSING.

The use tax imposed upon the use of vehicles subject to registration or subject only to the issuance of a certificate of title or imposed upon the use of manufactured housing shall be paid by the owner of the vehicle or of the manufactured housing to the county treasurer or the state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or certificate of title shall not be issued until the tax has been paid. The county treasurer or the state department of transportation shall require every applicant for a registration receipt for a vehicle subject to registration or certificate of title to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, installed purchase price, and other information relative to the purchase of the vehicle or manufactured housing. On or before the tenth day of each month, the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under this section is guilty of a fraudulent practice. A person who willfully makes a false statement in regard to the purchase price of such a vehicle with the intent to evade the payment of tax shall be assessed a penalty of seventy-five percent of the amount of tax unpaid and required to be paid on the actual purchase price less trade-in allowance.

Sec. 120. NEW SECTION. 423.27 MOTOR VEHICLE LEASE TAX.

1. The use tax imposed upon the use of leased vehicles subject to registration under chapter

321, with gross vehicle weight ratings of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, which are leased by a lessor licensed pursuant to chapter 321F for a period of twelve months or more shall be paid by the owner of the vehicle to the county treasurer or state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or issuance of a certificate of title shall not be issued until the tax is paid in the initial instance. Tax on the lease transaction that does not require titling or registration of the vehicle shall be remitted to the department. Tax and the reporting of tax due to the department shall be remitted on or before fifteen days from the last day of the month that the vehicle lease tax becomes due. Failure to timely report or remit any of the tax when due shall result in a penalty and interest being imposed on the tax due pursuant to section 423.40, subsection 1, and section 423.42, subsection 1.

2. The amount subject to tax shall be computed on each separate lease transaction by taking the total of the lease payments, plus the down payment, and excluding all of the following:

- a. Title fee.
- b. Registration fees.
- c. Vehicle lease tax pursuant to this section.
- d. Federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner.
- e. Optional service or warranty contracts subject to tax pursuant to section 423.2, subsection 1.
- f. Insurance.
- g. Manufacturer's rebate.
- h. Refundable deposit.
- i. Finance charges, if any, on items listed in paragraphs "a" through "h".

If any or all of the items in paragraphs "a" through "i" are excluded from the taxable lease price, the owner shall maintain adequate records of the amounts of those items. If the parties to a lease enter into an agreement providing that the tax imposed under this statute is to be paid by the lessee or included in the monthly lease payments to be paid by the lessee, the total cost of the tax shall not be included in the computation of lease price for the purpose of taxation under this section. The county treasurer, the state department of transportation, or the department of revenue and finance shall require every applicant for a registration receipt for a vehicle subject to tax under this section to supply information as the county treasurer or director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

3. On or before the tenth day of each month, the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

4. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for tax previously paid under this section, except as provided in section 322G.4.

Sec. 121. NEW SECTION. 423.28 SALES TAX REPORT — DEDUCTION.

Motor vehicle or trailer dealers, in making their reports and returns to the department for the purpose of paying the sales tax, shall be permitted to deduct all sales prices from retail sales of vehicles subject to registration or subject only to the issuance of a certificate of title. Sales prices from sales of vehicles subject to registration or subject only to the issuance of a certificate of title are exempted from the sales tax, but, if required by the director, the sales prices shall be included in the returns made by motor vehicle or trailer dealers under subchapter II, and proper deductions taken pursuant to this section.

Sec. 122. NEW SECTION. 423.29 COLLECTIONS BY SELLERS.

Every seller who is a retailer and who is making taxable sales of tangible personal property in Iowa shall, at the time of selling the property, collect the sales tax. Every seller who is a

retailer maintaining a place of business in this state and selling tangible personal property for use in Iowa shall, at the time of making the sale, whether within or without the state, collect the use tax. Sellers required to collect sales or use tax shall give to any purchaser a receipt for the tax collected in the manner and form prescribed by the director.

Every seller who is a retailer furnishing taxable services in Iowa and every seller who is a retailer maintaining a place of business in this state and furnishing taxable services in Iowa or services outside Iowa if the product or result of the service is used in Iowa shall be subject to the provisions of the preceding paragraph.

Sec. 123. NEW SECTION. 423.30 FOREIGN SELLERS NOT REGISTERED UNDER THE AGREEMENT.

The director may, upon application, authorize the collection of the use tax by any seller who is a retailer not maintaining a place of business within this state and not registered under the agreement, who, to the satisfaction of the director, furnishes adequate security to ensure collection and payment of the tax. Such sellers shall be issued, without charge, permits to collect tax subject to any regulations which the director shall prescribe. When so authorized, it shall be the duty of foreign sellers to collect the tax upon all tangible personal property sold, to the retailer's knowledge, for use within this state, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. The authority and permit may be canceled when, at any time, the director considers the security inadequate, or that tax can more effectively be collected from the person using property in this state.

The discretionary power granted in this section is extended to apply in the case of foreign retailers furnishing services enumerated in section 423.2.

Sec. 124. NEW SECTION. 423.31 FILING OF SALES TAX RETURNS AND PAYMENT OF SALES TAX.

1. Each person subject to this section and section 423.36 and in accordance with the provisions of this section and section 423.36 shall, on or before the last day of the month following the close of each calendar quarter during which such person is or has become or ceased being subject to the provisions of this section and section 423.36, make, sign, and file a return for the calendar quarter in the form as may be required. Returns shall show information relating to sales prices including goods, wares, and services converted to the use of such person, the amounts of sales prices excluded and exempt from the tax, the amounts of sales prices subject to tax, a calculation of tax due, and any other information for the period covered by the return as may be required. Returns shall be signed by the retailer or the retailer's authorized agent and must be certified by the retailer to be correct in accordance with forms and rules prescribed by the director.

2. Persons required to file, or committed to file by reason of voluntary action or by order of the department, deposits of taxes due under this subchapter shall be entitled to take credit against the total quarterly amount of tax due such amount as shall have been deposited by such persons during that calendar quarter. The balance remaining due after such credit for deposits shall be entered on the return. However, such person may be granted an extension of time not exceeding thirty days for filing the quarterly return, upon a proper showing of necessity. If an extension is granted, such person shall have paid by the twentieth day of the month following the close of such quarter ninety percent of the estimated tax due.

3. The sales tax forms prescribed by the director shall be referred to as "retailers tax deposit". Deposit forms shall be signed by the retailer or the retailer's duly authorized agent, and shall be duly certified by the retailer or agent to be correct. The director may authorize incorporated banks and trust companies or other depositories authorized by law which are depositories or financial agents of the United States, or of this state, to receive any sales tax imposed under this chapter, in the manner, at the times, and under the conditions the director prescribes. The director shall prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

4. Every retailer at the time of making any return required by this section shall compute and

pay to the department the tax due for the preceding period. The tax on sales prices from the sale or rental of tangible personal property under a consumer rental purchase agreement as defined in section 537.3604, subsection 8, is payable in the tax period of receipt.

5. Upon making application and receiving approval from the director, a parent corporation and its affiliated corporations that make retail sales of tangible personal property or taxable enumerated services may make deposits and file a consolidated sales tax return for the affiliated group, pursuant to rules adopted by the director. A parent corporation and each affiliate corporation that files a consolidated return are jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

A business required to file a consolidated sales tax return shall file a form entitled "schedule of consolidated business locations" with its quarterly sales tax return that shows the taxpayer's consolidated permit number, the permit number for each Iowa business location, the state sales tax amount by business location, and the amount of state sales tax due on goods consumed that are not assigned to a specific business location. Consolidated quarterly sales tax returns that are not accompanied by the schedule of consolidated business locations form are considered incomplete and are subject to penalty under section 421.27.

6. If necessary or advisable in order to insure the payment of the tax, the director may require returns and payment of the tax to be made for other than quarterly periods, the provisions of this section, or other provision to the contrary notwithstanding.

Sec. 125. NEW SECTION. 423.32 FILING OF USE TAX RETURNS AND PAYMENT OF USE TAX.

1. A retailer maintaining a place of business in this state who is required to collect or a user who is required to pay the use tax or a foreign retailer authorized, pursuant to section 423.30, to collect the use tax, shall remit to the department the amount of tax on or before the last day of the month following each calendar quarterly period. However, a retailer who collects or owes more than fifteen hundred dollars in use taxes in a month shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or owed, with a deposit form for the month as prescribed by the director.

a. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter, and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly report on the last day of the month following the month of collection. At that time, the retailer shall file with the department a return for the preceding quarterly period in the form prescribed by the director showing the purchase price of the tangible personal property sold by the retailer during the preceding quarterly period, the use of which is subject to the use tax imposed by this chapter, and other information the director deems necessary for the proper administration of the use tax.

b. The return shall be accompanied by a remittance of the use tax for the period covered by the return. If necessary in order to ensure payment to the state of the tax, the director may in any or all cases require returns and payments to be made for other than quarterly periods. The director, upon request and a proper showing of necessity, may grant an extension of time not to exceed thirty days for making any return and payment. Returns shall be signed, in accordance with forms and rules prescribed by the director, by the retailer or the retailer's authorized agent, and shall be certified by the retailer or agent to be correct.

2. If it is reasonably expected, as determined by rules prescribed by the director, that a retailer's annual sales or use tax liability will not exceed one hundred twenty dollars for a calendar year, the retailer may request and the director may grant permission to the retailer, in lieu of the quarterly filing and remitting requirements set out elsewhere in this section, to file the return required by and remit the sales or use tax due under this section on a calendar-year basis. The return and tax are due and payable no later than January 31 following each calendar year in which the retailer carries on business.

3. The director, in cooperation with the department of management, may periodically

change the filing and remittance thresholds by administrative rule if in the best interests of the state and taxpayer to do so.

Sec. 126. NEW SECTION. 423.33 LIABILITY OF PERSONS OTHER THAN RETAILERS FOR PAYMENT OF SALES OR USE TAX.

1. LIABILITY OF PURCHASER FOR SALES TAX. If a purchaser fails to pay sales tax to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, the tax is payable by the purchaser directly to the department, and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the purchaser. For failure to pay, the retailer and purchaser are liable, unless the circumstances described in section 421.60, subsection 2, paragraph "m", or section 423.45, subsection 4, paragraph "b" or "e", or subsection 5, paragraph "c" or "e", are applicable.

2. IMMEDIATE SUCCESSOR LIABILITY FOR SALES OR USE TAX. If a retailer sells the retailer's business or stock of goods or quits the business, the retailer shall prepare a final return and pay all sales or use tax due within the time required by law. The immediate successor to the retailer, if any, shall withhold a sufficient portion of the purchase price, in money or money's worth, to pay the amount of delinquent tax, interest, or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the amount due from the purchase price as provided in this subsection, the immediate successor is personally liable for the payment of delinquent taxes, interest, and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an "immediate successor" for purposes of this section. The department may waive the liability of the immediate successor under this subsection if the immediate successor exercised good faith in establishing the amount of the previous liability.

3. EVENT SPONSOR'S LIABILITY FOR SALES TAX. A person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property or taxable services at the event proof that the retailer possesses a valid sales tax permit or secure from the retailer a statement, taken in good faith, that property or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest, and penalty due and owing from any retailer selling property or services at the event. Sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the sponsors. For purposes of this subsection, a person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event does not include an organization which sponsors an event less than three times a year or a state, county, or district agricultural fair.

Sec. 127. NEW SECTION. 423.34 LIABILITY OF USER.

Any person who uses any property or services enumerated in section 423.2 upon which the use tax has not been paid, either to the county treasurer or to a retailer or direct to the department as required by this subchapter, shall be liable for the payment of tax, and shall on or before the last day of the month next succeeding each quarterly period pay the use tax upon all property or services used by the person during the preceding quarterly period in the manner and accompanied by such returns as the director shall prescribe. All of the provisions of sections 423.32 and 423.33 with reference to the returns and payments shall be applicable to the returns and payments required by this section.

Sec. 128. NEW SECTION. 423.35 POSTING OF BOND TO SECURE PAYMENT.

The director may, when necessary and advisable in order to secure the collection of the sales or use tax, authorize any person subject to either tax, and any retailer required or authorized to collect those taxes pursuant to the provisions of section 423.14, to file with the department a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in an amount as the director

may fix, to secure the payment of any tax, interest, or penalties due or which may become due from such person. In lieu of a bond, securities approved by the director, in an amount which the director may prescribe, may be deposited with the department, which securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax, interest, or penalties due. Upon the sale, the surplus, if any, above the amounts due under this chapter shall be returned to the person who deposited the securities.

Sec. 129. NEW SECTION. 423.36 PERMITS REQUIRED TO COLLECT SALES OR USE TAX — APPLICATIONS — REVOCATION.

1. A person shall not engage in or transact business as a retailer making taxable sales of tangible personal property or furnishing services within this state or as a retailer making taxable sales of tangible personal property or furnishing services for use within this state, unless a permit has been issued to the retailer under this section, except as provided in subsection 6. Every person desiring to engage in or transact business as a retailer shall file with the department an application for a permit to collect sales or use tax. Every application for a sales or use tax permit shall be made upon a form prescribed by the director and shall set forth any information the director may require. The application shall be signed by an owner of the business if a natural person; in the case of a retailer which is an association or partnership, by a member or partner; and in the case of a retailer which is a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the person's authority.

2. To collect sales or use tax, the applicant must have a permit for each place of business in the state of Iowa. The department may deny a permit to an applicant who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any delinquent tax, penalty, or interest. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest.

3. The department shall grant and issue to each applicant a permit for each place of business in this state where sales or use tax is collected. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or at a place of relocation within the state if the ownership remains the same.

If an applicant is making sales outside Iowa for use in this state or furnishing services outside Iowa, the product or result of which will be used in this state, that applicant shall be issued one use tax permit by the department applicable to these out-of-state sales or services.

4. Permits issued under this section are valid and effective until revoked by the department.

5. If the holder of a permit fails to comply with any of the provisions of this subchapter or of subchapter II or III or any order or rule of the department adopted under those subchapters or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the director may revoke the permit. The director shall send notice by mail to a permit holder informing that person of the director's intent to revoke the permit and of the permit holder's right to a hearing on the matter. If the permit holder petitions the director for a hearing on the proposed revocation, after giving ten days' notice of the time and place of the hearing in accordance with section 17A.18, subsection 3, the matter may be heard and a decision rendered. The director may restore permits after revocation. The director shall adopt rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

6. Sellers who are not regularly engaged in selling at retail and do not have a permanent

place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district, or local fairs, carnivals, or the like, shall report and remit the sales tax on a temporary basis, under rules the director shall provide for the efficient collection of the sales tax. This subsection applies to sellers who are temporarily engaged in furnishing services.

Persons engaged in selling tangible personal property or furnishing services shall not be required to obtain or retain a sales tax permit for a place of business at which taxable sales of tangible personal property or taxable performance of services will not occur.

7. The provisions of subsection 1, dealing with the lawful right of a retailer to transact business, as applicable, apply to persons having receipts from furnishing services enumerated in section 423.2, except that a person holding a permit pursuant to subsection 1 shall not be required to obtain any separate sales tax permit for the purpose of engaging in business involving the services.

8. a. Except as provided in paragraph "b", purchasers, users, and consumers of tangible personal property or enumerated services taxed pursuant to subchapter II or III of this chapter or chapters 423B and 423E may be authorized, pursuant to rules adopted by the director, to remit tax owed directly to the department instead of the tax being collected and paid by the seller. To qualify for a direct pay tax permit, the purchaser, user, or consumer must accrue a tax liability of more than four thousand dollars in tax under subchapters II and III in a semi-monthly period and make deposits and file returns pursuant to section 423.31. This authority shall not be granted or exercised except upon application to the director and then only after issuance by the director of a direct pay tax permit.

b. The granting of a direct pay tax permit is not authorized for any of the following:

- (1) Taxes imposed on the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service.
- (2) Taxes imposed under sections 423.26 and 423.27 and chapter 423C.

Sec. 130. NEW SECTION. 423.37 FAILURE TO FILE SALES OR USE TAX RETURNS — INCORRECT RETURNS.

1. As soon as practicable after a return is filed and in any event within three years after the return is filed, the department shall examine it, assess and determine the tax due if the return is found to be incorrect, and give notice to the person liable for the tax of the assessment and determination as provided in subsection 2. The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

2. If a return required by this subchapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall determine the amount of tax due from information as the department may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by the person, stock on hand, or other factors. The department shall give notice of the determination to the person liable for the tax. The determination shall fix the tax unless the person against whom it is assessed shall, within sixty days after the giving of notice of the determination, apply to the director for a hearing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the tax.

3. The three-year period of limitation provided in subsection 1 may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement shall stipulate the period of extension and the tax period to which the extension applies. The agreement shall also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 131. NEW SECTION. 423.38 JUDICIAL REVIEW.

1. Judicial review of actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act.
2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use of the respondent, with sureties approved by the clerk, in the amount of tax appealed from, conditioned that the petitioner shall perform the orders of the court.
3. An appeal may be taken by the taxpayer or the director to the supreme court of this state irrespective of the amount involved.

Sec. 132. NEW SECTION. 423.39 SERVICE OF NOTICES.

1. A notice authorized or required under this subchapter may be given by mailing the notice to the person for whom it is intended, addressed to that person at the address given in the last return filed by the person pursuant to this subchapter, or if no return has been filed, then to any address obtainable. The mailing of the notice is presumptive evidence of the receipt of the notice by the person to whom addressed. Any period of time which is determined according to this subchapter by the giving of notice commences to run from the date of mailing of the notice.
2. The provisions of the Code relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this chapter.

Sec. 133. NEW SECTION. 423.40 PENALTIES — OFFENSES — LIMITATION.

1. In addition to the sales or use tax or additional sales or use tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the sales or use tax or additional sales or use tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this subchapter. Unpaid penalties and interest may be enforced in the same manner as the taxes imposed by this chapter.
 - a. Any person who knowingly sells tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, or communication service at retail, or engages in the furnishing of services enumerated in section 423.2, in this state without procuring a permit to collect tax, as provided in section 423.36, or who violates section 423.24 and the officers of any corporation who so act are guilty of a serious misdemeanor.
 - b. A person who knowingly sells tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, or communication service at retail, or engages in the furnishing of services enumerated in section 423.2, in this state after the person's sales tax permit has been revoked and before it has been restored as provided in section 423.36, subsection 5, and the officers of any corporation who so act are guilty of an aggravated misdemeanor.
3. A person who willfully attempts in any manner to evade any tax imposed by this chapter or the payment of the tax or a person who makes or causes to be made a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade any tax imposed by subchapter II or III or the payment of the tax is guilty of a class "D" felony.
4. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this subchapter shall be prima facie evidence thereof.
5. A person required to pay sales or use tax, or to make, sign, or file a tax deposit form or return or supplemental return, who willfully makes a false or fraudulent tax deposit form or return, or willfully fails to pay at least ninety percent of the tax or willfully fails to make, sign, or file the tax deposit form or return, at the time required by law, is guilty of a fraudulent practice.

6. A prosecution for an offense specified in this section shall be commenced within six years after its commission.

Sec. 134. NEW SECTION. 423.41 BOOKS — EXAMINATION.

Every retailer required or authorized to collect taxes imposed by this chapter and every person using in this state tangible personal property, services, or the product of services shall keep records, receipts, invoices, and other pertinent papers as the director shall require, in the form that the director shall require, for as long as the director has the authority to examine and determine tax due. The director or any duly authorized agent of the department may examine the books, papers, records, and equipment of any person either selling tangible personal property or services or liable for the tax imposed by this chapter, and investigate the character of the business of any person in order to verify the accuracy of any return made, or if a return was not made by the person, ascertain and determine the amount due under this chapter. These books, papers, and records shall be made available within this state for examination upon reasonable notice when the director deems it advisable and so orders. The preceding requirements shall likewise apply to users and persons furnishing services enumerated in section 423.2.

Sec. 135. NEW SECTION. 423.42 STATUTES APPLICABLE.

1. The director shall administer the taxes imposed by subchapters II and III in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in, section 422.25, subsection 4, section 422.30, and sections 422.67 through 422.75.

2. All the provisions of section 422.26 shall apply in respect to the taxes and penalties imposed by subchapters II and III and this subchapter, except that, as applied to any tax imposed by subchapters II and III, the lien provided in section 422.26 shall be prior and paramount over all subsequent liens upon any personal property within this state, or right to such personal property, belonging to the taxpayer without the necessity of recording as provided in section 422.26. The requirements for recording shall, as applied to the taxes imposed by subchapters II and III, apply only to the liens upon real property. When requested to do so by any person from whom a taxpayer is seeking credit, or with whom the taxpayer is negotiating the sale of any personal property, or by any other person having a legitimate interest in such information, the director shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid taxes due by such taxpayer under the provisions of subchapters II and III. The giving of this information under these circumstances shall not be deemed a violation of section 422.72 as applied to subchapters II and III.

Sec. 136. NEW SECTION. 423.43 DEPOSIT OF REVENUE — APPROPRIATIONS.

Except as otherwise provided in section 312.2, subsection 14, all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 shall be deposited and credited to the road use tax fund and shall be used exclusively for the construction, maintenance, and supervision of public highways.

1. Notwithstanding any provision of this section which provides that all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 shall be deposited and credited to the road use tax fund, eighty percent of the revenues shall be deposited and credited as follows:

a. Twenty-five percent of all such revenue, up to a maximum of four million two hundred fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

b. Any such revenues remaining shall be credited to the road use tax fund.

2. Notwithstanding any other provision of this section that provides that all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as

collected pursuant to section 423.26 shall be deposited and credited to the road use tax fund, twenty percent of the revenues shall be credited and deposited as follows: one-half to the road use tax fund and one-half to the primary road fund to be used for the commercial and industrial highway network.

3. All other revenue arising under the operation of this chapter shall be credited to the general fund of the state.

Sec. 137. NEW SECTION. 423.44 REIMBURSEMENT FOR PRIMARY ROAD FUND.

From moneys deposited into the road use tax fund, the department may credit to the primary road fund any amount of revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 to the extent necessary to reimburse that fund for the expenditures not otherwise eligible to be made from the primary road fund, which are made for repairing, improving, and maintaining bridges over the rivers bordering the state. Expenditures for those portions of bridges within adjacent states may be included when they are made pursuant to an agreement entered into under section 313.63, 313A.34, or 314.10.

Sec. 138. NEW SECTION. 423.45 REFUNDS — EXEMPTION CERTIFICATES.

1. If an amount of tax represented by a retailer to a consumer or user as constituting tax due is computed upon a sales price that is not taxable or the amount represented is in excess of the actual taxable amount and the amount represented is actually paid by the consumer or user to the retailer, the excess amount of tax paid shall be returned to the consumer or user upon notification to the retailer by the department that an excess payment exists.

2. If an amount of tax represented by a retailer to a consumer or user as constituting tax due is computed upon a sales price that is not taxable or the amount represented is in excess of the actual taxable amount and the amount represented is actually paid by the consumer or user to the retailer, the excess amount of tax paid shall be returned to the consumer or user upon proper notification to the retailer by the consumer or user that an excess payment exists. "Proper" notification is written notification which allows a retailer at least sixty days to respond and which contains enough information to allow a retailer to determine the validity of a consumer's or user's claim that an excess amount of tax has been paid. No cause of action shall accrue against a retailer for excess tax paid until sixty days after proper notice has been given the retailer by the consumer or user.

3. In the circumstances described in subsections 1 and 2, a retailer has the option to either return any excess amount of tax paid to a consumer or user, or to remit the amount which a consumer or user has paid to the retailer to the department.

4. a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director, including certificates not made of paper, which conform to the requirements of paragraph "c", to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for a nontaxable purpose. The department shall also allow the use of exemption certificates for those circumstances in which a sale is taxable but the seller is not obligated to collect tax from the buyer.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalty of perjury that the purchase is for a nontaxable purpose and is not a retail sale as defined in section 423.1, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to subsection 5. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply to the purchaser.

c. A valid exemption certificate is an exemption certificate which is complete and correct according to the requirements of the director.

d. A valid exemption certificate is taken in good faith by the seller when the seller has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one upon inquiry as to the facts. In order for a seller to take a valid exemption certificate in good faith, the seller must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, such inquiry must be made with an honest intent to discover the facts.

e. If the circumstances change and as a result the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner or the purchaser becomes obligated to pay the tax, the purchaser is liable solely for the taxes and shall remit the taxes directly to the department in accordance with this subsection.

5. a. The department shall issue or the seller may separately provide fuel exemption certificates in the form prescribed by the director.

b. For purposes of this subsection:

(1) "Fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam.

(2) "Fuel consumed in processing" means fuel used or consumed for processing including grain drying, for providing heat or cooling for livestock buildings or for greenhouses or buildings or parts of buildings dedicated to the production of flowering, ornamental, or vegetable plants intended for sale in the ordinary course of business, for use in aquaculture production, or for generating electric current, or in implements of husbandry engaged in agricultural production.

(3) "Fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing.

(4) "Substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "d" or in a fuel exemption certificate.

c. The seller may accept a completed fuel exemption certificate, as prepared by the purchaser, for three years unless the purchaser files a new completed exemption certificate. If the fuel is purchased tax free pursuant to a fuel exemption certificate which is taken by the seller, and the fuel is used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes, and shall remit the taxes directly to the department and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply to the purchaser.

d. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within sixty days after the date of the notice of determination. The director shall grant a hearing, and upon the hearing, the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 423.38 within sixty days after the date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 423.40 both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 423.37.

e. If the circumstances change and the fuel is used or disposed of by the purchaser in a non-exempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department in accordance with paragraph “c”.

f. The purchaser shall attach documentation to the fuel exemption certificate which is reasonably necessary to support the exemption for fuel consumed in processing. If the purchaser files a new exemption certificate with the seller, documentation shall not be required if the purchaser previously furnished the seller with this documentation and substantial change has not occurred since that documentation was furnished or if fuel consumed in processing is separately metered and billed by the seller.

6. Nothing in this section authorizes any cause of action by any person to recover sales or use taxes directly from the state or extends any person’s time to seek a refund of sales or use taxes which have been collected and remitted to the state.

Sec. 139. NEW SECTION. 423.46 RATE AND BASE CHANGES.

The department shall make a reasonable effort to provide sellers with as much advance notice as practicable of a rate change and to notify sellers of legislative changes in the tax base and amendments to sales and use tax rules. Failure of a seller to receive notice or failure of this state to provide notice or limit the effective date of a rate change shall not relieve the seller of its obligation to collect sales or use taxes for this state.

Sec. 140. NEW SECTION. 423.47 REFUNDS AND CREDITS.

If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, such amount shall be credited against any tax due, or to become due, on the books of the department from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. A claim for refund or credit that has not been filed with the department within three years after the tax payment for which a refund or credit is claimed became due, or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director.

SUBCHAPTER VI
SALES AND USE TAX ACT — ADMINISTRATION OF
RETAILERS REGISTERED VOLUNTARILY UNDER THE
AGREEMENT

Sec. 141. NEW SECTION. 423.48 RESPONSIBILITIES AND RIGHTS OF SELLERS REGISTERED UNDER THE AGREEMENT.

1. By registering under the agreement, the seller agrees to collect and remit sales and use taxes for all its taxable Iowa sales. Iowa’s withdrawal from the agreement or revocation of its membership in the agreement shall not relieve a seller from its responsibility to remit taxes previously collected on behalf of this state.

2. The following provisions apply to any seller who registers under the agreement:

a. The seller may register on-line.

b. Registration under the agreement and the collection of Iowa sales and use taxes shall not be used as factors in determining whether the seller has nexus with Iowa for any tax.

c. If registered under the agreement with any other member state, the seller is considered to be registered in Iowa.

d. The seller is not required to pay registration fees or other charges.

e. A written signature from the seller is not required.

f. The seller may register by way of an agent. The agent’s appointment shall be in writing and submitted to the department if requested by the department.

g. The seller may cancel its registration at any time under procedures adopted by the governing board established pursuant to the agreement. Cancellation does not relieve the seller of its liability for remitting any Iowa taxes collected.

3. The following additional responsibilities and rights apply to model sellers:
 - a. A model 1 seller's obligation to calculate, collect, and remit sales and use taxes shall be performed by its certified service provider, except for the seller's obligation to remit tax on its own purchases. As the seller's agent, the certified service provider is liable for its model 1 seller's sales and use tax due Iowa on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresents the types of items or services it sells or commits fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A model 1 seller is subject to audit for transactions not processed by the certified service provider. The director is authorized to perform a system check of the model 1 seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.
 - b. A model 2 seller shall calculate the amount of tax due on a transaction by the use of a certified automated system, but shall collect and remit tax on its own sales. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to this state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.
 - c. A model 3 seller shall use its own proprietary automated system to calculate tax due and collect and remit tax on its own sales. A model 3 seller is liable for the failure of its proprietary automated system to meet the applicable performance standard.

Sec. 142. NEW SECTION. 423.49 RETURNS.

1. All model 1, 2, or 3 sellers are subject to all of the following return requirements:
 - a. The seller is required to file only one return per month for this state and for all taxing jurisdictions within this state.
 - b. The date for filing returns shall be determined under rules adopted by the director. However, in no case shall the return be due earlier than the twentieth day of the following month.
 - c. The director shall request additional information returns. These returns shall not be required more frequently than every six months.
2. Any registered seller which does not have a legal obligation to register in this state and is not a model 1, 2, or 3 seller is subject to all of the following return requirements:
 - a. The seller is required to file a return within one year of the month of initial registration and shall file a return on an annual basis in succeeding years.
 - b. In addition to the return required in paragraph "a", if the seller accumulates more than one thousand dollars in total state and local tax, the seller is required to file a return in the following month.
 - c. The format of the return and the due date of the initial return and the annual return shall be determined under rules adopted by the department.

Sec. 143. NEW SECTION. 423.50 REMITTANCE OF FUNDS.

1. Only one remittance of tax per return is required except as provided in this subsection. Sellers that collect more than thirty thousand dollars in sales and use taxes for this state during the preceding calendar year shall be required to make additional remittances as required under rules adopted by the director. The filing of a return is not required with an additional remittance.
2. All remittances shall be remitted electronically.
3. Electronic payments may be made either by automated clearinghouse credit or automated clearinghouse debit. Any data accompanying a remittance must be formatted using uniform tax type and payment codes approved by the governing board established pursuant

to the agreement. An alternative method for making same-day payments shall be determined under rules adopted by the director.

4. If a due date falls on a legal banking holiday in this state, the taxes are due on the succeeding business day.

Sec. 144. NEW SECTION. 423.51 ADMINISTRATION OF EXEMPTIONS.

1. The following provisions shall apply when a purchaser claims an exemption:

a. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the member states acting jointly.

b. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper certificate is used.

c. The seller shall use the standard form for claiming an exemption electronically as adopted jointly by the member states.

d. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

e. The department may authorize a system wherein the purchaser exempt from the payment of the tax is issued an identification number which shall be presented to the seller at the time of the sale.

f. The seller shall maintain proper records of exempt transactions and provide them to the department when requested.

g. The department shall administer entity-based and use-based exemptions when practicable through a direct pay tax permit, an exemption certificate, or another means that does not burden sellers. For the purposes of this paragraph:

(1) An "entity-based exemption" is an exemption based on who purchases the product or who sells the product.

(2) A "use-based exemption" is an exemption based on the purchaser's use of the product.

2. Sellers that follow the requirements of this section are relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and that the purchaser is liable for the nonpayment of tax. This relief from liability does not apply to a seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claim of an exemption.

Sec. 145. NEW SECTION. 423.52 RELIEF FROM LIABILITY FOR SELLERS AND CERTIFIED SERVICE PROVIDERS.

Sellers and certified service providers are relieved from liability to this state or its local taxing jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by this state on tax rates, boundaries, or taxing jurisdiction assignments. If this state provides an address-based system for assigning taxing jurisdictions whether or not pursuant to the federal Mobile Telecommunications Sourcing Act, the director is not required to provide liability relief for errors resulting from reliance on the information provided by this state.

Sec. 146. NEW SECTION. 423.53 BAD DEBTS AND MODEL 1 SELLERS.

A certified service provider may claim, on behalf of a model 1 seller, any bad debt deduction as provided in section 423.21. The certified service provider must credit or refund the full amount of any bad debt deduction or refund received to the seller.

Sec. 147. NEW SECTION. 423.54 AMNESTY FOR REGISTERED SELLERS.

1. Subject to the limitations in subsections 2 through 6, the following provisions apply:

a. Amnesty is provided for uncollected or unpaid sales or use tax to a seller who registers to pay or to collect and remit applicable sales or use tax on sales made to purchasers in this state in accordance with the terms of the agreement, provided the seller was not so registered in this state in the twelve-month period preceding the commencement of Iowa's participation in the agreement.

b. Amnesty precludes assessment of the seller for uncollected or unpaid sales or use tax together with penalty or interest for sales made during the period the seller was not registered in this state, provided registration occurs within twelve months of the commencement of Iowa's participation in the agreement.

c. Amnesty shall be provided to any seller lawfully registered under the agreement by any other member state prior to the date of the commencement of Iowa's participation in the agreement.

2. Amnesty is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved, including any related administrative and judicial processes.

3. Amnesty is not available for sales or use taxes already paid or remitted or to taxes collected by the seller.

4. Amnesty is fully effective absent the seller's fraud or intentional misrepresentation of a material fact as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for a period of at least thirty-six months. The statute of limitations applicable to asserting a tax liability is tolled during this thirty-six month period.

5. Amnesty is applicable only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

6. The director may allow amnesty on terms and conditions more favorable to a seller than the terms required by this section.

Sec. 148. NEW SECTION. 423.55 DATABASES.

The department shall provide and maintain databases required by the agreement for the benefit of sellers registered under the agreement.

Sec. 149. NEW SECTION. 423.56 CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL 1.

1. As used in this section:

a. "Anonymous data" means information that does not identify a person.

b. "Confidential taxpayer information" means all information that is protected under this state's laws, rules, and privileges.

c. "Personally identifiable information" means information that identifies a person.

2. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

3. A certified service provider may perform its services in this state only if the certified service provider certifies that:

a. Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected.

b. Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 sellers with respect to exempt purchasers.

c. It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. This notice shall be satisfied by a written privacy policy statement accessible by the public on the official web site of the certified service provider.

d. Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased.

e. It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

4. The department shall provide public notification of its practices relating to the collection, use, and retention of personally identifiable information.

5. When any personally identifiable information that has been collected and retained by the department or certified service provider is no longer required for the purposes set forth in subsection 3, paragraph “d”, that information shall no longer be retained by the department or certified service provider.

6. When personally identifiable information regarding an individual is retained by or on behalf of this state, this state shall provide reasonable access by such individual to his or her own information in the state’s possession and a right to correct any inaccurately recorded information.

7. This privacy policy is subject to enforcement by the department and the attorney general.

8. This state’s laws and rules regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, the agreement does not enlarge or limit the state’s or department’s authority to:

- a. Conduct audits or other review as provided under the agreement and state law.
- b. Provide records pursuant to its examination of public records law, disclosure laws of individual governmental agencies, or other regulations.
- c. Prevent, consistent with state law, disclosures of confidential taxpayer information.
- d. Prevent, consistent with federal law, disclosures or misuse of federal return information obtained under a disclosure agreement with the internal revenue service.
- e. Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

9. This privacy policy does not preclude the certification of a certified service provider whose privacy policy is more protective of confidential taxpayer information or personally identifiable information than is required by the agreement.

Sec. 150. NEW SECTION. 423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.18, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection 3, and sections 423.45, 423.46, and 423.47.

Sec. 151.

1. Sections 422.42 through 422.59, Code 2003, are repealed.
2. Chapter 423, Code 2003, is repealed.

COORDINATING AMENDMENTS

Sec. 152. Section 15.331A, Code 2003, is amended to read as follows:

15.331A SALES, SERVICES, AND USE TAX REFUND — CONTRACTOR OR SUBCONTRACTOR.

The eligible business or a supporting business shall be entitled to a refund of the sales and use taxes paid under chapters 422 and chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area of the eligible business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

To receive the refund a claim shall be filed by the eligible business or a supporting business with the department of revenue and finance as follows:

1. The contractor or subcontractor shall state under oath, on forms provided by the department, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services for use in the economic development area upon which sales or use tax has been paid prior to the project completion,

and shall file the forms with the eligible business or supporting business before final settlement is made.

2. The eligible business or a supporting business shall, not more than one year after project completion, make application to the department for any refund of the amount of the sales and use taxes paid pursuant to chapter ~~422~~ or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421, ~~422~~, or 423.

3. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this section is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 153. Section 15.334A, Code 2003, is amended to read as follows:

15.334A SALES AND USE TAX EXEMPTION.

An eligible business may claim an exemption from sales and use taxation under section ~~422.45~~ 423.3, subsection ~~27 46~~, for property which is exempt from taxation under section 15.334, notwithstanding the requirements of section ~~422.45~~ 423.3, subsection ~~27 46~~, or any other provision of the Code to the contrary.

Sec. 154. Section 15A.9, subsections 5, 6, and 7, Code 2003, are amended to read as follows:

5. PROPERTY TAX EXEMPTION.

a. All property, as defined in section 427A.1, subsection 1, paragraphs “e” and “j”, Code 1993, used by the primary business or a supporting business and located within the zone, shall be exempt from property taxation for a period of twenty years beginning with the year it is first assessed for taxation. In order to be eligible for this exemption, the property shall be acquired or leased by the primary business or a supporting business or relocated by the primary business or a supporting business to the zone from outside the state prior to project completion.

b. Property which is exempt for property tax purposes under this subsection is eligible for the sales and use tax exemption under section ~~422.45~~ 423.3, subsection ~~27 46~~, notwithstanding that subsection or any other provision of the Code to the contrary.

6. SALES, SERVICES, AND USE TAX REFUND. Taxes paid pursuant to chapter ~~422~~ or 423 on the ~~gross receipts~~ sales price or rental price of property purchased or rented by the primary business or a supporting business for use by the primary business or a supporting business within the zone or on gas, electricity, water, and sewer utility services prior to project completion shall be refunded to the primary business or supporting business if the item was purchased or the service was performed or received prior to project completion. Claims under this section shall be submitted on forms provided by the department of revenue and finance not later than six months after project completion. The refund in this subsection shall not apply to furniture or furnishings, or intangible property.

7. SALES, SERVICES, AND USE TAX REFUND — CONTRACTOR OR SUBCONTRACTOR. The primary business or a supporting business shall be entitled to a refund of the sales and use taxes paid under chapters ~~422~~ and chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the zone of the primary business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

To receive the refund a claim shall be filed by the primary business or a supporting business with the department of revenue and finance as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the depart-

ment, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services for use in the zone upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the primary business or supporting business before final settlement is made.

b. The primary business or a supporting business shall, not more than six months after project completion, make application to the department for any refund of the amount of the sales and use taxes paid pursuant to chapter ~~422~~ or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the primary business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the primary business or a supporting business in accordance with this subsection shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

c. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 155. Section 28A.17, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If an authority is established as provided in section 28A.6 and after approval of a referendum by a simple majority of votes cast in each metropolitan area in favor of the sales and services tax, the governing board of a county in this state within a metropolitan area which is part of the authority shall impose, at the request of the authority, a local sales and services tax at the rate of one-fourth of one percent on ~~gross receipts~~ the sales price taxed by this state under ~~chapter 422, division IV section 423.2,~~ within the metropolitan area located in this state. The referendum shall be called by resolution of the board and shall be held as provided in section 28A.6 to the extent applicable. The ballot proposition shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended and the date of expiration of the tax. The local sales and services tax shall be imposed on the same basis, with the same exceptions, and following the same administrative procedures as provided for a county under sections 422B.8 and 422B.9. The amount of the sale, for the purposes of determining the amount of the local sales and services tax under this section, does not include the amount of any local sales and services tax imposed under sections 422B.8 and 422B.9.

Sec. 156. Section 29C.15, Code 2003, is amended to read as follows:
29C.15 TAX-EXEMPT PURCHASES.

All purchases under the provisions of this chapter shall be exempt from the taxes imposed by sections ~~422.43~~ 423.2 and ~~423.2~~ 423.5.

Sec. 157. Section 99E.10, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. An amount equal to the product of the state sales tax rate under section ~~422.43~~ 423.2 multiplied by the gross sales price of each ticket or share sold shall be deducted as the sales tax on the sale of that ticket or share, remitted to the treasurer of state and deposited into the state general fund.

Sec. 158. Section 123.187, subsection 2, Code 2003, is amended to read as follows:

2. A winery licensed or permitted pursuant to laws regulating alcoholic beverages in a state which affords this state an equal reciprocal shipping privilege may ship into this state by private common carrier, to a person twenty-one years of age or older, not more than eighteen liters of wine per month, for consumption or use by the person. Such wine shall not be resold. Shipment of wine pursuant to this subsection is not subject to sales tax under section ~~422.43~~ 423.2, use tax under section ~~423.2~~ 423.5, or the wine gallonage tax under section 123.183,

and does not require a refund value for beverage container control purposes under chapter 455C.

Sec. 159. Section 262.54, Code 2003, is amended to read as follows:

262.54 COMPUTER SALES.

Sales, by an institution under the control of the board of regents, of computer equipment, computer software, and computer supplies to students and faculty at the institution are retail sales under chapter ~~422, division IV~~ 423.

Sec. 160. Section 303.9, subsection 2, Code 2003, is amended to read as follows:

2. The department may sell mementos and other items relating to Iowa history and historic sites on the premises of property under control of the department and at the state capitol. Notwithstanding sections 18.12 and 18.16, the department may directly and independently enter into rental and lease agreements with private vendors for the purpose of selling mementos. All fees and income produced by the sales and rental or lease agreements shall be credited to the account of the department. The mementos and other items sold by the department or vendors under this subsection are exempt from section 18.6. ~~The department is not a retailer under chapter 422 and the sale of such mementos and other items by the department is not a retail sale under chapter 422 and is exempt from the sales tax.~~

Sec. 161. Section 312.1, subsection 4, Code 2003, is amended to read as follows:

4. To the extent provided in section ~~423.24~~ 423.43, subsection 1, paragraph "b", from revenue derived from the use tax, under chapter 423 on motor vehicles, trailers, and motor vehicle accessories and equipment.

Sec. 162. Section 312.2, subsections 14 and 16, Code 2003, are amended to read as follows:

14. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the general fund of the state from revenue credited to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", an amount equal to one-twentieth of eighty percent of the revenue from the operation of section ~~423.7~~ 423.26.

There is appropriated from the general fund of the state for each fiscal year to the state department of transportation the amount of revenues credited to the general fund of the state during the fiscal year under this subsection to be used for purposes of public transit assistance under chapter 324A.

16. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the motorcycle rider education fund established in section 321.180B, an amount equal to one dollar per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle. Moneys credited to the motorcycle rider education fund under this subsection shall be taken from moneys credited to the road use tax fund under section ~~423.24~~ 423.43.

Sec. 163. Section 321.20, subsection 5, Code 2003, is amended to read as follows:

5. The amount of tax to be paid under section ~~423.7~~ 423.26.

Sec. 164. Section 321.24, subsections 1 and 3, Code 2003, are amended to read as follows:

1. Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home or manufactured home, that taxes are not owing under chapter 435, issue a certificate of title and, except for a mobile home or manufactured home, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registra-

tion number assigned to the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section ~~423.7~~ 423.26, the type of fuel used, and a description of the vehicle as determined by the department, and upon the reverse side a form for notice of transfer of the vehicle. The name and address of any lessee of the vehicle shall not be printed on the registration receipt or certificate of title. Up to three owners may be listed on the registration receipt and certificate of title.

3. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the title number assigned to the owner or owners of the vehicle, the amount of tax paid pursuant to section ~~423.7~~ 423.26, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of notation, and name and address of the secured party.

Sec. 165. Section 321.34, subsection 7, paragraph c, Code 2003, is amended to read as follows:

c. The fees for a collegiate registration plate are as follows:

- (1) A registration fee of twenty-five dollars.
- (2) A special collegiate registration fee of twenty-five dollars.

These fees are in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited by the treasurer of state to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43 and prior to the revenues being credited to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly from those revenues respectively, to Iowa state university of science and technology, the university of northern Iowa, and the state university of Iowa, the amount of the special collegiate registration fees collected in the previous month for collegiate registration plates designed for the university. The moneys credited are appropriated to the respective universities to be used for scholarships for students attending the universities.

Sec. 166. Section 321.34, subsection 11, paragraph c, Code 2003, is amended to read as follows:

c. The special natural resources fee for letter number designated natural resources plates is thirty-five dollars. The fee for personalized natural resources plates is forty-five dollars which shall be paid in addition to the special natural resources fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly from those revenues to the Iowa resources enhancement and protection fund created pursuant to section 455A.18, the amount of the special natural resources fees collected in the previous month for the natural resources plates.

Sec. 167. Section 321.34, subsection 11A, paragraph c, Code 2003, is amended to read as follows:

c. The special fee for letter number designated love our kids plates is thirty-five dollars. The fee for personalized love our kids plates is twenty-five dollars, which shall be paid in addition to the special love our kids fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the Iowa department of public health the amount of the special fees collected in the previous month for the love our kids plates. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.

Sec. 168. Section 321.34, subsection 11B, paragraph c, Code 2003, is amended to read as follows:

c. The special fee for letter number designated motorcycle rider education plates is thirty-five dollars. The fee for personalized motorcycle rider education plates is twenty-five dollars, which shall be paid in addition to the special motorcycle rider education fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the department for use in accordance with section 321.180B, subsection 6, the amount of the special fees collected in the previous month for the motorcycle rider education plates.

Sec. 169. Section 321.34, subsection 13, paragraph d, Code 2003, is amended to read as follows:

d. A state agency may submit a request to the department recommending a special registration plate. The alternate fee for letter number designated plates is thirty-five dollars with a ten dollar annual special renewal fee. The fee for personalized plates is twenty-five dollars which is in addition to the alternative fee of thirty-five dollars with an annual personalized plate renewal fee of five dollars which is in addition to the special renewal fee of ten dollars. The alternate fees are in addition to the regular annual registration fee. The alternate fees collected under this paragraph shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of the revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly the amount of the alternate fees collected in the previous month to the state agency that recommended the special registration plate.

Sec. 170. Section 321.34, subsection 21, paragraph c, Code 2003, is amended to read as follows:

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall credit monthly to the Iowa heritage fund created under section 303.9A the amount of the special fees collected in the previous month for the Iowa heritage plates.

Sec. 171. Section 321.34, subsection 22, paragraph b, Code 2003, is amended to read as follows:

b. The special school transportation fee for letter number designated education plates is thirty-five dollars. The fee for personalized education plates is twenty-five dollars, which shall be paid in addition to the special school transportation fee of thirty-five dollars. The annual special school transportation fee is ten dollars for letter number designated registration plates and is fifteen dollars for personalized registration plates which shall be paid in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section ~~423.24~~ 423.43, and prior to the crediting of revenues to the road use tax fund under section ~~423.24~~ 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the school budget review committee in accordance with section 257.31, subsection 17, the amount of the special school transportation fees collected in the previous month for the education plates.

Sec. 172. Section 321F.9, Code 2003, is amended to read as follows:

321F.9 OPTION TO PURCHASE — DEALER'S LICENSE.

Any person engaged in business in this state shall not enter into any agreement for the use of a motor vehicle under the terms of which such ~~that~~ that person grants to another an option to

purchase ~~such the~~ motor vehicle without first having obtained a motor vehicle dealer's license under the provisions of chapter 322, and all sales of motor vehicles under such options shall be subject to sales or use taxes imposed under the provisions of ~~chapters 422 and~~ chapter 423. Nothing contained in this section shall require such person to have a place of business as provided by section 322.6, subsection 8.

Sec. 173. Section 327I.26, Code 2003, is amended to read as follows:
327I.26 APPROPRIATION TO AUTHORITY.

Notwithstanding section ~~423.24~~ 423.43, and prior to the application of section ~~423.24~~ 423.43, subsection 1, paragraph "b", there shall be deposited into the general fund of the state and is appropriated to the authority from eighty percent of the revenues derived from the operation of section ~~423.7~~ 423.26, the amounts certified by the authority under section 327I.25. However, the total amount deposited into the general fund and appropriated to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys appropriated to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 327I.25.

Sec. 174. Section 328.26, unnumbered paragraph 2, Code 2003, is amended to read as follows:

When an aircraft is registered to a person for the first time the fee submitted to the department shall include the tax imposed by section ~~422.43~~ 423.2 or section ~~423.2~~ 423.5 or evidence of the exemption of the aircraft from the tax imposed under section ~~422.43~~ 423.2 or ~~423.2~~ 423.5.

Sec. 175. Section 331.557, subsection 3, Code 2003, is amended to read as follows:

3. Collect the use tax on vehicles subject to registration as provided in sections ~~423.6, 423.7, and 423.7A~~ 423.14, 423.26, and 423.27.

Sec. 176. Section 357A.15, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A rural water district organized under chapter 504A shall receive a refund of sales or use taxes upon submitting an application to the department of revenue and finance for ~~such the~~ refund of taxes imposed upon the ~~gross receipts~~ sales price of all sales of building materials, supplies, or equipment sold to a contractor or used in the fulfillment of a written contract for the construction of facilities for ~~such the~~ rural water district to the same extent as a rural water district organized under this chapter may obtain a refund under section ~~422.45~~ 423.4, subsection 7 1.

Sec. 177. Section 421.10, Code 2003, is amended to read as follows:
421.10 APPEAL PERIOD — APPLICABILITY.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, ~~422.54~~ 423.37, 437A.9, 437A.22, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

Sec. 178. Section 421.17, subsection 22B, Code 2003, is amended to read as follows:

22B. ~~Enter~~ To enter into agreements or compacts with remote sellers, retailers, or third-party providers for the voluntary collection of Iowa sales or use taxes attributable to sales into Iowa ~~and to enter~~. The director has the authority to enter into and perform all duties required of the office of director by multistate agreements or compacts that provide for the voluntary collection of sales and use taxes, including joint audits with other states or audits on behalf of other states. The agreements or compacts shall generally conform to the provisions of Iowa

sales and use tax statutes. All fees for services, reimbursements, remuneration, incentives, and costs incurred by the department associated with these agreements or compacts may be paid or reimbursed from the additional revenue generated. An amount is appropriated from amounts generated to pay or reimburse all costs associated with this subsection. Persons entering into an agreement or compact with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. Notwithstanding any other provisions of law, the contract, agreement, or compact shall provide for the registration, collection, report, and verification of amounts subject to this subsection.

Sec. 179. Section 421.17, subsection 29, paragraph j, Code 2003, is amended to read as follows:

j. The department's existing right to credit against tax due or to become due under section 422.73 or 423.47 is not to be impaired by a right granted to or a duty imposed upon the department or other state agency by this subsection. This subsection is not intended to impose upon the department any additional requirement of notice, hearing, or appeal concerning the right to credit against tax due under section 422.73 or 423.47.

Sec. 180. Section 421.17, subsection 34, paragraph i, Code 2003, is amended to read as follows:

i. The director may distribute to credit reporting entities and for publication the names, addresses, and amounts of indebtedness owed to or being collected by the state if the indebtedness is subject to the centralized debt collection procedure established in this subsection. The director shall adopt rules to administer this paragraph, and the rules shall provide guidelines by which the director shall determine which names, addresses, and amounts of indebtedness may be distributed for publication. The director may distribute information for publication pursuant to this paragraph, notwithstanding sections 422.20, 422.72, and ~~423.23~~ 423.42, or any other provision of state law to the contrary pertaining to confidentiality of information.

Sec. 181. Section 421.26, Code 2003, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 452A.65, a retailer or purchaser under chapter 422A or 422B, or section ~~422.52~~ 423.31 or 423.33, or a retailer or purchaser under section ~~423.13~~ 423.32 or a user under section ~~423.14~~ 423.34 fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding sections 490A.601 and 490A.602, a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 182. Section 421.28, Code 2003, is amended to read as follows:

421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under chapter 422A or 422B, or section ~~422.52~~, ~~423.13~~, ~~423.14~~, 423.33 or 452A.65, is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that the department had provided the immediate successor with a certified statement that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee,

retailer, or seller that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue and finance shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 422.20, 422.72, or 452A.63.

Sec. 183. Section 421B.11, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, and section ~~422.55~~ 423.38.

Sec. 184. Section 422.7, subsection 21, paragraph a, subparagraph (1), unnumbered paragraph 1, Code 2003, is amended to read as follows:

Net capital gain from the sale of real property used in a business, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section ~~422.42~~ 423.1, in which the taxpayer was employed or in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years. The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

Sec. 185. Section 422.73, subsection 1, Code 2003, is amended by striking the subsection.

Sec. 186. Section 422A.1, unnumbered paragraphs 1, 3, 7, and 8, Code 2003, are amended to read as follows:

A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the ~~gross receipts~~ sales price from the renting of sleeping rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals; except the ~~gross receipts~~ sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the state of Iowa and the guests of a religious institution if the property is exempt under section 427.1, subsection 8, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. "Renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or their use. However, the tax does not apply to the ~~gross receipts~~ sales price from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

A local hotel and motel tax shall be imposed on January 1, April 1, July 1, or October 1, following the notification of the director of revenue and finance. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on March 31, June 30, September 30, or December 31. At least ~~forty-five~~ sixty days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue and finance.

No tax permit other than the state sales tax permit required under section ~~422.53~~ 423.36 may be required by local authorities.

The tax levied shall be in addition to any state sales tax imposed under section ~~422.43~~ 423.2. Section 422.25, subsection 4, sections ~~422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, and~~

422.68, ~~section 422.69, subsection 1, and sections 422.70 to 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and 423.47,~~ consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns as prescribed in ~~section 422.51~~ and for other than quarterly filing of returns ~~both~~ as prescribed in ~~section 422.51, subsection 2~~ 423.31. The director may require all persons, as defined in ~~section 422.42~~ 423.1, who are engaged in the business of deriving gross receipts any sales price subject to tax under this chapter, to register with the department.

Sec. 187. Section 422B.8, Code 2003, is amended to read as follows:

422B.8 LOCAL SALES AND SERVICES TAX.

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the ~~gross receipts~~ sales price taxed by the state under chapter ~~422 423, division IV subchapter II~~. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the ~~gross receipts~~ sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the ~~gross receipts~~ sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the ~~gross receipts~~ sales price from the sale of equipment by the state department of transportation, on the ~~gross receipts~~ sales price from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the ~~gross receipts~~ sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the ~~gross receipts~~ sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the ~~gross receipts~~ sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state ~~gross receipts~~ sales taxes. However, a person required to collect state retail sales tax under chapter ~~422 423, division IV subchapter V or VI~~, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

The amount of the sale, for purposes of determining the amount of the local sales and services tax, does not include the amount of any state ~~gross receipts taxes~~ sales tax.

A tax permit other than the state sales tax permit required under section ~~422.53 or 423.10 423.36~~ shall not be required by local authorities.

If a local sales and services tax is imposed by a county pursuant to this chapter, a local excise tax at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423, subchapter III, and not exempted from tax by any provision of chapter 423, subchapter III. The local excise

tax is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax. For purposes of this chapter, "local sales and services tax" shall also include the local excise tax.

Sec. 188. Section 422B.9, subsections 1 and 2, Code 2003, are amended to read as follows:

1. a. A local sales and services tax shall be imposed either January 1 or July 1 following the notification of the director of revenue and finance but not sooner than ninety days following the favorable election and not sooner than sixty days following notice to sellers, as defined in section 423.1. However, a jurisdiction which has voted to continue imposition of the tax may impose that tax without repeal of the prior tax.

b. A local sales and services tax shall be repealed only on June 30 or December 31 but not sooner than ninety days following the favorable election if one is held. However, a local sales and services tax shall not be repealed before the tax has been in effect for one year. At least forty days before the imposition or repeal of the tax, a county shall provide notice of the action by certified mail to the director of revenue and finance.

c. The imposition of or a rate change for a local sales and service tax shall not be applied to purchases from a printed catalog wherein a purchaser computes the local tax based on rates published in the catalog unless a minimum of one hundred twenty days' notice of the imposition or rate change has been given to the seller from the catalog and the first day of a calendar quarter has occurred on or after the one hundred twentieth day.

~~e.~~ d. If a local sales and services tax has been imposed prior to April 1, 2000, and at the time of the election a date for repeal was specified on the ballot, the local sales and services tax may be repealed on that date, notwithstanding paragraph "b".

2. a. The director of revenue and finance shall administer a local sales and services tax as nearly as possible in conjunction with the administration of state ~~gross receipts sales~~ tax laws. The director shall provide appropriate forms or provide on the regular state tax forms for reporting local sales and services tax liability.

b. The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of ~~chapter 422, division IV, and chapter 423.~~ All powers and requirements of the director to administer the state ~~gross receipts sales~~ tax law and use tax law are applicable to the administration of a local sales and services tax law and the local excise tax, including but not limited to, the provisions of section 422.25, subsection 4, sections 422.30, ~~422.48 to 422.52, 422.54 to 422.58, 422.67, and 422.68,~~ section 422.69, subsection 1, sections 422.70 to 422.75, 423.6, subsections 2 to 4, and sections 423.11 to 423.18, and 423.21 section 423.14, subsection 1 and subsection 2, paragraphs "b" through "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to 423.42, 423.46, and 423.47. Local officials shall confer with the director of revenue and finance for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

c. Frequency of deposits and quarterly reports of a local sales and services tax with the department of revenue and finance are governed by the tax provisions in section ~~422.52~~ 423.31. Local tax collections shall not be included in computation of the total tax to determine frequency of filing under section ~~422.52~~ 423.31.

d. The director shall apply a boundary change of a county or city imposing or collecting the local sales and service tax to the imposition or collection of that tax only on the first day of a calendar quarter which occurs sixty days or more after the director has given notice of the boundary change to sellers.

Sec. 189. Section 422C.2, subsections 4 and 6, Code 2003, are amended to read as follows:

4. "Person" means as defined in section ~~422.42~~ 423.1.

6. "Rental price" means the consideration for renting an automobile valued in money, and means the same as ~~"gross taxable services"~~ "sales price" as defined in section ~~422.42~~ 423.1.

Sec. 190. Section 422C.3, Code 2003, is amended to read as follows:

422C.3 TAX ON RENTAL OF AUTOMOBILES.

1. A tax of five percent is imposed upon the rental price of an automobile if the rental transaction is subject to the sales and services tax under chapter ~~422~~ 423, ~~division IV subchapter II~~, or the use tax under chapter ~~423~~ subchapter III. The tax shall not be imposed on any rental transaction not taxable under the state sales and services tax, as provided in section ~~422.45~~ 423.3, or the state use tax, as provided in section ~~423.4~~ 423.6, on automobile rental receipts.
2. The lessor shall collect the tax by adding the tax to the rental price of the automobile.
3. The tax, when collected, shall be stated as a distinct item separate and apart from the rental price of the automobile and the sales and services tax imposed under chapter ~~422~~ 423, ~~division IV subchapter II~~, or the use tax imposed under chapter ~~423~~ subchapter III.

Sec. 191. Section 422C.4, Code 2003, is amended to read as follows:

422C.4 ADMINISTRATION AND ENFORCEMENT.

All powers and requirements of the director of revenue and finance to administer the state ~~gross receipts sales~~ tax law under chapter ~~422~~, ~~division IV~~, ~~423~~ are applicable to the administration of the tax imposed under section 422C.3, including but not limited to section 422.25, subsection 4, sections 422.30, ~~422.48 through 422.52~~, ~~422.54 through 422.58~~, 422.67, and 422.68, section 422.69, subsection 1, and sections 422.70 through 422.75, section 423.14, subsection 1, and sections 423.15, 423.23, 423.24, 423.25, 423.31, 423.33, 423.35 and 423.37 through 423.42, 423.45, 423.46, and 423.47. However, as an exception to the powers specified in section ~~422.52~~, ~~subsection 1~~ 423.31, the director shall only require the filing of quarterly reports.

Sec. 192. Section 422E.1, subsection 1,⁶⁹ is amended to read as follows:

1. A local sales and services tax for school infrastructure purposes may be imposed by a county on behalf of school districts as provided in this chapter.

If a local sales and services tax for school infrastructure is imposed by a county pursuant to this chapter, a local excise tax for school infrastructure at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter ~~423~~ subchapter III, and not exempted from tax by any provision of chapter ~~423~~ subchapter III. The local excise tax for school infrastructure is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax for school infrastructure. For purposes of this chapter, "local sales and services tax for school infrastructure" shall also include the local excise tax for school infrastructure.

Sec. 193. Section 422E.3, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. If a majority of those voting on the question of imposition of a local sales and services tax for school infrastructure purposes favors imposition of the tax, the tax shall be imposed by the county board of supervisors within the county pursuant to section 422E.2, at the rate specified for a ten-year duration on the ~~gross receipts sales price~~ taxed by the state under chapter ~~422~~ 423, ~~division IV subchapter II~~.
2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the ~~gross receipts sales price~~ from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the ~~gross receipts sales price~~ from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the ~~gross receipts sales price~~ from the sale of equipment by the state department of transportation, on the ~~gross receipts sales price~~ from the sale of self-propelled building

⁶⁹ "Code 2003," probably intended

equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the ~~gross receipts~~ sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the ~~gross receipts~~ sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the ~~gross receipts~~ sales price from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state ~~gross receipts~~ sales or local excise taxes. However, a person required to collect state ~~retail~~ sales tax under chapter ~~422, division IV, 423~~ is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state ~~gross receipts~~ sales taxes or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section ~~422.53 or 423.10~~ 423.36 shall not be required by local authorities.

Sec. 194. Section 425.30, Code 2003, is amended to read as follows:
425.30 NOTICES.

Section ~~422.57~~ 423.39, subsection 1, shall apply to all notices under this division.

Sec. 195. Section 425.31, Code 2003, is amended to read as follows:
425.31 APPEALS.

Any person aggrieved by an act or decision of the director of revenue and finance or the department of revenue and finance under this division shall have the same rights of appeal and review as provided in sections 421.1 and ~~422.55~~ 423.38 and the rules of the department of revenue and finance.

Sec. 196. Section 452A.66, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The appropriate state agency shall administer the taxes imposed by this chapter in the same manner as and subject to section 422.25, subsection 4 and section ~~422.52, subsection 3~~ 423.35.

Sec. 197. Section 455B.455, Code 2003, is amended to read as follows:
455B.455 SURCHARGE IMPOSED.

A land burial surcharge tax of two percent is imposed on the fee for land burial of a hazardous waste. The owner of the land burial facility shall remit the tax collected to the director of revenue and finance after consultation with the director according to rules that the director shall adopt. The director shall forward a copy of the site license to the director of revenue and finance which shall be the appropriate license for the collection of the land burial surcharge tax and shall be subject to suspension or revocation if the site license holder fails to collect or remit the tax collected under this section. The provisions of ~~sections~~ section 422.25, subsection 4, ~~sections~~ section 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, and 422.68, section 422.69, subsection 1, and ~~sections~~ section 422.70 to 422.75, section 423.14, subsection 1, and ~~sections~~ sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and 423.47, consistent with the provisions of this part 6 of division IV, shall apply with respect to the taxes authorized under this part, in the same manner and with the same effect as if the land burial surcharge tax were retail sales taxes within the meaning of those statutes. Notwithstanding the provisions of this ~~paragraph~~ section, the director shall provide for only quarterly filing of returns as prescribed in section ~~422.51~~ 423.31. Taxes collected by the director of revenue and finance under this section shall be deposited in the general fund of the state.

Sec. 198. Section 455G.3, subsection 1, Code 2003, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section ~~423.24~~ 423.43, subsection 1, paragraph "a", and sections 455G.8, 455G.9, and 455G.11, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 199. Section 455G.6, subsection 4, Code 2003, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including revenues derived from the use tax under section ~~423.24~~ 423.43, subsection 1, paragraph "a", and deposited in the fund or an account of the fund.

Sec. 200. Section 455G.8, subsection 2, Code 2003, is amended to read as follows:

2. USE TAX. The revenues derived from the use tax imposed under chapter 423, ~~subchapter III~~. The proceeds of the use tax under section ~~423.24~~ 423.43, subsection 1, paragraph "a", shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board.

Sec. 201. Section 455G.9, subsection 2, Code 2003, is amended to read as follows:

2. REMEDIAL ACCOUNT FUNDING. The remedial account shall be funded by that portion of the proceeds of the use tax imposed under chapter 423, ~~subchapter III~~, and other moneys and revenues budgeted to the remedial account by the board.

Sec. 202. Section 2.67, Code 2003, is repealed.

Sec. 203. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer Code chapter 423A to Code chapter 421A and to transfer Code chapters 422A, 422B, 422C, and 422E to Code chapters 423A, 423B, 423C, and 423E, respectively. The Code editor is directed to correct Code references as required due to the changes made in this Act.

SALES TAX ADVISORY COUNCIL

Sec. 204. IOWA STREAMLINED SALES TAX ADVISORY COUNCIL.

1. An Iowa streamlined sales tax advisory council is created. The advisory council shall review, study, and submit recommendations to the Iowa streamlined sales and use tax delegation regarding the proposed streamlined sales and use tax agreement formalized by the project's implementing sales on November 12, 2002, the proposed language conforming Iowa's sales and use tax to the national agreement, and the following issues:

- a. Uniform definitions proposed in the current streamlined sales and use tax agreement and future proposals.
- b. Effects upon taxability of items newly defined in Iowa.

- c. Impacts upon business as a result of the streamlined sales and use tax.
- d. Technology implementation issues.
- e. Any other issues that are brought before the streamlined sales and use tax implementing state or the streamlined sales and use tax governing board.

2. The department shall provide administrative support to the Iowa streamlined sales tax advisory council. The advisory council shall be representative of Iowa's business community and economy when reviewing and recommending solutions to streamlined sales and use tax issues. The advisory council shall provide the general assembly and the governor with final recommendations made to the Iowa streamlined sales and use tax delegation upon the conclusion of each calendar year.

3. The director of revenue, in consultation with the Iowa taxpayers association and the Iowa association of business and industry, shall appoint members to the Iowa streamlined sales tax advisory council, which shall consist of the following members:

- a. One member from the department of revenue and finance.
- b. Three members representing small Iowa businesses, at least one of whom must be a retailer, and at least one of whom shall be a supplier.
- c. Three members representing medium Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.
- d. Three members representing large Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.
- e. One member representing taxpayers as a whole.
- f. One member representing the retail community as a whole.
- g. Any other member the director of revenue and finance deems appropriate.

Sec. 205. EFFECTIVE DATE. Except for the section creating the Iowa streamlined sales tax advisory council, this division of this Act takes effect July 1, 2004.

DIVISION XV CAPITOL COMPLEX PARKING STRUCTURE

**Sec. 206. NEW SECTION. 18A.8 CAPITOL COMPLEX PARKING STRUCTURE REVOLVING FUND.*

*A capitol complex parking structure revolving fund is created in the state treasury. The capitol complex parking structure revolving fund shall be administered by the department of administrative services and shall consist of moneys collected by the department as parking fees, moneys appropriated to the fund by the general assembly, and any other moneys obtained or accepted by the department for deposit in the revolving fund. The proceeds of the revolving fund are appropriated to and shall be used by the department for costs associated with the management, operation, and maintenance of the capitol complex parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative services agency, of the activities funded by and expenditures made from the revolving fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the revolving fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.**

**Sec. 207. CAPITOL COMPLEX PARKING STRUCTURE MANAGEMENT — REQUEST FOR PROPOSALS. The department of administrative services shall issue a request for proposals for the management, operation, and maintenance of the state-owned parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. The request for proposals shall include all of the following services:*

- 1. *The collection of parking fees and administration of parking permits.*
- 2. *Daily janitorial maintenance and necessary annual maintenance, pursuant to standards outlined in the parking garage maintenance manual published by the parking consultants council of the national parking association.*

* Item veto; see message at end of the Act

3. *Long-term structural maintenance.*

*Awarding of a contract for the management, operation, and maintenance of the parking structure is subject to approval by the general assembly.**

Sec. 208. CAPITOL COMPLEX PARKING STRUCTURE — EMPLOYEE PARKING FEES. The department of administrative services shall establish reasonable parking fees for state employees for the use of the state-owned parking structure located at the intersection of Pennsylvania and Grand avenues in Des Moines. Parking fees shall not be established or collected for use of the parking structure by members of the general public. Such fees shall be deposited in the capitol complex parking structure revolving fund created in section 18A.8, as enacted by this Act.

DIVISION XVI
EFFECTIVE DATE

Sec. 209. EFFECTIVE DATE. Unless otherwise provided in this Act, this Act takes effect July 1, 2003.

Approved June 19, 2003, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 683, an Act relating to economic development, financial, taxation, and regulatory matters, making and revising appropriations, modifying penalties, providing a fee, and including effective, applicability, and retroactive applicability provisions.

House File 683 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 96, subsection 68, in its entirety. These paragraphs conform the postponement of the phase-out of the sales tax on residential utilities with the streamlined sales tax initiative. I have item vetoed the postponing of this tax cut, so this language is unnecessary. I will recommend language to the next legislature in January 2004 to bring our continued reduction in the sales tax on residential utilities into alignment with the streamlined sales tax initiative.

I am unable to approve the items designated as Division 15 that consists of Sections 206–208 in their entirety. These sections would require the establishment of a parking fee for the State Capitol Complex Parking Structure located at Pennsylvania and Grand Avenues in Des Moines for only those citizens who work for the State of Iowa. I had earlier vetoed similar language in SF 452 because I do not think it is appropriate to charge such fees to citizens who would use this facility to visit the State Capitol. My earlier concern still exists because we should not discriminate against our state employees, who are Iowa citizens. Additionally, since we make free parking available to state employees elsewhere around the State Capitol Complex, creating a system where some state employees are charged a parking fee and other state employees can park for free is not equitable. Therefore, such a fee should not be approved.

For the above reasons, I respectfully disapprove these items in accordance with Article 3, Section 16 of the Constitution of the State of Iowa. All other items in House File 683 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

* Item veto; see message at end of the Act



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¹ Enacted in 2003 Regular Session

² Enacted in 2003 Regular Session

³ Enacted in 2003 Regular Session

⁴ Enacted in 2003 Regular Session

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⁵ Enacted in 2003 Regular Session

⁶ Enacted in 2003 Regular Session

⁷ Enacted in 2003 Regular Session

⁸ Enacted in 2003 Regular Session

⁹ Enacted in 2003 Regular Session

¹⁰ Enacted in 2003 Regular Session

¹¹ Iowa Code chapter 423, Code 2003, repealed by 2003 Iowa Acts, First Extraordinary Session, chapter 2, §151, 209; new Iowa Code chapter enacted at chapter 423 placement

¹² Enacted in 2003 Regular Session

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