State of Iowa

2005

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted at the

2005 REGULAR SESSION

of the

Eighty-First General Assembly

of the

State of Iowa

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

REGULAR SESSION BEGUN ON THE TENTH DAY OF JANUARY
AND ENDED ON THE TWENTIETH DAY OF MAY, A.D. 2005

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 2005 Regular Session of the Eighty-first 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 2005 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2005 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 2005 Regular Session took effect on July 1, 2005, 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. No enrolled Acts required the filing of the estimate this year.

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

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LIEUTENANT GOVERNOR	
SALLY J. PEDERSON	Polk
N. Dawn Wilson, Deputy Chief of Staff — Senior Advisor to Lieutenant Governor	Polk
Judy Jones, Lieutenant Governor's Scheduler	Polk
SECRETARY OF STATE	
CHESTER J. CULVER	Polk
Charles Krogmeier, First Deputy	Polk
Joni Klaassen, Deputy of Administration	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, 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 Austin, Deputy Treasurer	Polk
Steve Larson, 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
Kenneth Tow, Director, Soil Conservation Division	Dallas
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

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Angelo, Jeff ..... Creston	Media Consultant	48th—Adams, Clarke, ... Decatur, Montgomery, Ringgold, Taylor, *Union*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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Courtney, Thomas G. ... Burlington	Retired	44th—*Des Moines*, ... Louisa, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Danielson, Jeff ..... Cedar Falls	Professional Firefighter	10th—*Black Hawk*	None

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Dearden, Dick L. ..... Des Moines	Retired/Job Developer .. 5th Judicial District	34th—*Polk*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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Hatch, Jack ..... Des Moines	Real Estate Developer ..	33rd—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

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Lamberti, Jeff ..... Ankeny	Attorney/Co-president of the Senate	35th—*Polk*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Mulder, Dave ..... Sioux Center	Retired College Professor	2nd—Lyon, Plymouth, .. *Sioux*	None
Putney, John ..... Gladbrook	Executive Director ..... Iowa State Fair Blue Ribbon Foundation	20th—Benton, Grundy, .. Iowa, *Tama*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Quirmbach, Herman C. Ames	Associate Professor of .. Economics—Iowa State University	23rd—Boone, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Ragan, Amanda ..... Mason City	Executive Director ..... Community Kitchen of North Iowa/ Executive Director Meals on Wheels	7th—*Cerro Gordo*, Floyd, Howard, Mitchell	79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Rielly, Tom ..... Oskaloosa	Insurance Sales	38th—Iowa, Keokuk, ... *Mahaska*, Poweshiek, Tama	None
Schoenjahn, Brian ..... Arlington	Educator	12th—Black Hawk, ... Buchanan, Clayton, Delaware, *Fayette*	None
Seng, Joe M., Dr. ..... Davenport	Veterinarian	43rd—*Scott*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Seymour, James A. ..... Woodbine	Hospital Administrator/ CEO	28th—Crawford, ... *Harrison*, Ida, Monona, Pottawattamie, Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X

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Shull, Doug ..... Indianola	Retired/Community ..... Service	37th—Dallas, Madison, .. *Warren*	68, 69, 69X, 69XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Stewart, Roger ..... Preston	Banker/Farmer	13th—Clinton, Dubuque, *Jackson*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Tinsman, Maggie ..... Davenport	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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Ward, Pat ..... West Des Moines	Former Public and ..... Government Relations Executive	30th—*Polk*	80(2nd), 80(2nd)X
Warnstadt, Steve ..... Sioux City	Legislator/National Guard	1st—*Woodbury*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wieck, Ron ..... Sioux City	Insurance Agent	27th—Cherokee, ... Plymouth, *Woodbury*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wood, Frank B. ..... Eldridge	High School Associate .. Principal	42nd—Clinton, *Scott*	None
Zaun, Brad ..... Urbandale	Owner of Zaun's ..... Hardware	32nd—*Polk*	None
Zieman, Mark ..... Postville	Farmer/Trucking ..... Company Owner	8th—*Allamakee*, ... Chickasaw, Howard, Winneshiek	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

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Anderson, Richard T. .... Clarinda	Attorney	97th—Fremont, Mills, ... *Page*	None
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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Berry, Deborah L. ..... Waterloo	Education Site ..... Coordinator	22nd—*Black Hawk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Boal, Carmine ..... Ankeny	Legislator	70th—*Polk*	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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Chambers, Royd E. ..... Sheldon	Educator/Iowa Air ..... National Guard	5th—Clay, *O'Brien*, ... Osceola, Sioux	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dandekar, Swati A. ..... Marion	Community Leader	36th—*Linn*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Davitt, Mark ..... Indianola	Communications ..... Consultant	74th—*Warren*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
De Boef, Betty R. ..... What Cheer	Partner, Farming and ... Wood Grinding Operation	76th—Iowa, *Keokuk*, ... Poweshiek, Tama	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Dix, Bill ..... Shell Rock	Farmer	17th—Bremer, *Butler*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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Elgin, Jeffrey C. ..... Cedar Rapids	Businessman	37th—*Linn*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Fallon, Ed ..... Des Moines	State Legislator	66th—*Polk*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Foege, Ro ..... Mount Vernon	Retired Social Worker ...	29th—Johnson, *Linn*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Ford, Wayne ..... Des Moines	Executive Director Urban Dreams	65th—*Polk*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Freeman, Mary Lou ..... Alta	Education	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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Frevert, Marcella R. ..... Emmetsburg	Legislator	7th—Emmet, Kossuth, .. *Palo Alto*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
Gaskill, Mary ..... Ottumwa	Retired County Auditor ..	93rd—*Wapello*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Gipp, Chuck ..... Decorah	Farmer/Majority Leader ..	16th—Allamakee, ... *Winneshiek*	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Granzow, Polly A. ..... Eldora	Farming	44th—*Hardin*, Marshall ..	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Greiner, Sandra H. ..... Keota	Farmer	89th—Jefferson, Johnson, *Washington*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Heddens, Lisa K. ..... Ames	Family Support ..... Coordinator	46th—Boone, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hoffman, Clarence C. .... Denison	Insurance	55th—*Crawford*, Ida, ... Monona, Woodbury	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hogg, Robert M. ..... Cedar Rapids	Attorney	38th—*Linn*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Horbach, Lance J. ..... Tama	Insurance Agent	40th—Grundy, *Tama*	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hunter, Bruce ..... Des Moines	Customer Service ..... Manager	62nd—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Huser, Geri D. ..... Altoona	Lawyer/Social Worker ..	42nd—Jasper, *Polk*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Hutter, Joseph I. ..... Bettendorf	Retired Police Officer ...	82nd—*Scott*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Jacobs, Elizabeth ..... (Libby) S. West Des Moines	Community Relations ... Director	60th—*Polk*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
Jacoby, David (Dave) .... Coralville	Program Director	30th—*Johnson*	80(2nd), 80(2nd)X
Jenkins, G. Willard ..... Waterloo	Engineer	20th—*Black Hawk*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Jochum, Pam ..... Dubuque	Instructor—Northeast .... Iowa Community College	27th—*Dubuque*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Jones, Gerald D. ..... Silver City	Property Management ...	98th—*Mills*, ... Pottawattamie	79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kaufmann, Jeff ..... Wilton	Teacher/Livestock ..... Operator	79th—*Cedar*, Johnson, ... Muscatine	None
Kressig, Bob ..... Cedar Falls	Retired/John Deere	19th—*Black Hawk*	None
Kuhn, Mark A. ..... Charles City	Family Farmer	14th—Cerro Gordo, *Floyd*, Mitchell	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Kurtenbach, James M. ... Nevada	Associate Professor	10th—Hamilton, *Story* ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lalk, David ..... Westgate	Farmer/Retired John ..... Deere Employee	18th—Black Hawk, ... Bremer, *Fayette*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lensing, Vicki ..... Iowa City	Funeral Home Owner	78th—*Johnson*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lukan, Steven F. ..... New Vienna	Tire Technician	32nd—Delaware, ... *Dubuque*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Lykam, Jim ..... Davenport	Small Business Owner ...	85th—*Scott*	73, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Maddox, Gene ..... Clive	Lawyer	59th—*Polk*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Mascher, Mary ..... Iowa City	Teacher	77th—*Johnson*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
May, Mike ..... Spirit Lake	Retired Teacher/Resort .. Owner	6th—Clay, *Dickinson*	None

Name and Residence	Occupation	Representative District	Former Legislative Service
McCarthy, Kevin M. ..... Des Moines	Attorney	67th—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Mertz, Dolores M. ..... Ottosen	.....	8th—Humboldt, *Kossuth,* Pocahontas, Webster	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Miller, Helen ..... Fort Dodge	Attorney/Arts Educator ..	49th—*Webster*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Murphy, Pat ..... Dubuque	Minority Leader	28th—*Dubuque*	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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Oldson, Jo ..... Des Moines	.....	61st—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Olson, Donovan ..... Boone	Distance Education ..... Coordinator	48th—*Boone,* Dallas	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Olson, Rick ..... Des Moines	Attorney	68th—*Polk*	None
Olson, Steven N. ..... DeWitt	Farmer	83rd—*Clinton*, Scott	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Paulsen, Kraig ..... Hiawatha	Attorney	35th—*Linn*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Petersen, Janet ..... Des Moines	Marketing ..... Communications Consultant	64th—*Polk*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Pettengill, Dawn E. ..... Mount Auburn	Retirement and Investor Services	39th—*Benton*, Iowa	None
Quirk, Brian J. ..... New Hampton	Electrical Contractor	15th—*Chickasaw*, ... Howard, Winneshiek	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Raecker, J. Scott ..... Urbandale	Executive Director— ..... Institute for Character Development	63rd—*Polk*	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Rants, Christopher C. .... Sioux City	Speaker of the House/ ... Self-employed	54th—*Woodbury*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Rasmussen, Daniel J. .... Independence	Executive Director Land Improvement Contractor Association	23rd—Black Hawk, ... *Buchanan*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
Rayhons, Henry V. ..... Garner	Farmer	11th—*Hancock*, ... Winnebago, Worth	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Reasoner, Michael J. ..... Creston	State Legislator	95th—Clarke, Decatur, ... *Union*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Reichert, Nathan ..... Muscatine	Allsteel Customer Support	80th—*Muscatine*	None
Roberts, Rod ..... Carroll	Development Director—Christian Churches/ Churches of Christ	51st—*Carroll*, Crawford, Sac	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Sands, Thomas R. ..... Columbus Junction	Banker/Real Estate ..... Appraiser/Farm Owner	87th—Des Moines, ... *Louisa*, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Schickel, Bill ..... Mason City	KCMR Radio, General ... Manager	13th—*Cerro Gordo*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Schueller, Thomas J. .... Maquoketa	Contractor	25th—Clinton, Dubuque, *Jackson*	None
Shomshor, Paul C., Jr. ... Council Bluffs	Certified Public ..... Accountant	100th—*Pottawattamie* ...	80(2nd), 80(2nd)X
Shoultz, Don ..... Waterloo	.....	21st—*Black Hawk*	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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Smith, Mark ..... Marshalltown	Licensed Independent ... Social Worker	43rd—*Marshall*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Soderberg, Chuck ..... LeMars	Vice President, Planning and Legislative Services—Northwest Iowa Power Cooperative	3rd—*Plymouth*, Sioux ...	None
Struyk, Douglas L. ..... Council Bluffs	Small Business Owner/ .. Attorney	99th—*Pottawattamie*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Swaim, Kurt ..... Bloomfield	Attorney	94th—Appanoose, *Davis*, Wayne	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Taylor, Dick ..... Cedar Rapids	Electrician/Project ..... Manager	33rd—*Linn*	78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Taylor, Todd ..... Cedar Rapids	Union Representative	34th—*Linn*	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
Thomas, Roger ..... Elkader	Farmer/Paramedic	24th—*Clayton*, Delaware, Fayette	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Tjepkes, David A. ..... Gowrie	Retired State Trooper	50th—Calhoun, Greene, *Webster*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Tomenga, F. Walter ..... Johnston	Management Consultant	69th—*Polk*	None
Tymeson, Jodi S. ..... Winterset	National Guard Brigadier General/Licensed Teacher	73rd—Dallas, *Madison*, .. Warren	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Upmeyer, Linda L. ..... Garner	Nurse Practitioner	12th—Cerro Gordo, ... Franklin, *Hancock*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Van Fossen, James ..... (Jim) R. Davenport	Retired Police Captain ...	84th—*Scott*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Watts, Ralph C. ..... Adel	Engineer/Business ..... Management Retired	47th—Boone, *Dallas*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wendt, Roger F. ..... Sioux City	Retired School ..... Administrator	2nd—*Woodbury*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wessel-Kroeschell, Beth Ames	.....	45th—*Story*	None
Whitaker, John R. ..... Hillsboro	Family Farmer	90th—Jefferson, ... *Van Buren*, Wapello	80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Whitead, Wesley Edward Sioux City	.....	1st—*Woodbury*	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wilderdyke, Paul A. ..... Woodbine	Community Relations	56th—*Harrison*, Monona, Pottawattamie	79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Winckler, Cindy Lou ..... Davenport	Instructional Facilitator— Davenport Schools	86th—*Scott*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Wise, Philip ..... Keokuk	Consultant/Legislator/ ... Retired Educator	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, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X
Zirkelbach, Raymond .... Monticello	Correctional Officer/ ..... Soldier	31st—Dubuque, *Jones* ...	None

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, 2012
Jerry L. Larson	Harlan	December 31, 2012
James H. Carter	Cedar Rapids	December 31, 2008
Marsha K. Ternus	Des Moines	December 31, 2010
Mark S. Cady	Fort Dodge	December 31, 2008
Michael J. Streit	Des Moines	December 31, 2010
David S. Wiggins	Des Moines	December 31, 2012

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	Spirit Lake	December 31, 2010
Robert E. Mahan	Ames	December 31, 2010
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

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

Senator Tom Harkin (D)
731 Hart Senate Office Building
Washington, D.C. 20510-1501
(202) 224-3254

Website address:
http://harkin.senate.gov

E-mail address:
Electronic communications
can be made through website

733 Federal Building
210 Walnut Street
Des Moines, Iowa 50309
(515) 284-4574

150 First Avenue, NE
Suite 370
Cedar Rapids, Iowa 52401
(319) 365-4504

1606 Brady Street
Suite 323
Davenport, Iowa 52803
(563) 322-1338

110 Federal Building
320 6th Street
Sioux City, Iowa 51101
(712) 252-1550

315 Federal Building
350 West 6th Street
Dubuque, Iowa 52001
(563) 582-2130

Senator Charles Grassley (R)
135 Hart Senate Office Building
Washington, D.C. 20510-1501
(202) 224-3744

Website address:
http://grassley.senate.gov

E-mail address:
chuck_grassley@grassley.senate.gov

721 Federal Building
210 Walnut Street
Des Moines, Iowa 50309
(515) 288-1145

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
320 6th Street
Sioux City, Iowa 51101
(712) 233-1860

131 West 3rd Street
Suite 180
Davenport, Iowa 52801
(563) 322-4331

307 Federal Building
8 South 6th Street
Council Bluffs, Iowa 51501
(712) 322-7103

UNITED STATES REPRESENTATIVES

First District

Congressman Jim Nussle (R)
303 Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-2911

Website address:
http://www.nussle.house.gov

E-mail address:
Electronic communications
can be made through website

712 West Main Street
Manchester, Iowa 52057
(563) 927-5141

3641 Kimball Avenue
Waterloo, Iowa 50702
(319) 235-1109

2255 John F. Kennedy Road
Dubuque, Iowa 52002
(563) 557-7740

209 West 4th Street
Davenport, Iowa 52801
(563) 326-1841

Toll-Free:
(800) 927-5212

Second District

Congressman James A. Leach (R)
2186 Rayburn House Office Bldg.
Washington, D.C. 20515-1501
(202) 225-6576
Fax (202) 226-1278

Website address:
http://www.house.gov/leach

E-mail address:
Electronic communications
can be made through website

214 Jefferson Street
Burlington, Iowa 52601-5215
(319) 754-1106
Fax (319) 754-1107

125 South Dubuque Street
Iowa City, Iowa 52240-4003
(319) 351-0789
Fax (319) 351-5789

129 12th Street, SE
Cedar Rapids, Iowa 52403-4074
(319) 363-4773
Fax (319) 363-5008

105 East 3rd Street
Room 201
Ottumwa, Iowa 52501-2904
(641) 684-4024
Fax (641) 684-1843

UNITED STATES REPRESENTATIVES — Continued

Third District

Congressman Leonard Boswell (D)
1427 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-3806
Fax (202) 225-5608

Website address:
http://www.house.gov/boswell

E-mail address:
rep.boswell.ia03@mail.house.gov

300 East Locust Street, Suite 320
Des Moines, Iowa 50309
(515) 282-1909
Fax (515) 282-1785

Toll-Free:
(888) 432-1984

Fourth District

Congressman Tom Latham (R)
2447 Rayburn House Office Bldg.
Washington, D.C. 20515
(202) 225-5476
Fax (202) 225-3301

Website address:
http://www.house.gov/latham

E-mail address:
tom.latham@mail.house.gov

1421 South Bell Avenue, Suite 108A
Ames, Iowa 50010
(515) 232-2885
Fax (515) 232-2844

812 Highway 18 East
P.O. Box 532
Clear Lake, Iowa 50428
(641) 357-5225
Fax (641) 357-5226

1426 Central Avenue, Suite A
Fort Dodge, Iowa 50501
(515) 573-2738
Fax (515) 576-7141

Fifth District

Congressman Steve King (R)
1432 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-4426
Fax (202) 225-3193

Website address:
http://www.house.gov/steveking

E-mail address:
steve.king@mail.house.gov

40 Pearl Street
Council Bluffs, Iowa 51503
(712) 325-1404
Fax (712) 325-1405

P.O. Box 601
Creston, Iowa 50801
(641) 782-2495
Fax (641) 782-2497

526 Nebraska Street
Sioux City, Iowa 51101
(712) 224-4692
Fax (712) 224-4693

P.O. Box 650
Spencer, Iowa 51301
(712) 580-7754
Fax (712) 580-3354

607 Lake Avenue
Storm Lake, Iowa 50588
(712) 732-4197
Fax (712) 732-4217

CONDITION OF STATE TREASURY

June 30, 2004

	Balance July 1, 2003	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2004
General Fund	$ 371,100,052	$ 8,960,960,637	$ 9,332,060,689	$ 8,852,185,119	$ 479,875,570
Special Revenue Fund	982,029,264	2,823,863,737	3,805,893,001	2,716,111,305	1,089,781,696
Capitol Projects Fund	592,223	17,809,155	18,401,378	15,821,671	2,579,707
Debt Service Fund	10,004,531	8,222,184	18,226,715	8,131,770	10,094,945
Enterprise Fund	26,884,438	415,355,868	442,240,306	406,963,851	35,276,455
Internal Service Fund	55,324,150	291,627,187	346,951,337	295,558,254	51,393,083
Expendable Trust Fund	24,623,707	456,513,333	481,137,040	441,226,048	39,910,992
Nonexpendable Trust Fund	8,306,677	491,007	8,797,684	0	8,797,684
Pension Fund	14,456,014,648	1,487,913,879	15,943,928,527	876,977,335	15,066,951,192
Trust and Agency Fund	153,942,899	3,868,135,256	4,022,078,155	3,856,145,000	165,933,155
Totals	$16,088,822,589	$18,330,892,243	$34,419,714,832	$17,469,120,353	$16,950,594,479

Balance July 1, 2003	$16,088,822,589
Receipts and Transfers	18,330,892,243
Total Available	34,419,714,832
Disbursements and Transfers	17,469,120,353
Balance June 30, 2004	$16,950,594,479

DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE ACCOUNTING ENTERPRISE

June 7, 2005

ANALYSIS BY CHAPTERS

2005 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2005 Acts, Regular Session, see page 846

2005 Regular Session

of the

Eighty-First General Assembly

of the

State of Iowa

CHAPTER 1

SCHOOL FINANCE — ALLOWABLE GROWTH

S.F. 36

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 2005, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 2004, is two percent.~~ The state percent of growth for the budget year beginning July 1, 2005, is four percent. The state percent of growth for the budget year beginning July 1, 2006, is four 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, 2006.

Approved February 2, 2005

CHAPTER 2

STATE INCOME TAXES —
DEPRECIATION AND EXPENSING ALLOWANCES

H.F. 102

AN ACT relating to state income taxes by authorizing individuals, corporations, and financial institutions to elect to take the additional first-year depreciation allowance and the increased expensing allowance and to allow the additional first-year depreciation allowance and the increased expensing allowance which were deductible for a tax year for which a tax return was filed prior to a certain date to be deducted on the return filed for the subsequent tax year and including an effective date provision and a retroactive applicability date provision.

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

Section 1. Section 422.7, subsection 39, paragraph b, Code 2005, is amended to read as follows:

b. ~~The~~ A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, ~~shall apply~~ in computing net income for state tax purposes, for qualified property acquired after May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed 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)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

Sec. 2. Section 422.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 44. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

a. Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

b. Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

c. Any other adjustments to gains and losses to the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

Sec. 3. Section 422.35, subsection 19, paragraph b, Code 2005, is amended to read as follows:

b. ~~The~~ A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, ~~shall apply~~ in computing net income for state tax purposes, for qualified property acquired after

May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed 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)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

Sec. 4. Section 422.35, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 20. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

a. Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

b. Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

c. Any other adjustments to gains and losses to the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

Sec. 5. SPECIAL FILING PROVISIONS. Adjustments to federal adjusted gross income for individuals and federal taxable income for corporations made on previous tax returns filed prior to the effective date of this section of this Act may be required. These adjustments relate to the disallowance of both the additional fifty percent first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code for assets acquired after May 5, 2003, and before January 1, 2005, and the increase in the expensing allowance authorized in section 179(b) of the Internal Revenue Code for tax periods beginning on or after January 1, 2003. In lieu of filing an amended tax return, taxpayers may make these adjustments, pursuant to rules adopted by the director of revenue, on the next return filed subsequent to the effective date of this section of this Act or on the return for the tax year immediately preceding the tax year for which its return is filed subsequent to the effective date of this section of this Act. If the taxpayer elects not to file an amended return, the "allowed or allowable" provisions and regulations of sections 167 and 1016 of the Internal Revenue Code are suspended with regard to the depreciation adjustment otherwise available as a result of this Act.

Sec. 6. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. Sections 1 and 3 of this Act apply retroactively to tax years ending after May 5, 2003. Sections 2 and 4 of this Act apply retroactively to tax years beginning on or after January 1, 2003.

Approved February 24, 2005

CHAPTER 3

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 113

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 4.1, subsection 39, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The words "written" and "in writing" may include any mode of representing words or letters in general use, and include an electronic record as defined in section 554D.103. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. "Signature" includes an electronic ~~or digital~~ signature as defined in section 554D.103. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

Sec. 2. Section 10B.4, subsection 1, Code 2005, is amended to read as follows:

1. A biennial report shall be filed by a reporting entity with the secretary of state on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to chapter 17A. However, a reporting entity required to file a biennial report pursuant to chapter 490, 496C, 497, 498, 499, 501, 504, or 504A shall file the report required by this section in the same year as required by that chapter. The reporting entity may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this subsection. The reports shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

Sec. 3. Section 10B.7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Lessees of agricultural land under section 9H.4, subsection 2, paragraph "c", for research or experimental purposes, shall file a biennial report with the secretary of state on or before March 31 of each odd-numbered year on forms adopted pursuant to chapter 17A and supplied by the secretary of state. However, a lessee required to file a biennial report pursuant to chapter 490, 496C, 497, 498, 499, 501, 504, or 504A shall file the report required by this section in the same year as required by that chapter. The lessee may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this paragraph. The report shall contain the following information for the reporting period:

Sec. 4. Section 10C.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5, ~~as that section exists in the 2005~~ Code 2005, if all of the following apply:

Sec. 5. Section 10C.6, subsection 1, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) The enterprise acquires or holds the agricultural land pursuant to chapter 10C, ~~as that chapter exists in the 2005~~ Code 2005.

Sec. 6. Section 10C.6, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person who is a successor in interest to a life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5, ~~as that section exists in the 2003~~ Code ~~or~~ 2003 or Code Supplement 2003, if all of the following apply:

Sec. 7. Section 10C.6, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The person meets the qualifications of a life science enterprise and acquires or holds the agricultural land as provided in chapter 10C, ~~as that chapter exists in the 2003~~ Code ~~or~~ 2003 or Code Supplement 2003.

Sec. 8. Section 12.71, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The treasurer of state may issue bonds upon the request of the vision Iowa board created in section 15F.102 and do all things necessary with respect to the purposes of the vision Iowa fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the vision Iowa fund created in section 12.72, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund; provided, however, excluding the issuance of refunding bonds, bonds issued pursuant to this section shall not be issued in an aggregate principal amount which exceeds three hundred million dollars. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

7. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code, chapter 554, to be valid, binding, or effective.

Sec. 9. Section 12.81, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The treasurer of state may issue bonds for purposes of the school infrastructure program established in section 292.2. Excluding the issuance of refunding bonds, the treasurer of state shall not issue bonds which result in the deposit of bond proceeds of more than fifty million dollars into the school infrastructure fund. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds and carry out the purposes of the fund. The treasurer of state may issue bonds in principal amounts which are necessary to provide funds for the fund as provided by this section, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the treasurer of state incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the treasurer of state necessary or convenient to administer the fund. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

7. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code, chapter 554, to be valid, binding, or effective.

Sec. 10. Section 12E.11, subsection 2, Code 2005, is amended to read as follows:

2. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of interest on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code, chapter 554.

Sec. 11. Section 12E.16, Code 2005, is amended to read as follows:

12E.16 BANKRUPTCY.

Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter ~~9~~ nine of the federal bankruptcy code, 11 U.S.C. § 901 et seq., or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization,

entity, or other person shall not authorize the authority to be or become a debtor under chapter ~~9~~ nine or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law, during the period of the contractual obligation.

Sec. 12. Section 16.26, subsection 1, Code 2005, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

Sec. 13. Section 16.105, subsection 10, Code 2005, is amended to read as follows:

10. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code, chapter 554, to be valid, binding, or effective against the parties.

Sec. 14. Section 16.177, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The authority is authorized to issue its bonds to provide prison infrastructure financing as provided in this section. The bonds may only be issued to finance projects which have been approved for financing by the general assembly. Bonds may be issued in order to fund the construction and equipping of a project or projects, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds and other expenditures incident to or necessary or convenient to carry out the bond issue. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code, chapter 554.

7. Neither the resolution or trust agreement, nor any other instrument by which a pledge is created is required to be recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective.

Sec. 15. Section 17A.1, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The purposes of ~~the Iowa administrative procedure Act~~ this chapter are: To provide legislative oversight of powers and duties delegated to administrative agencies; to increase public accountability of administrative agencies; to simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions; to increase public access to governmental information; to increase public participation in the formulation of administrative rules; to increase the fairness of agencies in their conduct of contested case proceedings; and to simplify the process of judicial review of agency action as well as increase its ease and availability. In accomplishing its objectives, the intention of this chapter is to strike a fair balance between these purposes and the need for efficient, economical and effective government administration. The chapter is not meant to alter the substantive rights of any person or agency. Its impact is limited to procedural rights with the expectation that better substantive results will be achieved in the everyday conduct of state government by improving the process by which those results are attained.

Sec. 16. Section 17A.23, unnumbered paragraph 2, Code 2005, is amended to read as follows:

~~The Iowa administrative procedure Act~~ This chapter shall be construed broadly to effectuate its purposes. This chapter shall also be construed to apply to all agencies not expressly exempted by this chapter or by another statute specifically referring to this chapter by name; and except as to proceedings in process on July 1, 1975, this chapter shall be construed to apply to all covered agency proceedings and all agency action not expressly exempted by this chapter or by another statute specifically referring to this chapter by name.

Sec. 17. Section 29B.82, Code 2005, is amended to read as follows:

29B.82 DESERTION.

1. Any member of the state military forces who does any of the following is guilty of desertion:

~~1.~~ a. Without authority goes or remains absent from the member's unit, organization, or place of duty with intent to remain away therefrom permanently~~;~~.

~~2.~~ b. Quits the member's unit, organization or place of duty with intent to avoid hazardous duty or to shirk important services~~; or~~.

~~3.~~ c. Without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without duly disclosing the fact that the member has not been regularly separated~~; is guilty of desertion~~.

2. Any commissioned officer of the state military forces who, after tender of the officer's resignation and before notice of its acceptance, quits a post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

3. Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

Sec. 18. Section 68A.406, subsection 3, Code 2005, is amended to read as follows:

3. Yard signs with dimensions of thirty-two square feet or less are exempt from the attribution statement requirement in section 68A.405. Campaign signs in excess of thirty-two square feet, or signs that are affixed to buildings or vehicles regardless of size except for bumper stickers, are required to include the attribution statement required by section 68A.405. The placement or erection of yard signs shall be exempt from the requirements of chapter 480 relating to underground facilities ~~organization~~ information.

Sec. 19. Section 68A.503, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. Using its funds to encourage registration of voters and participation in the political process or to publicize public issues, ~~but does not use any~~ provided that no part of those contributions are used to expressly advocate the nomination, election, or defeat of any candidate for public office.

Sec. 20. Section 76.16, Code 2005, is amended to read as follows:

76.16 DEBTOR STATUS PROHIBITED.

A city, county, or other political subdivision of this state shall not be a debtor under chapter ~~9~~ nine of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., except as otherwise specifically provided in this chapter.

Sec. 21. Section 76.16A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A city, county, or other political subdivision may become a debtor under chapter ~~9~~ nine of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., if it is rendered insolvent, as defined in 11 U.S.C. § 101(32)(c), as a result of a debt involuntarily incurred. As used herein, "debt" means an obligation to pay money, other than pursuant to a valid and binding collective bar-

gaining agreement or previously authorized bond issue, as to which the governing body of the city, county, or other political subdivision has made a specific finding set forth in a duly adopted resolution of each of the following:

Sec. 22. Section 97B.1A, subsection 11, paragraph b, Code 2005, is amended to read as follows:

b. If the member has not attained seventy years of age, has terminated all employment covered under ~~the~~ this chapter or formerly covered under ~~the~~ this chapter pursuant to section 97B.42 in the month prior to the member's first month of entitlement.

Sec. 23. Section 97C.2, subsection 4, Code 2005, is amended to read as follows:

4. The term "Federal Insurance Contributions Act" means subchapter "A" of chapter ~~9~~ nine of the federal Internal Revenue Code as such code has been and may from time to time be amended.

Sec. 24. Section 99D.2, subsection 9, Code 2005, is amended to read as follows:

9. "Wagering area" means that portion of a racetrack in which a licensee may receive wagers of money from a person present in a licensed ~~racing~~ racetrack enclosure on a horse or dog in a race selected by the person making the wager as designated by the commission.

Sec. 25. Section 99D.11, subsection 3, Code 2005, is amended to read as follows:

3. The licensee may receive wagers of money only from a person present in a licensed ~~racing~~ racetrack enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

Sec. 26. Section 99D.13, subsection 3, paragraph c, unnumbered paragraph 1, Code 2005, is amended to read as follows:

For purposes of this subsection, "qualified harness racing track" means a harness racing track that has either held at least one harness race ~~meet~~ meeting between July 1, 1985, and July 1, 1989, or after July 1, 1989, has applied to and been approved by the racing commission for the allocation of funds under this subsection. The racing commission shall approve an application if the harness racing track has held at least one harness race ~~meet~~ meeting during the year preceding the year for which the track seeks funds under this subsection.

Sec. 27. Section 99D.20, Code 2005, is amended to read as follows:

99D.20 AUDIT OF LICENSEE OPERATIONS.

Within ninety days after the end of each race ~~meet~~ meeting, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the licensee's total racing and gaming operations, including an itemization of all expenses and subsidies. All audits shall be conducted by certified public accountants registered in the state of Iowa under chapter 542 who are selected by the board of supervisors of the county in which the licensee operates.

Sec. 28. Section 99F.4C, subsection 2, Code 2005, is amended to read as follows:

2. For purposes of this section, the "applicable area" means that portion of the city of Des Moines in Polk county bounded by a line commencing at the point East Euclid avenue intersects East Fourteenth street, then proceeding south along East Fourteenth street and Southeast Fourteenth street until it intersects Park avenue, then proceeding west along Park avenue until it intersects Fleur drive, then proceeding north along Fleur drive until it intersects Eighteenth street, then proceeding north along Eighteenth street until it intersects Ingersoll avenue, then proceeding west along Ingersoll avenue until it intersects Martin Luther King Jr.

parkway, then proceeding northerly along Martin Luther King Jr. parkway until it intersects Euclid avenue, then proceeding east along Euclid avenue and East Euclid avenue to the point of origin. For purposes of this section, such reference to a street or other boundary means such street or boundary as ~~they were~~ it was delineated on the official Pub. L. No. 94-171 census maps used for redistricting following the 2000 United States decennial census.

Sec. 29. Section 124.308, subsection 2, Code 2005, is amended to read as follows:

2. A practitioner, other than a pharmacy, or a practitioner's authorized agent may transmit an electronic prescription or facsimile prescription to a pharmacy for a schedule II controlled substance, provided that the ~~electronic~~ prescription complies with section 155A.27 and provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the schedule II controlled substance. If permitted by federal law, and in accordance with federal requirements, the electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide the patient or the patient's authorized representative with a signed, written prescription.

Sec. 30. Section 135.31, Code 2005, is amended to read as follows:

135.31 LOCATION OF BOARDS — RULEMAKING.

The offices for the state board of medical examiners, the state board of pharmacy examiners, the state board of nursing ~~examiners~~, and the state board of dental examiners shall be located within the department of public health. The individual boards shall have policymaking and rulemaking authority.

Sec. 31. Section 135.146, subsection 1, Code 2005, is amended to read as follows:

1. In the event that federal funding is received for administering vaccinations for first responders, the department shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations. For purposes of this section, "first responder" means state and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to sites of bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, and other disasters. The vaccinations shall include, but not be limited to, vaccinations for hepatitis B, ~~diphtheria-tetanus~~ diphtheria, tetanus, influenza, and other vaccinations when recommended by the United States public health service and in accordance with federal emergency management agency policy. Immune globulin will be made available when necessary.

Sec. 32. Section 135J.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

For the purposes of this ~~division~~ chapter unless otherwise defined:

Sec. 33. Section 135J.2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person or governmental unit, acting severally or jointly with any other person may establish, conduct, or maintain a hospice program in this state and receive license from the department after meeting the requirements of this ~~division~~ chapter. The application shall be on a form prescribed by the department and shall require information the department deems necessary. Nothing in this ~~division~~ chapter shall prohibit a person or governmental unit from establishing, conducting, or maintaining a hospice program without a license. Each application for license shall be accompanied by a nonrefundable biennial license fee determined by the department.

Sec. 34. Section 135J.5, Code 2005, is amended to read as follows:

135J.5 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

The department may deny, suspend, or revoke a license if the department determines there is failure of the program to comply with this ~~division~~ chapter or the rules adopted under this

~~division~~ chapter. The suspension or revocation may be appealed under chapter 17A. The department may reissue a license following a suspension or revocation after the hospice corrects the conditions upon which the suspension or revocation was based.

Sec. 35. Section 135J.7, Code 2005, is amended to read as follows:

135J.7 RULES.

Except as otherwise provided in this ~~division~~ chapter, the department shall adopt rules pursuant to chapter 17A necessary to implement this ~~division~~ chapter, subject to approval of the state board of health. Formulation of the rules shall include consultation with Iowa hospice organization representatives and other persons affected by ~~the division~~ this chapter.

Sec. 36. Section 147.14, subsection 3, Code 2005, is amended to read as follows:

3. For the board of nursing ~~examiners~~, four registered nurses, two of whom shall be actively engaged in practice, two of whom shall be nurse educators from nursing education programs; of these, one in higher education and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems. A majority of the members of the board constitutes a quorum.

Sec. 37. Section 147.152, subsection 2, Code 2005, is amended to read as follows:

2. Hearing aid fitting, the dispensing or sale of hearing aids and the providing of hearing aid service and maintenance by a hearing aid ~~dealer~~ dispenser or holder of a temporary permit as defined and licensed under chapter 154A.

Sec. 38. Section 147.152, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A person exempted from the provisions of this division by this section shall not use the title speech pathologist or audiologist or any title or device indicating or representing in any manner that the person is a speech pathologist or is an audiologist; provided, a hearing aid ~~dealer~~ dispenser licensed under chapter 154A may use the title "certified hearing aid audiologist" when granted by the national hearing aid society; and provided, persons who meet the requirements of section 147.153, subsection 1, who are certified by the department of education as speech clinicians may use the title speech pathologist and persons who meet the requirements of section 147.153, subsection 2, who are certified by the department of education as hearing clinicians may use the title audiologist, while acting within the scope of their employment.

Sec. 39. Section 157.3A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

In addition to the license requirements of section 157.3, ~~as provided in this section,~~ a written application and proof of additional training and certification shall be required prior to approval by the board for the provision of the services described in this section.

Sec. 40. Section 162.2, subsection 6, Code 2005, is amended to read as follows:

6. "Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or ~~less~~ fewer breeding males or females is not a commercial breeder. However, a person who breeds or harbors more than three breeding male or female greyhounds for the purposes of using them for pari-mutuel racing shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

Sec. 41. Section 165B.5, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. The department shall be reimbursed by the owner of the poultry or property for costs required to carry out this subsection. However, if the enforcement action is brought due to the activity of a law enforcement officer of a political subdivision, the political subdivision shall be reimbursed by the owner of the poultry or property for those costs. The department or political subdivision shall certify the amount to the county auditor of any county in which the owner is a titleholder of real property. The amount shall be placed upon the tax books ~~which~~ and shall be a lien upon the real property, and collected with interest and penalties after due, in the same manner as other unpaid property taxes.

Sec. 42. Section 167.4, subsection 3, Code 2005, is amended to read as follows:

3. The person shall submit a separate application for each location that the person is to operate as a disposal plant, collection point, or a delivery service.

Sec. 43. Section 167.15, subsection 2, Code 2005, is amended to read as follows:

2. The department shall provide for the inspection of delivery vehicles used to transport carcasses or offal material, and for the inspection of disposal plants, collection points, or other locations in which carcasses or offal material is stored or processed before being delivered to a disposal plant.

Sec. 44. Section 173.14B, subsections 2 and 7, Code 2005, are amended to read as follows:

2. The board may issue negotiable bonds and notes of the authority in principal amounts which are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the board incident to and necessary or convenient to carry out its purposes and powers, subject to authorization and approval required under subsection 1. However, the total principal amount of bonds and notes outstanding at any time under subsection 1 and this subsection shall not exceed twenty-five million dollars. The bonds and notes are deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code as provided in chapter 554, or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created is binding from and after the time it is made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

Sec. 45. Section 175.17, subsections 1 and 7, Code 2005, are amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code as provided in chapter 554, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it and the lien and trust so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract or otherwise against the pledgor.

Sec. 46. Section 181.17, Code 2005, is amended to read as follows:

181.17 PRODUCERS NOT MEMBERS.

A producer who is not a member of the Iowa beef cattle producers association shall be entitled to vote in elections of persons to be members of the ~~executive committee~~ council in the same manner as if the producer were a member. The members elected to the ~~executive committee~~ council shall elect from their number the officers referred to in section 181.1A.

Sec. 47. Section 181.18, Code 2005, is amended to read as follows:

181.18 RULES.

All rules of the ~~executive committee~~ council heretofore or hereinafter promulgated shall be subject to the provisions of chapter 17A.

Sec. 48. Section 216A.156, Code 2005, is amended to read as follows:

216A.156 REVIEW OF GRANT APPLICATIONS AND BUDGET REQUESTS.

Before the submission of an application, a state ~~departments and agencies~~ department or agency shall consult with the commission concerning ~~applications~~ an application for federal funding that will have its primary effect on persons of Asian and Pacific Islander heritage in Iowa. The commission shall advise the governor and the director of revenue concerning any state agency budget request that will have its primary effect on persons of Asian and Pacific Islander heritage in Iowa.

Sec. 49. Section 216E.7, Code 2005, is amended to read as follows:

216E.7 EXEMPTIONS.

This chapter does not apply to a hearing aid sold, leased, or transferred to a consumer by an audiologist licensed under chapter 147, or a hearing aid ~~dealer~~ dispenser licensed under chapter 154A, if the audiologist or ~~dealer~~ dispenser provides either an express warranty for the hearing aid or provides for service and replacement of the hearing aid.

Sec. 50. Section 217.41, subsection 1, Code 2005, is amended to read as follows:

1. The department of human services shall cause a refugee services foundation to be created for the sole purpose of engaging in refugee resettlement activities to promote the welfare and self-sufficiency of refugees who live in Iowa and who are not citizens of the United States. The foundation may establish an endowment fund to assist in the financing of its activities. The foundation shall be incorporated under chapter 504 or 504A.

Sec. 51. Section 218.28, Code 2005, is amended to read as follows:

218.28 INVESTIGATION.

The administrator of the department of human services in control of a particular institution or the administrator's authorized officer or employee shall visit, and minutely examine, at least once in six months, and ~~oftener~~ more often if necessary or required by law, the institutions under such administrator's control, and the financial condition and management thereof.

Sec. 52. Section 229.36, Code 2005, is amended to read as follows:

229.36 LIMITATION ON PROCEEDINGS.

The proceeding authorized in sections 229.31 to 229.35, inclusive, shall not be had ~~oftener~~ more often than once in six months regarding the same person; nor regarding any patient within six months after the patient's admission to the hospital.

Sec. 53. Section 249A.20A, subsection 9, Code 2005, is amended to read as follows:

9. The department may procure a sole source contract with an outside entity or ~~contactor~~ 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.

Sec. 54. Section 249A.34, subsection 6, paragraph a, subparagraph (7), subparagraph subdivision (f), Code 2005, is amended to read as follows:

(f) The federal Medicare Prescription Drug, Improvement and ~~Medicare Improvement~~ Modernization Act of 2003, Pub. L. No. 108-173.

Sec. 55. Section 256.11, subsection 15, Code 2005, is amended to read as follows:

15. The board of directors of a school district or the authorities in charge of a nonpublic school may award credit toward graduation to a student if the student successfully completes basic training ~~in~~ for service as a member of the Iowa army national guard, the Iowa air national guard, ~~or as a member of~~ the active military forces of the United States, ~~or as a member of~~ the army national guard of the United States, or the air national guard of the United States.

Sec. 56. Section 257C.8, subsection 3, Code 2005, is amended to read as follows:

3. The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds, the establishment of reserves to secure its bonds, the costs of issuance of its bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554.

Sec. 57. Section 272C.1, subsection 6, paragraph v, Code 2005, is amended to read as follows:

v. The board for the licensing and regulation of hearing aid ~~dealers~~ dispensers, created pursuant to chapter 154A.

Sec. 58. Section 275.41, subsection 2, Code 2005, is amended to read as follows:

2. Prior to the ~~organization~~ organizational meeting of the newly formed district, the boards of the former districts shall designate directors to be retained as members to serve on the initial board, and if the total number of directors determined under subsection 1 is an even number, that number of directors shall function and may within five days of the organizational meeting appoint one additional director by unanimous vote with all directors voting. Otherwise, the board shall function until a special election can be held to elect an additional director. The procedure for calling the special election shall be the procedure specified in section 275.25. If there is an insufficient number of board members eligible to be retained from a former school district, the board of the former school district may appoint members to fill the vacancies. A vacancy occurs if there is an insufficient number of former board members who reside in the newly formed district or if there is an insufficient number who are willing to serve on the board of the newly formed district.

Sec. 59. Section 279.27, Code 2005, is amended to read as follows:

279.27 DISCHARGE OF TEACHER.

A teacher may be discharged at any time during the contract year for just cause. The superintendent or the superintendent's designee, shall notify the teacher immediately that the superintendent will recommend in writing to the board at a regular or special meeting of the board held not more than fifteen days after notification has been given to the teacher that the teacher's continuing contract be terminated effective immediately following a decision of the board. The procedure for dismissal shall be as provided in ~~sections 279.15(2)~~ section 279.15, subsection 2, and sections 279.16 to 279.19. The superintendent may suspend a teacher under this section pending hearing and determination by the board.

Sec. 60. Section 305.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. In consultation with the homeland security and emergency management division of the

department of public ~~safety~~ defense, 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.

Sec. 61. Section 306.46, subsection 2, Code 2005, is amended to read as follows:

2. For purposes of this section, "public utility" means a public utility as defined in section 476.1, and shall also include waterworks, municipally owned waterworks, joint water utilities, rural water districts incorporated under chapter 357A or chapter 504 or 504A, and cooperative water associations. For the purposes of this section, "utility facilities" means any cables, conduits, wire, pipe, casing pipe, supporting poles, guys, and other material and equipment utilized for the furnishing of electric, gas, communications, water, or sewer service.

Sec. 62. Section 321I.3, subsection 1, Code 2005, is amended to read as follows:

1. Each all-terrain vehicle used on public land or ice of this state shall be currently registered and numbered. A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle on public land or ice unless the all-terrain vehicle is numbered in accordance with this chapter or applicable federal laws, or unless the all-terrain vehicle displays a current annual user permit for the all-terrain vehicle as provided in section 321I.5. If the all-terrain vehicle is required to be registered in this state, the identifying number set forth in the registration shall be displayed as prescribed by rules of the commission.

Sec. 63. Section 322.5, subsection 2, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) Display, offer for sale, and negotiate sales of new motor vehicles at fair events, as defined in chapter 174, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department. Such activities may only be conducted at ~~fairs~~ fair events, vehicle shows, and vehicle exhibitions that are held in the county of the motor vehicle dealer's principal place of business. A sale of a motor vehicle by a motor vehicle dealer shall not be completed and an agreement for the sale of a motor vehicle shall not be signed at a fair event, vehicle show, or vehicle exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

Sec. 64. Section 329.13, Code 2005, is amended to read as follows:

329.13 ADMINISTRATION OF AIRPORT ZONING REGULATIONS.

All airport zoning regulations adopted under this chapter shall provide for the administration and enforcement of such regulations by an administrative agency ~~(which~~, which may be an agency created by such ~~regulations)~~ regulations, or by any official, board, or other existing agency of the municipality adopting the regulations, or of one or both of the municipalities which participated therein, but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to this chapter shall not include any of the powers herein delegated to the board of adjustment.

Sec. 65. Section 331.438, subsection 4, paragraph b, subparagraph (16), Code 2005, is amended to read as follows:

(16) Develop a procedure for each county to disclose to the department of human services information approved by the commission concerning the mental health, mental retardation, developmental disabilities, and brain injury services provided to the individuals served through the county central point of coordination process. The procedure shall incorporate protections to ensure that if individually identified information is disclosed, it is disclosed and maintained in compliance with applicable Iowa and federal confidentiality laws, including but not limited to federal Health Insurance Portability and Accountability Act, Pub. L. No. 104-191, requirements.

Sec. 66. Section 331.609, subsection 3, paragraph b, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the uniform commercial code, chapter 554, except that the notice of lien to which the certificate relates shall not be removed from the files.

(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the uniform commercial code, chapter 554.

Sec. 67. Section 356.1, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The jails in the several counties in the state shall be in the charge of the respective sheriffs and used as prisons:

Sec. 68. Section 423.18, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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~~ purchasing 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~~ the purchase a "multiple points of use" or "MPU" exemption form disclosing this fact.

Sec. 69. Section 423.56, subsection 6, Code 2005, is amended to read as follows:

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~~ the individual to ~~his or her~~ the individual's own information in the state's possession and a right to correct any inaccurately recorded information.

Sec. 70. Section 423B.5, unnumbered paragraph 1, Code 2005, 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 sales price taxed by the state under chapter 423, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy ~~are~~ is 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 ap-

plicable 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 sales taxes. However, a person required to collect state retail sales tax under chapter 423, 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 favors its imposition.

Sec. 71. Section 423E.3, subsection 2, Code 2005, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy ~~are~~ is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 72. Section 435.1, subsection 6, unnumbered paragraph 3, Code 2005, is amended to read as follows:

A manufactured home community or a mobile home park must be classified as to whether it is a residential manufactured home community or a mobile home park or a recreational manufactured home community or a mobile home park or both. The manufactured home ~~community~~ communities or mobile home ~~park~~ parks residential landlord and tenant Act, chapter 562B, only applies to residential manufactured home communities or mobile home parks.

Sec. 73. Section 452A.3, subsection 7, Code 2005, is amended to read as follows:

7. All excise taxes collected under this chapter by a supplier, restrictive supplier, importer, dealer, blender, user, or any individual are deemed to be held in trust for the state ~~or~~ of Iowa.

Sec. 74. Section 453A.26, Code 2005, is amended to read as follows:

453A.26 LIENS AND ACTIONS.

All of the provisions for the lien of the tax, its collection, and all actions as provided in the uniform sales and use tax administration Act, chapter 423, shall apply to the tax imposed by this chapter, except that where the sales tax and the cigarette tax may become conflicting liens, they shall be of equal priority.

Sec. 75. Section 456A.18, Code 2005, is amended to read as follows:

456A.18 REPORT OF FUNDS.

The director shall, at least monthly, make return and pay to the treasurer of state all moneys then in the director's hands belonging to the ~~five~~ funds created in section 456A.17.

Sec. 76. Section 502.304A, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. The aggregate offering price of the offering of securities by the issuer within or outside this state must not exceed one million dollars, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities under rule 504, 17 C.F.R. § 230.504, in reliance on any exemption under section 3(b) of the Securities Act of 1933 or in violation of section 5(a) of that Act; provided, that if rule 504, 17 C.F.R. § 230.504, adopted under the Securities Act of 1933, is amended, ~~that~~ the administrator may by rule increase the limit under this paragraph to conform to amendments to federal law, including but not limited to modification in the amount of the aggregate offering price.

Sec. 77. Section 502.412, subsection 4, paragraphs a, b, d, and i, Code 2005, are amended to read as follows:

a. The person has filed an application for registration in this state under this chapter or ~~the predecessor~~ chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact.

b. The person willfully violated or willfully failed to comply with this chapter or ~~the predecessor~~ chapter 502, Code 2003 and Code Supplement 2003, or a rule adopted or order issued under this chapter or ~~the predecessor~~ chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years.

d. The person is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or ~~the predecessor~~ chapter 502, Code 2003 and Code Supplement 2003, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance.

i. The person has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or ~~the predecessor~~ chapter 502, Code 2003 and Code Supplement 2003, or a rule adopted or order issued under this chapter or ~~the predecessor~~ chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years.

Sec. 78. Section 502.601, subsection 1, Code 2005, is amended to read as follows:

1. ADMINISTRATION. This chapter shall be administered by the commissioner of insurance of this state. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provisions of chapter 8A, subchapter IV. The deputy administrator is the principal operations officer of the securities bureau of the insurance division of the department of commerce. The deputy administrator is responsible to the administrator for the routine administration of this 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 that period, have and exercise the authority conferred upon the administrator. The administrator may by order delegate to the deputy administrator any or all of the functions assigned to the administrator under this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as needed for the administration of ~~the~~ this chapter.

Sec. 79. Section 504.115, subsection 2, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) Describe the document, including its filing date, or ~~attaching~~ attach a copy of the document to the articles.

Sec. 80. Section 504.1701, subsection 1, Code 2005, is amended to read as follows:

1. A domestic corporation that is incorporated under chapter 504A, Code 2005, is subject to this chapter beginning on July 1, 2005.

Sec. 81. Section 504.1701, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A corporation incorporated under chapter 504A, Code 2005, that voluntarily elects to be subject to the provisions of this chapter in accordance with the procedures set forth in subsection 3.

Sec. 82. Section 504.1701, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A corporation incorporated under chapter 504A, Code 2005, may voluntarily elect to be subject to the provisions of this chapter by doing all of the following:

Sec. 83. Section 515.109A, subsection 1, paragraph j, Code 2005, is amended to read as follows:

j. "Personal insurance" means personal insurance and not commercial insurance and is limited to private passenger automobile, homeowners, farm owners, personal farm liability, motorcycle, mobile home owners, noncommercial dwelling fire ~~insurance~~, boat, personal watercraft, snowmobile, and recreational vehicle insurance policies, that are individually underwritten for personal, family, farm, or household use. No other type of insurance is included as personal insurance for the purposes of this section.

Sec. 84. Section 515.109A, subsection 3, Code 2005, is amended to read as follows:

3. DISPUTE RESOLUTION AND ERROR CORRECTION. If it is determined through the dispute resolution process set forth under the federal Fair Credit Reporting Act, 15 U.S.C. § 1681i(a)(5), that the credit information of a current insured is incorrect or incomplete and the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite and re-rate the insured within thirty days of receiving the notice. After re-underwriting or re-rating the insured, the insurer shall make any adjustments necessary, consistent with the insurer's underwriting and rating guidelines. If an insurer determines that an insured has overpaid the premium on a personal insurance policy, the insurer shall refund the amount of the overpayment to the insured, calculated for either the last twelve months of coverage or the actual policy period, whichever is shorter.

Sec. 85. Section 515.138, Code 2005, is amended to read as follows:

515.138 FIRE INSURANCE CONTRACT — STANDARD POLICY PROVISIONS — PERMISSIBLE VARIATIONS.

~~FIRST.~~ 1. The printed form of a policy of fire insurance as set forth in subsection ~~sixth~~ 6 shall be known and designated as the "standard policy" to be used in the state of Iowa.

~~SECOND.~~ 2. STANDARD POLICY, ADDITIONS, RIDERS AND CLAUSES. It shall be unlawful for any insurance company to issue any policy of fire insurance upon any property in this state except upon automobiles, airplanes, seaplanes, dirigibles, or other aircraft, farm crops until stored, marine and inland marine risks other or different from the standard form of fire insurance policy herein set forth.

There shall be printed at the head of said policy the name of the insurer or insurers issuing the policy; the location of the home office thereof; a statement whether said insurer or insurers are stock or mutual corporations or are reciprocal insurers; and subject to the approval of the commissioner of insurance, there may be added thereto such device or devices as the insurer or insurers issuing said policy shall desire. Provided, however, that any company organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state.

The standard policy provided for herein need not be used for effecting reinsurance between insurers.

If the policy is issued by a mutual, co-operative or reciprocal insurer having special regulations with respect to the payment by the policyholder of assessments, such regulations shall be printed upon the policy, and any such insurer may print upon the policy such regulations as may be required by its home state or appropriate to its form of organization.

~~THIRD.~~ 3. Binders or other contracts for temporary insurance may be made and shall be deemed to include all the terms of such standard policy and all such applicable endorsements as may be designated in such contract of temporary insurance; except that the cancellation clause of such standard policy, and the clause thereof specifying the hour of the day at which the insurance shall commence, may be superseded by the express terms of such contract of temporary insurance.

~~FOURTH.~~ 4. Two or more insurers authorized to do in this state the business of fire insurance, may, with the approval of the commissioner of insurance, issue a combination standard form of policy which shall contain the following:

a. A provision substantially to the effect that the insurers executing such policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of such insurance under such policy.

b. A provision substantially to the effect that service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing such policy, shall be deemed to be service upon all such insurers.

~~FIFTH.~~ 5. Appropriate forms of other contracts or endorsements, insuring against one or more of the perils incident to the ownership, use or occupancy of said property, other than fire and lightning, which the insurer is empowered to assume, may be used in connection with the standard policy. Such forms of other contracts or endorsements attached or printed thereon may contain provisions and stipulations inconsistent with the standard policy if applicable only to such other perils. The pages of the standard policy may be renumbered and rearranged to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be included for duplication on daily reports for office records. An insurer may issue a policy, either on an unspecified basis as to coverage or for an indivisible premium, which contains coverage against the peril of fire and substantial coverage against other perils, if such policy includes provisions with respect to the peril of fire which are the substantial equivalent of the minimum provisions of such standard policy, provided further the policy is complete as to all its terms of coverage without reference to any other document and is approved in accordance with section 515.109.

~~SIXTH.~~ 6. The form of the standard policy (with permission to substitute for the word "company" a more accurate descriptive term for the type of insurer) shall be as follows:

FIRST PAGE OF STANDARD FIRE POLICY

No. . . .

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.)

(Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.)

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO AND OF . . . . DOLLARS PREMIUM this company, for the term of . . . . . from the . . . . . day of . . . . . (month), ... (year), to the . . . . day of . . . . . (month), ... (year), at noon, Standard Time, at location of property involved, to an amount not exceeding . . . . . Dollars, does insure . . . . . and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss re-

sulting from interruption of business or manufacture, nor in any event for more than THE INTEREST OF THE INSURED, AGAINST ALL[1] DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized agent of this company at . . . .

. . . .
Secretary. President.

Countersigned this . . . .
day of . . . . (month), ... (year).

. . . .
Agent.

SECOND PAGE OF STANDARD FIRE POLICY

CONCEALMENT — FRAUD. This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

UNINSURABLE AND EXCEPTED PROPERTY. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

PERILS NOT INCLUDED. This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) Enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this company be liable for loss by theft.

OTHER INSURANCE. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

CONDITIONS SUSPENDING OR RESTRICTING INSURANCE. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

a. While the hazard is increased by any means within the control or knowledge of the insured; or

b. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

c. As a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

OTHER PERILS OR SUBJECTS. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

ADDED PROVISIONS. The extent of the application of insurance under this policy and of the contribution to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added

[1] The words "the interest of the insured, against all" were changed from lowercase to capitals by computer error; they should be lowercase

hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

WAIVER PROVISIONS. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

CANCELLATION OF POLICY. This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

MORTGAGEE INTERESTS AND OBLIGATIONS. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be canceled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

PRO RATA LIABILITY. This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

REQUIREMENTS IN CASE LOSS OCCURS. The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and AMOUNTS OF LOSS CLAIMED;[2] AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE INSURED SHALL RENDER TO THIS COMPANY A PROOF OF LOSS, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

APPRAISAL. In case the insured and this company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a compe-

[2] The words "amounts of loss claimed" were changed from lowercase to capitals by computer error; they should be lowercase

tent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting the appraiser and the expenses of appraisal and umpire shall be paid by the parties equally.

COMPANY'S OPTIONS. It shall be optional with this company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

ABANDONMENT. There can be no abandonment to this company of any property.

WHEN LOSS PAYABLE. The amount of loss for which this company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided.

SUIT. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

SUBROGATION. This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company.

THIRD PAGE OF STANDARD FIRE POLICY
Attach Form Below This Line

FOURTH PAGE OF STANDARD FIRE POLICY
Standard Fire Insurance Policy

— —

Expires . . . . . .
Property . . . . . .
Total
Amount $ . . . . . Premium $ . . . . . .
Insured . . . . . .

SEE INSIDE OF POLICY FOR PERILS COVERED
No.

— —

(Space of approximately two (2) inches for use of Agent or Insurer.)

— —

— —

(Space of approximately two (2) inches for use of Agent or Insurer.)

— —

It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

Sec. 86. Section 524.103, subsection 10, Code 2005, is amended to read as follows:

10. "Board of directors" means the board of directors of a state bank as provided in section 524.601. For a state ~~banks~~ bank organized as a limited liability company under this chapter, "board of directors" means a board of directors or board of managers as designated by the limited liability company in its articles of organization or operating agreement.

Sec. 87. Section 524.1408, Code 2005, is amended to read as follows:

524.1408 MERGER OF CORPORATION OR LIMITED LIABILITY COMPANY SUBSTANTIALLY OWNED BY A STATE BANK.

A state bank owning at least ninety percent of the outstanding shares, of each class, of another corporation or limited liability company which it is authorized to own under this chapter, may merge the other corporation or limited liability company into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation or limited liability company. The board of directors of the state bank shall approve a plan of merger, mail the plan of merger to shareholders of record of the subsidiary corporation or holders of membership interests in the subsidiary limited liability company, and prepare and execute articles of merger in the manner provided for in section 490.1105. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the certificate to the state bank and a copy of it to the superintendent.

Sec. 88. Section 534.513, subsection 3, Code 2005, is amended to read as follows:

3. SUPERVISION DURING LIQUIDATION. During the period of voluntary liquidation of any such association, the superintendent shall have substantially the same powers and duties as to supervision as before such liquidation, and the persons in charge of such voluntary liquidation shall furnish and deposit with the superintendent such bonds as the superintendent shall require and approve, and shall semiannually, or ~~oftener~~ more often if required by the superintendent report fully as to their doings and progress, and as to the financial condition of the association. Upon completion of such liquidation they shall file with the superintendent a verified final report of such liquidation and disbursement of proceeds and upon approval of such report the superintendent shall issue a written order discharging the liquidators, and their duties shall thereupon cease.

Sec. 89. Section 535B.10, subsection 6, Code 2005, is amended to read as follows:

6. The total charge for an examination or investigation shall be paid by the licensee to the administrator within thirty days after the administrator has requested payment. The administrator may by rule provide for a charge for late payment of the fee. The amount of the fee shall be based on the actual costs of the examination as determined by the administrator. Examination reports and correspondence regarding these reports shall be kept confidential except as provided in this subsection, notwithstanding chapter 22. The administrator may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the administrator. The administrator may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

Sec. 90. Section 536.4, unnumbered paragraph 3, Code 2005, is amended to read as follows:

If the application is denied, the superintendent shall within twenty days thereafter file with the banking ~~department~~ division a written transcript of the evidence and decision and findings with respect thereto containing the reasons supporting the denial, and forthwith serve upon the applicant a copy thereof.

Sec. 91. Section 537.1103, Code 2005, is amended to read as follows:

537.1103 LAW APPLICABLE.

Unless displaced by the particular provisions of this chapter, the uniform commercial code as provided in chapter 554 and the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause supplement its provisions.

Sec. 92. Section 546A.1, subsection 4, Code 2005, is amended to read as follows:

4. "New and unused property" means tangible personal property that was acquired by the unused property merchant directly from the producer, manufacturer, wholesaler, or retailer in the ordinary course of business ~~that~~ which has never been used since its production or manufacture or which is in its original and unopened package or container, if such personal property was so packaged when originally produced or manufactured.

Sec. 93. Section 546A.4, subsection 3, Code 2005, is amended to read as follows:

3. An aggravated misdemeanor for a third or subsequent ~~violation~~ offense.

Sec. 94. Section 551A.3, subsection 1, Code 2005, is amended to read as follows:

1. DISCLOSURE DOCUMENT REQUIRED. A person required to file an irrevocable consent to service of process with the secretary of state as a seller as provided in section 551A.7 shall not act as seller in ~~the~~ this state unless the person provides a written disclosure document to each purchaser. The person shall deliver the written disclosure document to the purchaser at least ten business days prior to the earlier of the purchaser's execution of a contract imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity.

Sec. 95. Section 554D.101, Code 2005, is amended to read as follows:

554D.101 SHORT TITLE.

This ~~section and sections 554D.102 through 554D.124 of this chapter~~ subchapter may be cited as the "Uniform Electronic Transactions Act".

Sec. 96. Section 558.1, Code 2005, is amended to read as follows:

558.1 "INSTRUMENTS AFFECTING REAL ESTATE" DEFINED — REVOCATION.

All instruments containing a power to convey, or in any manner relating to real estate, including certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and a jobs training agreement entered into under chapter 260E or 260F between an employer and community college which contains a description of the real estate affected, shall be held to be instruments affecting the same; and no such instrument, when acknowledged or certified and recorded as in this chapter prescribed, can be revoked as to third parties by any act of the parties by whom it was executed, until the instrument containing such revocation is acknowledged and filed for record in the same office in which the instrument containing such power is recorded, except that uniform commercial code financing statements and financing statement changes as provided in chapter 554 need not be thus acknowledged.

Sec. 97. Section 558.42, Code 2005, is amended to read as follows:

558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

A document shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in chapter 9E, except that affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and ~~Uniform Commercial Code~~ uniform commercial code financing statements and financing statement changes as provided in chapter 554 need not be thus acknowledged.

Sec. 98. Section 586.1, subsection 3, Code 2005, is amended to read as follows:

3. Acknowledgments taken and oaths administered by mayors under section 691, Code 1897, or section 1216 of subsequent Codes to and including ~~the~~ Code ~~of~~ 1939 and section ~~63A.2 to and including~~ 78.2, Code ~~of~~ 1966 and earlier editions, in proceedings not connected with their offices.

Sec. 99. Section 589.9, Code 2005, is amended to read as follows:

589.9 MARGINAL RELEASES OF SCHOOL-FUND MORTGAGES.

The release or satisfaction of a school-fund mortgage entered on the margin of the record of the mortgage by the auditor of the county more than ten years earlier, is legalized as though the auditor had, at the time of entering the release or satisfaction, the same power thereafter conferred upon the auditor by ~~chapter~~ 1894 Iowa Acts, ch 53 ~~of the Acts of the Twenty-fifth General Assembly~~.

Sec. 100. Section 589.22, Code 2005, is amended to read as follows:

589.22 CERTAIN LOANS, CONTRACTS AND MORTGAGES.

All loans, contracts, and mortgages which are affected by the repeal of ~~chapter~~ 1898 Iowa Acts, ch 48, ~~Acts of the Twenty-seventh General Assembly,~~ are hereby legalized so far as to permit recovery to be had thereon for interest at the rate of eight percent per annum, but at no greater rate, and nothing contained in such contracts shall be construed to be usurious so as to work a forfeiture of any penalty to the school fund.

Sec. 101. Section 600B.28, Code 2005, is amended to read as follows:

600B.28 REPORT BY TRUSTEE.

The trustee shall report to the court annually, or ~~oftener~~ more often as directed by the court, the amounts received and paid over.

Sec. 102. Section 602.8102, subsection 69, Code 2005, is amended to read as follows:

69. With acceptable sureties, approve the bond of a petitioner filing an appeal for review of an order of the commissioner of insurance as provided in section ~~502.606 or~~ 507A.7.

Sec. 103. Section 602.8108, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The clerk of the district court shall remit all moneys collected from the assessment of the law enforcement initiative surcharge provided in section 911.3 to the state court administrator no later than the fifteenth day of each month~~, all the moneys collected during the preceding month,~~ for deposit in the general fund of the state.

6. The clerk of the district court shall remit all moneys collected from the county enforcement surcharge pursuant to section 911.4 to the county where the citation was issued for deposit in the county general fund no later than the fifteenth day of each month.

Sec. 104. Section 602.11116, subsection 3, Code 2005, is amended to read as follows:

3. To commence membership under the judicial retirement system pursuant to article 9, part 1, retroactive to the date the associate juvenile judge or associate probate judge became an associate juvenile judge or associate probate judge, and to cease to be a member of the Iowa public employees' retirement system, effective July 1, 1998. The department of ~~administrative services~~ personnel shall transmit by January 1, 1999, to the state court administrator for deposit in the judicial retirement fund the associate juvenile judge's or associate probate judge's accumulated contributions as defined in section 97B.1A, subsection 2, for the judge's period of membership service as an associate juvenile judge or associate probate judge. Before July 1, 2000, or at retirement previous to that date, an associate juvenile judge or associate probate judge who becomes a member of the judicial retirement system pursuant to this subsection shall contribute to the judicial retirement fund an amount equal to the difference between four percent of the associate juvenile judge's or associate probate judge's total salary received for

the entire period of service before July 1, 1998, as an associate juvenile judge or associate probate judge, and the associate juvenile judge's or associate probate judge's accumulated contributions transmitted by the department of ~~administrative services~~ personnel to the state court administrator pursuant to this subsection. The associate juvenile judge's or associate probate judge's contribution shall not be limited to the amount specified in section 602.9104, subsection 1. The state court administrator shall credit an associate juvenile judge or associate probate judge with service under the judicial retirement system for the period of service for which contributions at the four percent level are made.

Sec. 105. Section 633.700, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Unless specifically relieved from so doing, by the instrument creating the trust, or by order of the court, the trustee shall make a written report, under oath, to the court, once each year, and ~~oftener~~ more often, if required by the court. Such report shall state:

Sec. 106. Section 633.905, subsection 3, Code 2005, is amended to read as follows:

3. To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in section 633.912. In this subsection, "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.

Sec. 107. Section 636.28, Code 2005, is amended to read as follows:

636.28 ANNUAL ACCOUNTING.

Once in each year, and ~~oftener~~ more often if required by the court, the person so appointed must, on oath, render to the court an account in writing of all moneys so received by that person, and of the application thereof.

Sec. 108. Section 657.1, subsection 2, Code 2005, is amended to read as follows:

2. Notwithstanding subsection 1, in an action to abate a nuisance against an electric utility, an electric utility may assert a defense of comparative fault as set out in section 668.3 if the electric utility demonstrates that in the course of providing electric services to its customers ~~that~~ it has complied with engineering and safety standards as adopted by the utilities board of the department of commerce, and if the electric utility has secured all permits and approvals, as required by state law and local ordinances, necessary to perform activities alleged to constitute a nuisance.

Sec. 109. Section 708.3A, subsections 5, 6, 7, and 8, Code 2005, are amended to read as follows:

5. As used in this section, ~~"health care provider" means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, 150, 150A, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.~~ the following definitions apply:

~~6.~~ a. ~~As used in this section, "correctional~~ "Correctional staff" means a person who is not a peace officer but who is employed by the department of corrections or a judicial district department of correctional services to work at or in a correctional institution, community-based correctional facility, or an institution under the management of the Iowa department of corrections which is used for the purposes of confinement of persons who have committed public offenses.

~~7. As used in this section, "jailer" means a person who is employed by a county or other polit-~~

~~ical subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.~~

~~8.~~ b. ~~As used in this section, "employee~~ "Employee of the department of human services" means a person who is an employee of an institution controlled by the director of human services that is listed in section 218.1, or who is an employee of the civil commitment unit for sex offenders operated by the department of human services. A person who commits an assault under this section against an employee of the department of human services at a department of human services institution or unit is presumed to know that the person against whom the assault is committed is an employee of the department of human services.

c. "Health care provider" means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, 150, 150A, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.

d. "Jailer" means a person who is employed by a county or other political subdivision of the state to work at a county jail or other facility used for purposes of the confinement of persons who have committed public offenses, but who is not a peace officer.

Sec. 110. Section 717A.2, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person violating this section is guilty of the following ~~penalties~~:

Sec. 111. Section 728.1, subsection 6, Code 2005, is amended to read as follows:

6. "Place of business" means the premises of a business required to obtain a sales tax permit pursuant to chapter ~~422~~ 423, the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.

Sec. 112. Section 730.5, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. "Confirmed positive test result" means, except for alcohol testing conducted pursuant to subsection 7, paragraph "f", subparagraph (2), the results of a blood, urine, or oral fluid test in which the level of controlled substances or metabolites in the specimen analyzed meets or exceeds nationally accepted standards for determining detectable levels of controlled substances as adopted by the federal substance abuse and mental health services administration. If nationally accepted standards for oral fluid tests have not been adopted by the federal substance abuse and mental health services administration, the standards for determining detectable levels of controlled substances for purposes of determining a confirmed positive test result shall be the same standard that has been established by the federal food and drug administration for the measuring instrument used to perform the oral fluid test.

Sec. 113. Section 812.9, subsection 4, Code 2005, is amended to read as follows:

4. If ~~upon termination of~~ the defendant's placement is terminated pursuant to subsection 2 or pursuant to section 812.8, subsection 8, and it appears thereafter that the defendant has regained competency, the state may make application to reinstate the prosecution of the defendant and hearing shall be held on the matter in the same manner as if the court has received notice under section 812.8, subsection 4.

Sec. 114. 2004 Iowa Acts, chapter 1021, section 117, is amended to read as follows:

SEC. 117. Sections 15E.149, 422.15, 486A.901, 486A.902, 486A.906, and 490A.1203, ~~and 669.14,~~ Code 2003, and section 669.14, Code Supplement 2003, as amended by this Act, are amended by striking from the sections the figure and word "487 or" or the figure "487,".

Sec. 115. 2004 Iowa Acts, chapter 1052, section 4, is amended by striking the section and inserting in lieu thereof the following:

SEC. 4. Section 602.8102, subsection 78, Code Supplement 2003, is amended to read as follows:

78. Certify an acknowledgment of a written instrument relating to real estate as provided in section 9E.10 or 558.20.

Sec. 116. 2004 Iowa Acts, chapter 1084, section 8, the portion enacting section 812.6, subsection 3, Code 2005, is amended to read as follows:

3. A defendant ordered to obtain treatment or committed to a facility under this section may refuse treatment by chemotherapy or other somatic treatment. The defendant's right to refuse chemotherapy treatment or other somatic treatment shall not apply if, in the judgment of the director or the director's designee of the facility where the defendant has been committed, ~~determines~~ such treatment is necessary to preserve the life of the defendant or to appropriately control behavior of the defendant which is likely to result in physical injury to the defendant or others. If in the judgment of the director of the facility or the director's designee where the defendant has been committed, chemotherapy or other somatic treatments are necessary and appropriate to restore the defendant to competency and the defendant refuses to consent to the use of these treatment modalities, the director of the facility or the director's designee shall request from the district court which ordered the commitment of the defendant an order authorizing treatment by chemotherapy or other somatic treatments.

Sec. 117. 2004 Iowa Acts, chapter 1141, section 34, is amended to read as follows:

SEC. 34. Section 68B.35, Code Supplement 2003, and sections 536.13, 536.23, and 536.28, Code 2003, are amended by striking from the sections the words "state banking board" and "banking board" and "board" when referring to the state banking board and inserting in lieu thereof the words "state banking council" or "council", as appropriate.

Sec. 118. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. The section of this Act amending 2004 Iowa Acts, chapter 1052, section 4, takes effect upon enactment and applies retroactively to July 1, 2004.

2. The section of this Act amending 2004 Iowa Acts, chapter 1084, section 8, takes effect upon enactment and applies retroactively to July 1, 2004.

3. The section of this Act amending 2004 Iowa Acts, chapter 1141, section 34, takes effect upon enactment and applies retroactively to July 1, 2004.

Approved March 3, 2005

CHAPTER 4

BUSINESS ENTITY NAMES

H.F. 175

AN ACT relating to the names of business entities.

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

Section 1. Section 488.108, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. This chapter does not control the use of fictitious names. However, a limited partnership which uses a fictitious name in this state shall deliver to the secretary of state for filing a copy of the resolution of the limited partnership certified by its general partners, adopting the fictitious name.

Sec. 2. Section 547.1, Code 2005, is amended to read as follows:

547.1 USE OF TRADE NAME — VERIFIED STATEMENT REQUIRED.

A person ~~or copartnership~~ shall not engage in or conduct a business under a trade name, or an assumed name of a character other than the true surname of each person owning or having an interest in the business, unless the person first records with the county recorder of the county in which the business is to be conducted a verified statement showing the name, post office address, and residence address of each person owning or having an interest in the business, and the address where the business is to be conducted. However, this provision does not apply to any person organized or incorporated in this state as a domestic entity or authorized to do business in this state as a foreign entity, if the person is a limited partnership under chapter 487 or 488, a corporation under ~~or limited liability company incorporated or organized in this state or any foreign corporation or foreign limited liability company authorized to do business in this state or doing business pursuant to an exemption in~~ chapter 490; ~~or~~ a limited liability company under chapter 490A; a professional corporation under chapter 496C; a cooperative or cooperative association under chapter 497, 498, 499, or 501; or a nonprofit corporation under chapter 504 or 504A.

Approved March 3, 2005

CHAPTER 5

INHERITANCE TAX — JOINT ACCOUNT FUNDS — WITHDRAWAL NOTICE

H.F. 197

AN ACT relating to inheritance tax by eliminating the requirement that the department of revenue receive notice of withdrawal of funds from a joint account by a surviving joint owner.

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

Section 1. Section 450.97, Code 2005, is repealed.

Approved March 3, 2005

CHAPTER 6

CHILD DEATH REVIEW TEAM DUTIES

H.F. 190

AN ACT expanding the duties of the child death review team and making a penalty applicable.

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

Section 1. Section 135.43, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. ~~Maintain~~ Except as authorized by this section, maintain the confidentiality of any patient records or other confidential information reviewed.

Sec. 2. Section 135.43, subsection 3, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the team.

NEW PARAGRAPH. f. If the sharing of information is necessary to assist in or initiate a child death investigation or criminal prosecution and the office or agency receiving the information does not otherwise have access to the information, share information possessed by the review team with the office of the attorney general, a county attorney's office, or an appropriate law enforcement agency. The office or agency receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

NEW PARAGRAPH. g. In order to assist another[1] division of the department in performing the division's duties, if the division does not otherwise have access to the information, share information possessed by the review team. The division receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

Sec. 3. Section 135.43, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. If deemed appropriate by the committee, at any point in the review the committee may recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the committee.

Approved March 11, 2005

[1] See chapter 179, §118 herein

CHAPTER 7

IOWA CAPITAL INVESTMENT BOARD TAX CREDIT CERTIFICATES

S.F. 114

AN ACT relating to tax credit certificates issued by the Iowa capital investment board and providing an effective date.

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

Section 1. Section 15E.63, subsections 6 and 7, Code 2005, are amended to read as follows:

6. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits to designated investors by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable by a designated investor or transferee in order to receive a tax credit. The contingencies to redemption shall be tied to the scheduled rates of return ~~and scheduled redemptions~~ of equity interests purchased by designated investors in the Iowa fund of funds. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance of the certificates and the related tax credits, for the transfer of a certificate and related tax credit by a designated investor, and for the redemption of a certificate and related tax credit by a designated investor or transferee. The board shall also establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors and transferees, including, without limitation, criteria and procedures for evaluating the value of investments made by the Iowa fund of funds and the returns from the Iowa fund of funds.

7. Pursuant to section 15E.66, the board shall issue certificates which may be redeemable for tax credits to provide incentives to designated investors to make equity investments in the Iowa fund of funds. The board shall issue the certificates so that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable year or years for~~ date or dates on which the credit may be first claimed.

Sec. 2. Section 15E.65, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The Iowa fund of funds shall be organized as a private, for-profit, limited partnership or limited liability company under Iowa law pursuant to which the Iowa capital investment corporation shall be the general partner or manager. The entity shall be organized so as to provide for equity interests for designated investors which provide for a designated scheduled rate of return ~~and a scheduled redemption which shall occur not less than five years following the issuance of such equity interests~~. The interest of the Iowa capital investment corporation in the Iowa fund of funds shall be to serve as general partner or manager and to be paid a management fee for the service as provided in section 15E.64, subsection 8, and to receive investment returns of the Iowa fund of funds in excess of those payable to designated investors. Any returns in excess of those payable to designated investors shall be reinvested by the Iowa capital investment corporation by being held in the Iowa fund of funds as a revolving fund for reinvestment in venture capital funds or investments until the termination of the Iowa fund of funds. Any returns received from these reinvestments shall be deposited in the revolving fund.

Sec. 3. Section 15E.66, subsections 1, 2, 3, and 5, Code 2005, are amended to read as follows:

1. The board may issue certificates and related tax credits to designated investors which, if redeemed for the maximum possible amount, shall not exceed a total aggregate of one hundred million dollars of tax credits. The certificates shall be issued contemporaneously with ~~an investment~~ a commitment to invest in the Iowa fund of funds by a designated investor. A

certificate issued by the board shall have a specific ~~calendar year~~ maturity date or dates designated by the board ~~of not less than five years after the date of issuance~~ and shall be redeemable ~~on a schedule similar to the scheduled redemption of investments by designated investors~~ only in accordance with the contingencies reflected on the certificate or incorporated therein by reference. A certificate and the related tax credit shall be transferable by the designated investor. A tax credit shall not be claimed or redeemed except by a designated investor or transferee in accordance with the terms of a certificate from the board. A tax credit shall not be claimed for a tax year that begins ~~during~~ earlier than the ~~calendar year~~ maturity date or dates stated on the certificate. An individual may claim the credit of a partnership, limited liability company, S corporation, estate, or trust electing to have the 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. 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 seven years, or until depleted, whichever is earlier.

2. The board shall certify the maximum amount of a tax credit which could be issued to a designated investor and identify the specific ~~calendar year~~ earliest date or dates the certificate may be redeemed pursuant to this division. The amount of the tax credit shall be limited to an amount equivalent to any difference between the scheduled aggregate return to the designated investor at rates of return authorized by the board and aggregate actual return received by the designated investor and any predecessor in interest of capital and interest on the capital. The rates, whether fixed rates or variable rates, shall be determined pursuant to a formula stipulated in the certificate or incorporated therein by reference. The board shall clearly indicate on the certificate, or incorporate therein by reference, the schedule, the amount of equity investment, the calculation formula for determining the scheduled aggregate return on invested capital, and the calculation formula for determining the amount of the tax credit that may be claimed. Once ~~moneys are invested by~~ issued to a designated investor, ~~the~~ a certificate shall be binding on the board and the department of revenue and shall not be modified, terminated, or rescinded.

3. If a designated investor or transferee elects to redeem a certificate, the certificate shall not be redeemed ~~on June 30 of~~ prior to the ~~calendar year~~ maturity date or dates stated on the certificate. At the time of redemption, the board shall determine the amount of the tax credit that may be claimed by the designated investor based upon the returns received by the designated investor and its predecessors in interest and the provisions of the certificate. The board shall issue a verification to the department of revenue setting forth the maximum tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

5. The board shall issue the tax credits in such a manner that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable year or years for~~ maturity date or dates on which the credit may be first claimed.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 14, 2005

CHAPTER 8

MOTOR VEHICLES AND RELATED REGULATION

H.F. 216

AN ACT relating to motor vehicle regulation by the state department of transportation, including motor vehicle registration and titling, restricted and special driver's licenses for minors, driver licensing, regulation of commercial vehicles, the use of flashing lights on certain vehicles, citations for child restraint violations, permits for vehicles of excessive height or weight, procedures for motor vehicle dealers, and persons with disabilities parking, and relating to refunds of taxes on motor fuel used in taxicabs and buses that provide certain services.

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

Section 1. Section 299.1B, Code 2005, is amended to read as follows:

299.1B FAILURE TO ATTEND — ~~LOSS OF~~ DRIVER'S LICENSE.

A person who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, or adult education classes~~, or who is not employed at least twenty hours per week~~ shall not receive ~~a motor vehicle operator's~~ an intermediate or full driver's license until age eighteen. ~~A person under age eighteen who has been issued a motor vehicle operator's license who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, or adult education classes, shall surrender the license and be issued a temporary restricted license under section 321.215.~~

Sec. 2. Section 321.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. "Bona fide business address" means the current street or highway address of a firm, association, or corporation.

NEW SUBSECTION. 6B. "Bona fide residence" or "bona fide address" means the current street or highway address of an individual's residence. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in section 48A.2, subsection 2.

Sec. 3. Section 321.1, subsection 61, Code 2005, is amended by striking the subsection.

Sec. 4. Section 321.9, Code 2005, is amended to read as follows:

321.9 AUTHORITY TO ADMINISTER OATHS.

Officers and employees of the department designated by the director, county officials authorized under this chapter to issue motor vehicle registrations and titles, and county officials authorized under chapter 321M to issue driver's licenses are authorized, for the purpose of administering the motor vehicle laws, ~~authorized~~ to administer oaths and acknowledge signatures, and shall do so without fee.

Sec. 5. Section 321.12, subsection 4, Code 2005, is amended to read as follows:

4. The director shall not destroy any operating records pertaining to arrests or convictions for operating while intoxicated, in violation of section 321J.2 or operating records pertaining to revocations for violations of section 321J.2A, except that a conviction or revocation under section 321J.2 or 321J.2A that is not subject to 49 C.F.R. § 383 shall be deleted from the operating records twelve years after the date of conviction or the effective date of revocation. Convictions or revocations that are retained in the operating records for more than twelve years under this subsection shall be considered only for purposes of disqualification actions under 49 C.F.R. § 383.

Sec. 6. Section 321.23, subsection 1, Code 2005, is amended to read as follows:

1. If the vehicle to be registered is a specially constructed, reconstructed, ~~remanufactured,~~ or foreign vehicle, such fact shall be stated in the application. A fee of ten dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. ~~With reference to every~~ For a specially constructed or reconstructed motor vehicle subject to registration, the application shall be accompanied by a statement from the department authorizing the motor vehicle to be titled and registered in this state. The department shall cause a physical inspection to be made of all specially constructed or reconstructed motor vehicles, upon application for a certificate of title by the owner, to determine whether the motor vehicle complies with the definition of specially constructed motor vehicle or reconstructed motor vehicle in this chapter and to determine that the integral component parts are properly identified and that the rightful ownership is established before issuing the owner the authority to have the motor vehicle registered and titled. The purpose of the physical inspection under this section is not to determine whether the motor vehicle is in a condition safe to operate. ~~With reference to every~~ The owner of a specially constructed or reconstructed vehicle shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of the inspection. For a foreign vehicle which has been registered outside ~~of~~ this state, the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or~~,~~ if the vehicle to be registered is from a nontitle state, the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2.

Sec. 7. Section 321.24, subsection 1, Code 2005, is 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 registration number assigned to the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 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.

Sec. 8. Section 321.24, subsection 11, Code 2005, is amended to read as follows:

11. If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, or a junking certificate has been issued for the vehicle but a certificate of title will not be reissued under section 321.52, subsection 3, and the vehicle qualifies as an antique vehicle under section 321.115, subsection 1, the county treasurer or department may register the vehicle but shall, as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The owner of a vehicle subject to the bond requirements of this subsection shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of issuance of written authorization from the department. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss, or dam-

age, including reasonable attorney fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond. The department may authorize issuance of a certificate of title as provided in this subsection for a vehicle with an unreleased security interest upon presentation of satisfactory evidence that the security interest has been extinguished and the holder of the security interest cannot be located to release the security interest as provided in section 321.50.

Sec. 9. Section 321.34, subsection 8A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, motorcycle, trailer, or 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,~~ a time of military conflict 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. 10. Section 321.43, Code 2005, is amended to read as follows:

321.43 NEW IDENTIFYING NUMBERS.

The department may assign a distinguishing number to a vehicle when the serial number on the vehicle is destroyed or obliterated and issue to the owner a special plate bearing the distinguishing number which shall be affixed to the vehicle in a position to be determined by the director. The vehicle shall be registered and titled under the distinguishing number in lieu of the former serial number within thirty days of issuance of the distinguishing number.

Sec. 11. Section 321.52, subsections 1 and 2, Code 2005, are amended to read as follows:

1. When a vehicle is sold outside the state for purposes other than for junk, the owner, dealer or otherwise, shall detach the registration plates and registration card and shall indicate on the ~~reverse side of such~~ registration card the name and address of the foreign purchaser or transferee over the person's signature. ~~The~~ Unless the registration plates are legally attached to another vehicle, the owner shall surrender the registration plates and registration card to the county treasurer, ~~unless the registration plates are properly attached to another vehicle,~~ who shall cancel the records, ~~and shall~~ destroy the registration plates, and forward the registration card to the department. The department shall make a notation on the records of the out-of-state sale, and, after a reasonable period, may destroy the files ~~to~~ for that particular vehicle. The department is not authorized to make a refund of ~~license~~ registration fees on a vehicle sold out of state unless it receives the registration card completed as provided in this section.

2. The purchaser or transferee of a motor vehicle for which a certificate of title is issued which is sold for scrap or junk shall surrender the certificate of title, properly endorsed and signed by the previous owner, to the county treasurer of the county of residence of the transferee, and shall apply for a junking certificate from the county treasurer, within thirty days after

assignment of the certificate of title. The county treasurer shall issue to such person without fee a junking certificate. A junking certificate shall authorize the holder to possess, transport, or transfer by endorsement the ownership of the junked vehicle. A certificate of title shall not again be issued for the vehicle subsequent to the issuance of a junking certificate except as provided in subsection 3. The county treasurer shall cancel the record of the vehicle. The junking certificate shall be printed on the registration receipt form and shall be imprinted with the words "junking certificate", as prescribed by the department. A space for transfer by endorsement shall be on the ~~reverse side of the~~ junking certificate. A separate form for the notation of the transfer of component parts shall be attached to the junking certificate when the certificate is issued.

Sec. 12. Section 321.109, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Dealers may, in addition to other provisions of this section, purchase from the department in-transit ~~stickers~~ permits, for which a fee of two dollars per ~~sticker~~ permit shall be paid at time of purchase. One such ~~sticker~~ permit shall be displayed on each vehicle purchased from a dealer by a nonresident for removal to the state of the nonresident's residence, and one such ~~sticker~~ permit shall also be displayed on each vehicle not currently registered in Iowa and purchased by an Iowa dealer for removal to the dealer's place of business in this state. The ~~stickers~~ permits shall be void fifteen days after issuance by the selling dealer. Each ~~sticker~~ permit shall contain the following information:

Sec. 13. Section 321.109, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

~~This information shall be on the gummed side of the sticker and the sticker shall be made of a type of material which is self-destructive when the sticker is removed.~~ The sales invoice verifying the sale shall be in the possession of the driver of the vehicle in transit and shall be signed by the owner or an authorized individual of the issuing dealership.

Sec. 14. Section 321.176A, subsection 3, Code 2005, is amended to read as follows:

3. ~~Military personnel while on active duty and operating equipment owned or operated by the United States department of defense.~~ The following persons when operating commercial motor vehicles for military purposes:

a. Active duty military personnel.

b. Members of the military reserves.

c. Members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians.

d. Active duty United States coast guard personnel.

Sec. 15. Section 321.178, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A person between sixteen and eighteen years of age who has completed an approved driver's education course and is not in attendance at school ~~or who is in attendance in a public or private school where an approved driver's education course is not offered or available,~~ and has not met the requirements described in section 299.2, subsection 1, may be issued a restricted license only for travel to and from work or to transport dependents to and from temporary care facilities, if necessary for the person to maintain the person's present employment~~, without having completed an approved driver's education course~~. The restricted license shall be issued by the department only upon confirmation of the person's employment and need for a restricted license to travel to and from work or to transport dependents to and from temporary care facilities if necessary to maintain the person's employment ~~and upon receipt of a written statement from the public or private school that an approved course in driver's education was not offered or available to the person, if applicable~~. The employer shall notify the department

if the employment of the person is terminated before the person attains the age of eighteen. ~~The person shall not have a restricted license revoked or suspended upon reentering school prior to age eighteen if the student enrolls in and completes the classroom portion of an approved driver's education course as soon as a course is available.~~

Sec. 16. Section 321.191, subsection 7, Code 2005, is amended to read as follows:

7. ENDORSEMENTS AND REMOVAL OF AIR BRAKE RESTRICTIONS. The fee for a double/triple trailer endorsement, tank vehicle endorsement, and hazardous materials endorsement is five dollars for each endorsement. The fee for a passenger endorsement or a school bus endorsement is ten dollars. The fee for removal of an air brake restriction on a commercial driver's license is ten dollars. Fees imposed under this subsection for endorsements or removal of restrictions are valid for the period of the license. Upon renewal of a commercial driver's license, no fee is payable for retaining endorsements or the removal of the air brake restriction for those endorsements or restrictions which do not require the taking of either a knowledge or a driving skills test for renewal.

Sec. 17. Section 321.191, subsection 9, unnumbered paragraph 2, Code 2005, is amended to read as follows:

As used in this subsection "to upgrade a license class privilege" means to add any privilege to a valid driver's license. The addition of a privilege includes converting from a noncommercial to a commercial license, converting from a noncommercial class C to a class D license, converting an instruction permit to a class license, adding any privilege to a section 321.189, subsection 7, license, adding an instruction permit privilege, adding a section 321.189, subsection 7, license to an instruction permit, and adding any privilege relating to a driver's license issued to a minor under section 321.194 or ~~section~~ 321.178~~, subsection 2~~.

Sec. 18. Section 321.194, subsection 1, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) During the hours of 6 a.m. to 10 p.m. over the most direct and accessible route between the licensee's residence and schools of enrollment or the closest school bus stop or public transportation service, and between schools of enrollment, for the purpose of attending duly scheduled courses of instruction and extracurricular activities within the school district.

Sec. 19. Section 321.198, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The effective date of a valid driver's license ~~to the extent that it permits the operation of a motor vehicle other than a commercial motor vehicle and other than as a chauffeur,~~ issued under the laws of this state, held by any person at the time of entering the military service of the United States or of the state of Iowa, notwithstanding the expiration of the license according to its terms, is hereby extended without fee until six months following the initial separation from active duty of the person from the military service, provided the person is not suffering from physical disabilities which impair the person's competency as an operator and provided further that the licensee shall ~~upon demand of any peace officer~~ furnish, upon demand of any peace officer, satisfactory evidence of the person's military service. However, a person entitled to the benefits of this section~~,~~ who is charged with operating a motor vehicle without ~~an operator's~~ a valid driver's license~~,~~ shall not be convicted if the person produces in court, within a reasonable time, a valid driver's license previously issued to that person along with evidence of the person's military service as ~~above mentioned~~ provided in this paragraph.

Sec. 20. Section 321.200, Code 2005, is amended to read as follows:

321.200 CONVICTION AND ACCIDENT FILE.

The department shall also file all accident reports and abstracts of court records of convictions received by it under the laws of this state or any other state or foreign jurisdiction and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic

accidents in which the licensee has been involved shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and at other suitable times.

Sec. 21. Section 321.205, Code 2005, is amended to read as follows:

321.205 CONVICTION OR ADMINISTRATIVE DECISION IN ANOTHER JURISDICTION.

The department is authorized to suspend or revoke the driver's license of a resident of this state ~~upon~~ or disqualify a resident of this state from operating a commercial motor vehicle for any of the following reasons:

1. Upon receiving notice of the conviction of the resident in another state for an offense which, if committed in this state, would be grounds for the suspension or revocation of the license or ~~upon~~ disqualification of the person from operating a commercial motor vehicle.

2. Upon receiving notice of a final administrative decision in another state that the resident has acted in a manner which would be grounds for suspension or revocation of the license or disqualification of the person from operating a commercial motor vehicle in this state.

Sec. 22. Section 321.208, subsection 1, Code 2005, is amended to read as follows:

1. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person ~~while operating a commercial motor vehicle~~ has committed any of the following acts or offenses in any state or foreign jurisdiction while operating a commercial motor vehicle:

~~a. Operating a commercial motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances.~~

~~b.~~ a. Operating a commercial motor vehicle with an alcohol concentration, as defined in section 321J.1, of 0.04 or more.

~~c. Refusal to submit to chemical testing required under chapter 321J.~~

~~d. Failure to stop and render aid at the scene of an accident involving the person's vehicle.~~

~~e. A felony or aggravated misdemeanor involving the use of a commercial motor vehicle other than an offense involving manufacturing, distributing, or dispensing a controlled substance.~~

~~f.~~ b. Operating a commercial motor vehicle while any amount of a controlled substance is present in the person, as measured in the person's blood or urine.

c. Operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the person's commercial driver's license is revoked, suspended, or canceled or the person is disqualified from operating a commercial motor vehicle.

d. Operating a commercial motor vehicle involved in a fatal accident and being convicted of a moving traffic violation that contributed to the fatality, or manslaughter or vehicular homicide.

~~However, a person is disqualified for three years if the act or offense occurred while the person was operating a commercial motor vehicle transporting hazardous material of a type or quantity requiring vehicle placarding.~~

Sec. 23. Section 321.208, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person has committed any of the following acts or offenses in any state or foreign jurisdiction while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license:

a. Operating a motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances.

b. Refusal to submit to chemical testing required under chapter 321J.

c. Leaving the scene or failure to stop or render aid at the scene of an accident involving the person's vehicle.

d. A felony or aggravated misdemeanor involving the use of a commercial motor vehicle other than an offense involving manufacturing, distributing, or dispensing a controlled substance.

NEW SUBSECTION. 1B. A person is disqualified from operating a commercial motor vehicle for three years if an act or offense described in subsection 1 or 1A occurred while the person was operating a commercial motor vehicle transporting hazardous material of a type or quantity requiring vehicle placarding.

Sec. 24. Section 321.208, subsections 2, 3, and 4, Code 2005, are amended to read as follows:

2. A person is disqualified from operating a commercial motor vehicle for life if convicted or found to have committed two or more of the ~~above~~ acts or offenses described in subsection 1 or 1A arising out of two or more separate incidents. However, a disqualification for life is subject to a reduction to a ten-year disqualification as provided in 49 C.F.R. § 383.51 as adopted by rule by the department.

3. A person is disqualified from operating a commercial motor vehicle for ~~the person's~~ life upon a conviction that the person used a commercial or noncommercial motor vehicle in the commission of a felony or aggravated misdemeanor involving the manufacturing, distributing, or dispensing of a controlled substance as defined in section 124.101 and held a commercial driver's license at the time the offense was committed.

4. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle:

~~a. Speeding fifteen miles per hour or more over the legal speed limit.~~

~~b. Reckless driving.~~

~~c. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.~~

~~d.~~ a. Operating a commercial motor vehicle upon a highway when not issued a commercial driver's license ~~valid for the vehicle operated~~.

~~e.~~ b. Operating a commercial motor vehicle upon a highway when ~~disqualified~~ not issued the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

~~f.~~ c. Operating a commercial motor vehicle upon a highway without immediate possession of a driver's license valid for the vehicle operated.

~~g. Following another motor vehicle too closely.~~

~~h. Improper lane changes in violation of section 321.306.~~

~~The period of disqualification under this subsection shall be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period.~~

Sec. 25. Section 321.208, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license if the convictions result in the revocation, cancellation, or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges:

a. Speeding fifteen miles per hour or more over the legal speed limit.

b. Reckless driving.

c. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.

d. Following another motor vehicle too closely.

e. Improper lane changes in violation of section 321.306.

NEW SUBSECTION. 4B. The period of disqualification under subsections 4 and 4A shall

be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period.

Sec. 26. Section 321.213B, Code 2005, is amended to read as follows:

321.213B SUSPENSION FOR FAILURE TO ATTEND.

The department shall establish procedures by rule for suspending the license of a juvenile who ~~is in violation~~ has been issued a driver's license and is not in compliance with the requirements of section 299.1B or issuing the juvenile a ~~temporary~~ restricted license under section ~~321.215 if the juvenile is employed at least twenty hours per week~~ 321.178.

Sec. 27. Section 321.215, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, a temporary restricted license shall not be issued to a person whose license is revoked pursuant to a court order issued under section 901.5, subsection 10, or under section 321.209, subsections 1 through 5 or subsection 7~~, or;~~ to a juvenile whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B~~,~~ or section 126.3; or to a juvenile whose license has been suspended under section 321.213B. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

Sec. 28. Section 321.218, subsections 4 and 5, Code 2005, are amended to read as follows:

4. A person who operates a commercial motor vehicle upon the highways of this state when disqualified from operating the commercial motor vehicle under section 321.208 or the imminent hazard provisions of 49 C.F.R. § 383.52 commits a serious misdemeanor if a commercial driver's license is required for the person to operate the commercial motor vehicle.

5. The department, upon receiving the record of a conviction of a person under this section upon a charge of operating a commercial motor vehicle while the person is disqualified, shall extend the period of disqualification for an additional like period or for the time period specified in section 321.208, whichever is longer.

Sec. 29. Section 321.423, subsection 2, paragraph g, Code 2005, is amended to read as follows:

g. ~~A~~ Flashing red and amber warning lights on a school bus as described in section 321.372, and a white flashing strobe light mounted on a school bus as permitted under section 321.373, subsection 7.

Sec. 30. Section 321.423, subsection 2, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. h. A flashing amber light is permitted on a towing or recovery vehicle, a utility maintenance vehicle, a municipal maintenance vehicle, a highway maintenance vehicle, or a vehicle operated in accordance with subsection 6 or section 321.398 or 321.453.

NEW PARAGRAPH. i. Modulating headlamps in conformance with 49 C.F.R. § 571.108 S7.9.4. are permitted on a motorcycle.

Sec. 31. Section 321.423, subsection 7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Except as provided in section 321.373, subsection 7, and subsection 2, ~~paragraph~~ paragraphs "c" and "i" of this section, a flashing white light shall only be used on a vehicle in the following circumstances:

Sec. 32. Section 321.446, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. An operator who violates subsection 1 or 2 is guilty of a simple misdemeanor and subject

to the penalty provisions of section 805.8A, subsection 14, paragraph "c". However, if a child is being transported in a taxicab in a manner that is not in compliance with subsection 1 or 2, the parent, legal guardian, or other responsible adult traveling with the child shall be served with a citation for a violation of this section in lieu of the taxicab operator.

Sec. 33. Section 321.449, subsection 7, Code 2005, is amended by striking the subsection.

Sec. 34. Section 321.451, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A towing or recovery vehicle, subject to rules adopted by the department.

Sec. 35. Section 321.451, subsection 2, Code 2005, is amended to read as follows:

2. The application for a certificate of designation must include the name ~~and occupation~~ of the owner of the vehicle, vehicle identification information, a description of the vehicle's equipment, and a description of ~~the use of the vehicle when its red light is flashing, and a photograph showing a side view of the vehicle~~ how the vehicle will be used as an authorized emergency vehicle.

Sec. 36. Section 321.456, Code 2005, is amended to read as follows:

321.456 HEIGHT OF VEHICLES — ~~PERMITS — EXEMPTION~~.

A vehicle unladen or with load shall not exceed a height of thirteen feet, six inches, except ~~by permit as provided in this section. However,~~ that a vehicle or combination of vehicles coupled together and used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, or recreational vehicle chassis may operate ~~without a permit provided that the height of the vehicle or vehicles coupled together does not~~ with a height not to exceed fourteen feet. This section shall not be construed to require any railroad or public authorities to provide sufficient vertical clearance to permit the operation of such vehicle upon the highways of this state. Any damage to highways, highway or railroad structures, or underpasses caused by the height of any vehicle provided for by this section shall be borne by the operator or owner of the vehicle. ~~Vehicles unladen or with load exceeding a height of thirteen feet, six inches but not exceeding fourteen feet may be operated with a permit issued by the department or jurisdictional local authorities. The permits shall be issued annually for a fee of twenty-five dollars and subject to rules adopted by the department. The state or a political subdivision shall not be liable for damage to any vehicle or its cargo if changes in vertical clearance of a structure are made subsequent to the issuance of a permit during the term of the permit.~~

Sec. 37. Section 321A.39, unnumbered paragraph 3, Code 2005, is amended to read as follows:

The seller shall print or stamp ~~said~~ the statement conspicuously on the purchase order or invoice ~~in distinctive color ink and with clearly visible letters~~. ~~Said~~ The statement shall be signed by the purchaser in the space provided ~~therein~~ on or before the date of delivery of the motor vehicle described in the purchase order or invoice and a copy ~~thereof~~ of the statement shall be given to the purchaser by the seller.

Sec. 38. Section 321E.12, Code 2005, is amended to read as follows:

321E.12 REGISTRATION MUST BE CONSISTENT.

A vehicle traveling under permit shall be properly registered for the gross weight of the vehicle and load. A trip permit issued according to section 326.23 shall not be used in lieu of the registration provided for in this section. A person owning special mobile equipment may use a transport vehicle registered for the gross weight of the transport without a load. Vehicles, while being used for the transportation of buildings, except mobile homes and factory-built structures, may be registered for the combined gross weight of the vehicle and load on a single-

trip basis. The fee is five cents per ton exceeding the weight registered under section 321.122 per mile of travel. Fees shall not be prorated for fractions of miles. This provision does not exempt these vehicles from any other provision of this chapter.

Sec. 39. Section 321L.2, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 40. Section 321L.2A, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 41. Section 326.11, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The director may issue temporary written authorization to carriers for vehicles acquired by a fleet owner and added to the fleet owner's prorate fleet after the beginning of the registration year. The temporary authority shall permit the operation of a commercial vehicle until permanent identification is issued, except that the temporary authority shall expire after ~~ninety~~ sixty days.

Sec. 42. Section 326.23, subsection 1, Code 2005, is amended to read as follows:

1. The owner of a commercial vehicle which is properly registered and licensed in some other jurisdiction and is to be operated occasionally on highways in this state~~,~~ may, in lieu of payment of the annual registration fee for such vehicle, obtain a trip permit authorizing operation of the vehicle on the highways of this state ~~in interstate commerce~~ for a period of not to exceed seventy-two hours. The fee for the trip permit shall be ten dollars.

Sec. 43. Section 452A.17, subsection 1, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) An Iowa urban transit system, or a company operating a taxicab service under contract with an Iowa urban transit system, which is used for a purpose specified in section 452A.57, subsection 6.

Sec. 44. RESTRICTED LICENSES ISSUED UNDER PRIOR LAW — VALIDITY. A restricted license issued under section 321.178, subsection 2, Code 2005, prior to the effective date of this Act remains in effect, subject to the provisions of that subsection, for as long as the license remains valid or until the minor reaches the age of eighteen.

Sec. 45. SPECIAL MINOR'S LICENSE INTERIM STUDY COMMITTEE.

1. The legislative council is requested to establish a special minor's license interim study committee to review the provisions of Code section 321.194 concerning special minor's (school) licenses and make recommendations for revisions. The primary goals of the committee shall be to eliminate ambiguities in existing language, ensure the safe transportation of Iowa's youth, and improve highway safety.

2. The membership of the committee shall include the following:

a. Two members of the senate standing committee on transportation.

b. Two members of the house standing committee on transportation.

c. Two members of the senate standing committee on education.

d. Two members of the house standing committee on education.

e. Representatives of the governor's office, the state department of transportation, the department of education, the department of public safety, the office of the attorney general, the Iowa prosecuting attorneys council, the Iowa association of chiefs of police, the Iowa state sheriffs and deputies association, and the Iowa association of safety educators.

3. The committee shall report its findings and recommendations, including proposed legislation, to the general assembly no later than January 1, 2006.

Approved March 15, 2005

CHAPTER 9

COMMUNICATIONS SERVICES REGULATION

H.F. 277

AN ACT relating to the deregulation of communications services including considering market forces, eliminating accounting plan requirements, establishing antitrust procedures and remedies, eliminating reporting requirements, eliminating the Iowa broadband initiative, and providing a penalty.

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

Section 1. Section 476.1D, subsections 1, 2, and 3, Code 2005, are 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.

a. 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.

b. When considering market forces in the market proposed to be deregulated, the board shall consider factors including but not limited to the presence or absence of all of the following:

(1) Wireless communications services.

(2) Cable telephony services.

(3) Voice over internet protocol services.

(4) Economic barriers to the entry of competitors or potential competitors in that market.

c. In addition to other services or facilities previously deregulated, effective July 1, 2005, and at the election of each telephone utility subject to rate regulation, the jurisdiction of the board is not applicable to the retail rate regulation of business and retail local exchange services provided throughout the state except for single line flat-rated residential and business service rates provided by a telephone utility subject to rate regulation on January 1, 2005. For each such telephone utility, the initial single line flat-rated residential and business service rates shall be the corresponding rates charged by the utility as of January 31, 2005. The initial single flat-rated residential monthly service rates may be increased by an amount not to exceed one dollar per twelve-month period beginning July 1, 2005, and ending June 30, 2008. The initial single flat-rated business monthly service rates may be increased by an amount not to exceed two dollars per twelve-month period beginning July 1, 2005, and ending June 30, 2008. However, the single line flat-rated residential service rate shall not exceed nineteen dollars per month and the single line flat-rated business service rate shall not exceed thirty-eight dollars per month prior to July 1, 2008, not including charges for extended area service, regulatory charges, taxes, and other fees. Each telephone utility's extended area service rates shall not be greater than the corresponding rates charged by the telephone utility as of January 31, 2005. The board shall determine a telephone utility's extended area service rates for new extended area service established on or after July 1, 2005. If a telephone utility fails to impose the rate increase during any twelve-month period, the utility shall not impose the unused increase in any subsequent year. In addition to the rate increases permitted pursuant to this section, the telephone utility may adjust its single line flat-rated residential and business service rates by a percentage equal to the most recent annual percentage change in the gross domestic product price index as published by the federal government. The board may also authorize additional changes in the monthly rates for single line flat-rated residential and business services to reflect exogenous factors beyond the control of the telephone utility.

A telephone utility that elects to increase single line flat-rated residential or business service rates pursuant to this paragraph "c" shall offer digital subscriber line broadband service in all of the telephone utility's exchanges in this state within eighteen calendar months of the first rate increase made pursuant to this paragraph "c" by the telephone utility. The board may extend this deadline by up to nine calendar months for good cause. The board may assess a civil penalty or require a refund of all incremental revenue resulting from the rate increase initiated pursuant to this paragraph "c" if the telephone utility fails to offer digital subscriber line broadband service within the time period required by this unnumbered paragraph.

Effective July 1, 2008, the retail rate jurisdiction of the board shall not be applicable to single line flat-rated residential and business service rates unless the board during the first six calendar months of 2008 extends its retail rate jurisdiction over single line flat-rated residential and business service rates provided by a previously rate-regulated telephone utility. The board may extend its jurisdiction pursuant to this paragraph for not more than two years and may do so only after the board finds that such action is necessary for the public interest. The board shall provide the general assembly with a copy of any order to extend its jurisdiction and shall permit any telephone utility subject to the extension to increase single line flat-rated residential and business monthly service rates by an amount up to two dollars during each twelve-month period of the extension. If a telephone utility fails to impose such a rate increase during any twelve-month period, the utility may not impose the unused increase in any subsequent year.

2. ~~Deregulation~~ Except as provided in subsection 1, paragraph "c", deregulation of a service or facility for a utility is effective only after ~~all of the following:~~

~~a. A~~ a finding of effective competition by the board.

~~b. Election by a utility providing the service or facility to file a deregulation accounting plan.~~

~~c. Approval of a utility's deregulation accounting plan by the board.~~

3. If the board ~~determines~~ finds that a service or facility is subject to effective competition ~~and approves the utility's deregulation accounting plan~~, the board shall deregulate the service or facility within a reasonable time.

Sec. 2. Section 476.55, Code 2005, is amended to read as follows:

476.55 COMPLAINT OF ANTITRUST ACTIVITIES.

1. An application for new or changed rates, charges, schedules or regulations filed under this chapter, or an application for a certificate or an amendment to a certificate submitted under chapter 476A, by an electric transmission line utility or a gas pipeline utility or a subsidiary of either shall not be approved by the board if, upon complaint by an Iowa electric or gas utility, the board finds activities which create or maintain a situation inconsistent with antitrust laws and the policies which underlie them. The board may grant the rate or facility certification request once it determines that those activities which led to the antitrust complaint have been eliminated. However, this subsection does not apply to an application for new or changed rates, charges, schedules or regulations after the expiration of the ten-month limitation and applicable extensions.

2. Notwithstanding section 476.1D, the board may receive a complaint from a local exchange carrier that another local exchange carrier has engaged in an activity that is inconsistent with antitrust laws and the policies which underlie them. For purposes of this subsection, "local exchange carrier" means the same as defined in section 476.96 and includes a city utility authorized pursuant to section 388.2 to provide local exchange services. If, after notice and opportunity for hearing, the board finds that a local exchange carrier has engaged in an activity that is inconsistent with antitrust laws and the policies which underlie them, the board may order any of the following:

a. The local exchange carrier to adjust retail rates in an amount sufficient to correct the antitrust activity.

b. The local exchange carrier to pay any costs incurred by the complainant for the pursuit of the complaint.

c. The local exchange carrier to pay a civil penalty.

d. Either the local exchange carrier or the complainant to pay the costs of the complaint proceeding before the board, and the other party's reasonable attorney fees.

This subsection shall not be construed to modify, restrict, or limit the right of a person to bring a complaint under any other provision of this chapter.

Sec. 3. Section 476.97, subsection 12, Code 2005, is amended by striking the subsection.

Sec. 4. Section 476.98, Code 2005, is repealed.

Approved March 15, 2005

CHAPTER 10

ANATOMIC PATHOLOGY SERVICES — BILLING

H.F. 418

AN ACT concerning billing for anatomic pathology services and making licensing sanctions applicable.

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

Section 1. NEW SECTION. 147.105 ANATOMIC PATHOLOGY SERVICES — BILLING.

1. A physician or a clinical laboratory located in this state or in another state that provides anatomic pathology services to a patient in this state shall present or cause to be presented a claim, bill, or demand for payment for such services only to the following persons:

a. The patient who is the recipient of the services.

b. The insurer or other third-party payor responsible for payment of the services.

c. The hospital that ordered the services.

d. The public health clinic or nonprofit clinic that ordered the services.

e. The referring clinical laboratory, other than the laboratory of a physician's office or group practice, that ordered the services.

f. A governmental agency or a specified public or private agent, agency, or organization that is responsible for payment of the services on behalf of the recipient of the services.

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician providing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by a physician or under the direct supervision of a physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. § 263a.[1]

3. A person to whom a claim, bill, or demand for payment for anatomic pathology services is submitted is not required to pay the claim, bill, or demand for payment if the claim, bill, or demand for payment is submitted in violation of this section.

4. This section shall not be construed to mandate the assignment of benefits for anatomic pathology services as defined in this section.

5. This section does not prohibit claims or charges presented by a referring clinical laboratory, other than a laboratory of a physician's office or group practice, to another clinical laboratory when samples are transferred between laboratories for the provision of anatomic pathology services.

[1] See chapter 179, §120 herein

6. This section does not prohibit claims or charges for anatomic pathology services presented on behalf of a public health clinic or nonprofit clinic that ordered the services provided that the clinic is identified on the claim or charge presented.

7. A violation of this section by a physician shall subject the physician to the disciplinary provisions of section 272C.3, subsection 2.

8. As used in this section:

a. "Anatomic pathology services" includes all of the following:

(1) Histopathology or surgical pathology, meaning the gross and microscopic examination and histologic processing of organ tissue, performed by a physician or under the supervision of a physician.

(2) Cytopathology, meaning the examination of cells from fluids, aspirates, washings, brushings, or smears, including the pap test examination, performed by a physician or under the supervision of a physician.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician, and the examination of peripheral blood smears, performed by a physician or under the supervision of a physician, upon the request of an attending or treating physician or technologist that a blood smear be reviewed by a physician.

(4) Subcellular pathology and molecular pathology services, performed by a physician or under the supervision of a physician.

(5) Bloodbanking services, performed by a physician or under the supervision of a physician.

b. "Physician" means any person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in this state or in another state.

Approved March 15, 2005

CHAPTER 11

NEGOTIABLE INSTRUMENTS — ENFORCEMENT AND LIABILITIES

S.F. 139

AN ACT relating to negotiable instruments, by providing for liabilities among certain parties, and providing a statute of limitations.

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

Section 1. Section 554.3103, subsections 2 and 3, Code 2005, are amended to read as follows:

2. Other definitions applying to this Article and the sections in which they appear are:

a.	"Acceptance"	Section 554.3409.
b.	"Accommodated party"	Section 554.3419.
c.	"Accommodation party"	Section 554.3419.
d.	"Alteration"	Section 554.3407.
e.	"Anomalous endorsement"	Section 554.3205.
f.	"Blank endorsement"	Section 554.3205.
g.	"Cashier's check"	Section 554.3104.
h.	"Certificate of deposit"	Section 554.3104.

i.	"Certified check"	Section 554.3409.
j.	"Check"	Section 554.3104.
k.	"Consideration"	Section 554.3303.
l.	"Demand draft"	Section 554.3104.
m.	"Draft"	Section 554.3104.
n.	"Holder in due course"	Section 554.3302.
o.	"Incomplete instrument"	Section 554.3115.
p.	"Endorsement"	Section 554.3204.
q.	"Endorser"	Section 554.3204.
r.	"Instrument"	Section 554.3104.
s.	"Issue"	Section 554.3105.
t.	"Issuer"	Section 554.3105.
u.	"Negotiable instrument"	Section 554.3104.
v.	"Negotiation"	Section 554.3201.
w.	"Note"	Section 554.3104.
x.	"Payable at a definite time"	Section 554.3108.
y.	"Payable on demand"	Section 554.3108.
z.	"Payable to bearer"	Section 554.3109.
aa.	"Payable to order"	Section 554.3109.
ab.	"Payment"	Section 554.3602.
ac.	"Person entitled to enforce"	Section 554.3301.
ad.	"Presentment"	Section 554.3501.
ae.	"Reacquisition"	Section 554.3207.
af.	"Special endorsement"	Section 554.3205.
ag.	"Teller's check"	Section 554.3104.
ah.	"Transfer of instrument"	Section 554.3203.
ai.	"Traveler's check"	Section 554.3104.
aj.	"Value"	Section 554.3303.

3. The following definitions in other Articles apply to this Article:

a.	"Bank"	Section 554.4105.
b.	"Banking day"	Section 554.4104.
c.	"Clearing house"	Section 554.4104.
d.	"Collecting bank"	Section 554.4105.
e.	"Depositary bank"	Section 554.4105.
f.	"Documentary draft"	Section 554.4104.
g.	"Intermediary bank"	Section 554.4105.
h.	"Item"	Section 554.4104.
i.	"Payor bank"	Section 554.4105.
j.	"Suspends payments"	Section 554.4104.

Sec. 2. Section 554.3104, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. a. "Demand draft" means a writing not signed by a customer as defined in section 554.4104 that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. The writing must contain the customer's account number and may contain any of the following:

(1) The customer's printed or typewritten name;

(2) A notation that the customer authorized the draft; or

(3) The statement "no signature required", "authorized on file", "signature on file", or words to that effect.

b. "Demand draft" does not include a check purportedly drawn by and bearing the signature of a fiduciary as defined in section 554.3307.

Sec. 3. Section 554.3309, subsection 1, Code 2005, is amended to read as follows:

1. A person not in possession of an instrument is entitled to enforce the instrument if: ~~(i)~~

a. the person ~~was in possession of the instrument and entitled to enforce it~~ seeking to enforce the instrument:

(1) was entitled to enforce the instrument when loss or[1] possession occurred, or

(2) has directly or indirectly acquired ownership of the instrument from a person who was entitled to the instrument when loss of possession occurred~~, (ii)~~;

b. the loss of possession was not the result of a transfer by the person or a lawful seizure~~,~~; and ~~(iii)~~

c. the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

Sec. 4. Section 554.3416, subsection 1, paragraphs d and e, Code 2005, are amended to read as follows:

d. the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; ~~and~~

e. the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and

f. if the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as the drawer.

Sec. 5. Section 554.3416, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If a warranty under subsection 1, paragraph "f", is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Sec. 6. Section 554.3417, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

b. the draft has not been altered; ~~and~~

c. the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized; and

d. if the draft is a demand draft, the creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.

Sec. 7. Section 554.3417, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7. A demand draft is a check as provided in section 554.3104, subsection 6.

NEW SUBSECTION. 8. If a warranty under subsection 1, paragraph "d", is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Sec. 8. NEW SECTION. 554.4111 STATUTE OF LIMITATIONS.

An action to enforce an obligation, duty, or right arising under this Article must be commenced within three years after the cause of action accrues.

Sec. 9. Section 554.4207, subsection 1, paragraphs d and e, Code 2005, are amended to read as follows:

d. the item is not subject to a defense or claim in recoupment (section 554.3305, subsection 1) of any party that can be asserted against the warrantor; ~~and~~

e. the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and

f. if the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as the drawer.

[1] The word "of" probably intended

Sec. 10. Section 554.4207, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If the warranty under subsection 1, paragraph "f", is not given by a transferor or collecting bank under applicable conflict of laws rules, the warranty is not given to that transferor when the transferor is a transferee or to any prior collecting bank of that transferee.

Sec. 11. Section 554.4208, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

b. the draft has not been altered; ~~and~~

c. the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; and

d. if the draft is a demand draft, the creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.

Sec. 12. Section 554.4208, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7. A demand draft is a check as provided in section 554.3104, subsection 6.

NEW SUBSECTION. 8. If a warranty under subsection 1, paragraph "d", is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Approved March 21, 2005

CHAPTER 12

ABOVEGROUND PETROLEUM STORAGE TANKS
— UPGRADE OR CLOSURE COSTS

S.F. 141

AN ACT relating to reimbursement to owners of aboveground petroleum storage tanks for costs associated with the upgrade or permanent closure of aboveground petroleum storage tanks.

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

Section 1. Section 455G.23, subsection 2, paragraphs d and e, Code 2005, are amended to read as follows:

d. Upgrade expenses must be incurred after January 1, 2004, and not later than ~~February 18~~ December 31, 2005. Upgrade activities are limited to the installation or improvement of equipment or systems required to comply with 40 C.F.R. § 112, specifically:

(1) Secondary containment.
(2) Corrosion protection.
(3) Loss prevention.
(4) Security.
(5) Drainage.
(6) Removal of noncompliant tanks.

e. Permanent closure activities, including tank system removal, decommission, and dispos-

al, must occur after January 1, 2004, and not later than ~~February 18~~ December 31, 2005, unless the owner is a party to an agreement entered into pursuant to subsection 3 and the tanks meet one of the following criteria:

(1) All tanks are empty by ~~February 18~~ December 31, 2005.

(2) All tanks containing petroleum on or after ~~February 18~~ December 31, 2005, meet the requirements of 40 C.F.R. § 112 et seq. and any applicable provisions of chapter 101 and the administrative rules adopted pursuant to chapter 101.

Approved March 21, 2005

CHAPTER 13

COMMERCIAL ESTABLISHMENTS
SERVING ALCOHOLIC BEVERAGES —
SECURITY — EMPLOYEE TRAINING

H.F. 141

AN ACT relating to the training and certification of designated security personnel working at commercial establishments with a liquor control license or wine or beer permit.

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

Section 1. Section 123.3, subsection 12A, Code 2005, is amended to read as follows:

12A. "Designated security employee" means an agent, contract employee, independent contractor, servant, or employee of a licensee or permittee who ~~is primarily employed for security purposes~~ works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.

Sec. 2. Section 123.32, subsection 4, Code 2005, is amended to read as follows:

4. SECURITY EMPLOYEE TRAINING. A local authority, as a condition of obtaining and holding a license or permit for on-premises consumption, may require a designated security employee as defined in section 123.3 to be trained and certified in security methods. The training shall include but is not limited to mediation techniques, civil rights or unfair practices awareness as provided in section 216.7, and providing instruction on the proper physical restraint methods used against a person who has become combative.

Approved March 21, 2005

CHAPTER 14

INHERITANCE TAX FRAUD AND TRANSFERS TO MINORS

H.F. 281

AN ACT relating to certain penalties for filing false affidavits and the time for examining and determining a correct return under the state inheritance tax and increasing the amount of property that may be transferred to minors under certain conditions and including a retroactive applicability date provision.

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

Section 1. Section 450.22, subsection 4, Code 2005, is amended to read as follows:

4. If a return is not required to be filed pursuant to subsection 3, and if real estate is involved, one of the individuals with an interest in, or succeeding to an interest in, the real estate shall file an affidavit in the county in which the real estate is located setting forth the legal description of the real estate and the fact that an inheritance tax return is not required pursuant to subsection 3. ~~If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~ Anyone with or succeeding to an interest in real estate who willfully fails to file such an affidavit, or who willfully files a false affidavit, is guilty of a fraudulent practice.

Sec. 2. Section 450.53, subsection 2, Code 2005, is amended to read as follows:

2. ~~a.~~ A person in possession of assets to be reported for purposes of taxation, including a personal representative or trustee, who willfully makes a false or fraudulent return, or who willfully fails to pay the tax, or who willfully fails to supply the information~~,~~ necessary to prepare the return or determine if a return is required, or who willfully fails to make, sign, or file the required return within the time required by law, is guilty of a fraudulent practice. This ~~paragraph~~ subsection does not apply to failure to make, sign, or file a return or failure to pay the tax if a return is not required to be filed pursuant to subsection 1, paragraph "b".

~~b. If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~

Sec. 3. Section 450.58, subsection 2, Code 2005, is amended to read as follows:

2. If an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph "b", the personal representative's final settlement of account need not contain an inheritance tax receipt from the department, but shall, instead, contain the personal representative's ~~statement, under oath,~~ certification under section 633.35 that an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph "b". ~~If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the assessment and collection of the tax, penalty, and interest shall not apply.~~

Sec. 4. Section 450.94, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The period for examination and determination of the correct amount of tax to be reported and due under this chapter is unlimited in the case of failure to file a return or the filing of a false or fraudulent return or affidavit.

Sec. 5. Section 565B.7, subsection 3, Code 2005, is amended to read as follows:

3. If ~~no~~ a custodian has not been nominated under section 565B.3, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ~~ten~~ twenty-five thousand dollars in value.

Sec. 6. RETROACTIVE APPLICABILITY DATE. The sections of this Act amending section 450.22, 450.53, and 450.58 apply retroactively to July 1, 2004, for estates of decedents dying on or after that date.

Approved March 21, 2005

CHAPTER 15

REGULATION OF AMPHETAMINE
AND METHAMPHETAMINE PRECURSORS

S.F. 169

AN ACT relating to the regulation of substances which are precursors to amphetamine and methamphetamine and providing a penalty and effective dates.

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

Section 1. Section 124.212, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. PRECURSORS TO AMPHETAMINE AND METHAMPHETAMINE. Unless specifically excepted in paragraph "d" or "e" or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following precursors to amphetamine or methamphetamine, including their salts, optical isomers, and salts of their optical isomers:

a. Ephedrine.

b. Phenylpropanolamine.

c. Pseudoephedrine.[1] A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity.

d. Any product that contains three hundred sixty milligrams or less of pseudoephedrine, its salts, optical isomers, and salts of its optical isomers, which is in liquid, liquid capsule, or liquid-filled gel capsule form, is excepted from this schedule and may be warehoused, distributed, and sold over the counter pursuant to section 126.23A.

e. A pseudoephedrine product warehoused by a distributor located in this state which is warehoused for export to a retailer outside this state is excepted from this schedule. A distributor warehousing and exporting a pseudoephedrine product shall register with the board and comply with any rules adopted by the board and relating to the diversion of pseudoephedrine products from legitimate commerce.

Sec. 2. NEW SECTION. 124.213 PHARMACY PSEUDOEPHEDRINE SALE RESTRICTION — PENALTY.

A person who purchases more than seven thousand five hundred milligrams of pseudo-

[1] See chapter 179, §56 herein

ephedrine from a pharmacy in violation of section 124.212 or a retailer in violation of section 126.23A, either separately or collectively, within a thirty-day period commits a serious misdemeanor.

Sec. 3. Section 126.23A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

126.23A PSEUDOEPHEDRINE RETAIL RESTRICTIONS.

1. a. A retailer or an employee of a retailer shall not do any of the following:

(1) Sell a product that contains more than three hundred sixty milligrams of pseudoephedrine[2] in violation of section 124.212, subsection 4.

(2) Knowingly sell more than one package of a product containing pseudoephedrine to a person in a twenty-four-hour period.

(3) Sell a package of a pseudoephedrine product that can be further broken down or subdivided into two or more separate and distinct packages or offer promotions where a pseudoephedrine product is given away for free as part of any purchase transaction.

b. A retailer or an employee of a retailer shall do the following:

(1) Provide for the sale of a pseudoephedrine product in a locked cabinet or behind a sales counter where the public is unable to reach the product and where the public is not permitted.

(2) Require a purchaser to present a government-issued photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.

(3) Require the purchaser to legibly sign a logbook and to also require the purchaser to print the purchaser's name and address in the logbook.[3]

(4) Determine the signature in the logbook corresponds with the name on the government-issued photo identification card.

(5) Keep the logbook twelve months from the date of the last entry.

(6) Provide notification in a clear and conspicuous manner in a location where a pseudoephedrine product is offered for sale stating the following:

Iowa law prohibits the over-the-counter purchase of more than one package of a product containing pseudoephedrine in a twenty-four-hour period or of more than seven thousand five hundred milligrams of pseudoephedrine within a thirty-day period. If you purchase a product containing pseudoephedrine, you are required to sign a logbook which may be accessible to law enforcement officers.

2. A purchaser shall not do any of the following:

a. Purchase more than one package of a pseudoephedrine product within a twenty-four-hour period from a retailer.

b. Purchase more than seven thousand five hundred milligrams of pseudoephedrine from a retailer, either separately or collectively, within a thirty-day period.

3. A purchaser shall legibly sign the logbook and also print the purchaser's name and address in the logbook.[4]

4. Enforcement of this section shall be implemented uniformly throughout the state. A political subdivision of the state shall not adopt an ordinance regulating the display or sale of products containing pseudoephedrine. An ordinance adopted in violation of this section is void and unenforceable and any enforcement activity of an ordinance in violation of this section is void.

5. The logbook may be kept in an electronic format upon approval by the department of public safety.

6. A pharmacy that sells a product that contains three hundred sixty milligrams or less of pseudoephedrine on a retail basis shall comply with the provisions of this section with respect to the sale of such product. However, a pharmacy is exempted from the provisions of this section when selling a pseudoephedrine product pursuant to section 124.212.

7. A retailer or an employee of a retailer that reports to any law enforcement agency any alleged criminal activity related to the purchase or sale of pseudoephedrine or who refuses to sell a pseudoephedrine product to a person is immune from civil liability for that conduct, except in cases of willful misconduct.

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[2] See chapter 179, §115 herein

[3] See chapter 179, §116 herein

[4] See chapter 179, §117 herein

8. If a retailer or an employee of a retailer violates any provision of this section, a city or county may assess a civil penalty against the retailer upon hearing and notice as provided in section 126.23B.

9. An employee of a retailer who commits a violation of subsection 1 or a purchaser who commits a violation of subsection 2 commits a simple misdemeanor punishable by a scheduled fine under section 805.8C, subsection 6.

10. As used in this section, "retailer" means a person or business entity engaged in this state in the business of selling products on a retail basis. An "employee of a retailer" means any employee, contract employee, or agent of the retailer.

Sec. 4. NEW SECTION. 126.23B CIVIL PENALTY.

1. A city or a county may enforce section 126.23A, after giving the retailer an opportunity to be heard upon ten days' written notice by restricted certified mail stating the alleged violation and the time and place at which the retailer may appear and be heard.

2. For a violation of section 126.23A by the retailer or an employee of the retailer a civil penalty shall be assessed against the retailer as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars.

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.

c. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of two thousand dollars. The retailer may also be prohibited from selling pseudoephedrine for up to three years from the date of assessment of the civil penalty.

d. For a fourth or subsequent violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of three thousand dollars. On a fourth or subsequent violation, the retailer shall be prohibited from selling pseudoephedrine products for three years from the date of the assessment of the civil penalty.

3. The city or county that takes legal action against a retailer under this section shall report the assessment of a civil penalty to the department of public safety within thirty days of the penalty being assessed.

4. The civil penalty shall be collected by the clerk of the district court and shall be distributed as provided in section 602.8105, subsection 4.

Sec. 5. Section 602.8105, subsection 4, Code 2005, is amended to read as follows:

4. The clerk of the district court shall collect a civil penalty assessed against a retailer pursuant to section ~~126.23A~~ 126.23B. Any moneys collected from the civil penalty shall be distributed to the ~~state or a political subdivision of the state as provided in~~ city or county that brought the enforcement action for a violation of section 126.23A~~, subsection 7~~.

Sec. 6. Section 714.7C, Code 2005, is amended to read as follows:

714.7C THEFT OF PSEUDOEPHEDRINE — ENHANCEMENT.

Notwithstanding section 714.2, subsection 5, a person who commits a simple misdemeanor theft of ~~more than two packages~~ a product containing ~~any of the following~~ pseudoephedrine from a retailer as defined in section 126.23A commits a serious misdemeanor~~:~~.

~~1. Pseudoephedrine as the product's sole active ingredient.~~

~~2. Pseudoephedrine in combination with other active ingredients.~~

~~A simple misdemeanor theft of more than two packages containing pseudoephedrine as the products' sole active ingredient which are in liquid form does not constitute a serious misdemeanor under this section.~~

Sec. 7. Section 804.21, subsection 1, Code 2005, is amended to read as follows:

1. A person arrested in obedience to a warrant shall be taken without unnecessary delay before the nearest or most accessible magistrate. The officer shall at the same time deliver to the magistrate the warrant with the officer's return endorsed on it and subscribed by the officer with the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would other-

wise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council, unless the person is charged with manufacture, delivery, possession with intent to[5] deliver, or distribution of methamphetamine. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of the release, or as soon as practicable on the next subsequent working day of the court, either approve in writing of the release, or disapprove of the release and issue a warrant for the person's arrest.

Sec. 8. Section 804.22, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance, unless the person is charged with manufacture, delivery, possession with intent to[6] deliver, or distribution of methamphetamine. The initial appearance of a person so released shall be scheduled for a time not more than thirty days after the date of release.

Sec. 9. Section 805.8C, subsection 6, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

6. PSEUDOEPHEDRINE SALES VIOLATIONS. For violations of section 126.23A, subsection 1, by an employee of a retailer, or for violations of section 126.23A, subsection 2,[7] by a purchaser, the scheduled fine is as follows:

a. If the violation is a first offense, the scheduled fine is one hundred dollars.

b. If the violation is a second offense, the scheduled fine is two hundred fifty dollars.

c. If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

Sec. 10. Section 811.2, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Any bailable defendant who is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under chapter 124 and is ordered released shall be required, as a condition of that release, to submit to a substance abuse evaluation and follow any recommendations proposed in the evaluation for appropriate substance abuse treatment. However, if a bailable defendant is charged with manufacture, delivery, possession with the intent to[8] deliver, or distribution of methamphetamine, its salts, optical isomers, and salts of its optical isomers, the defendant shall, in addition to a substance abuse evaluation, remain under supervision and be required to undergo random drug tests as a condition of release.

Sec. 11. Section 811.2, subsection 3, Code 2005, is amended to read as follows:

3. RELEASE AT INITIAL APPEARANCE. This chapter does not preclude the release of an arrested person as authorized by section 804.21, unless the arrested person is charged with manufacture, delivery, possession with the intent to[9] deliver, or distribution of methamphetamine.

Sec. 12. RETAILER COMPLIANCE. Be it deemed necessary for public safety purposes, retailers shall begin to take steps to come into compliance with the provisions of this Act as soon as possible.

Sec. 13. DRUG POLICY COORDINATOR — REPORT. The drug policy coordinator shall report, in a joint meeting, to the committee on judiciary of the senate and the committee on public safety of the house of representatives in January 2006 and in January 2007, the effects of this Act on methamphetamine abuse and related criminal activity.

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[5] See chapter 174, §21, 25 herein

[6] See chapter 174, §22, 25 herein

[7] See chapter 179, §140 herein

[8] See chapter 174, §23, 25 herein

[9] See chapter 174, §24, 25 herein

Sec. 14. EFFECTIVE DATES. This Act takes effect sixty days from the date of enactment or July 1, 2005, whichever is earlier. However, the portion of the section of this Act amending section 124.212, subsection 4, which makes all ephedrine products schedule V controlled substances, and the sections of this Act amending sections 804.21, 804.22, and 811.2, take effect upon enactment.

Approved March 22, 2005

CHAPTER 16

LIFE SCIENCE ENTERPRISES — AGRICULTURAL LAND

S.F. 205

AN ACT providing for life science enterprises authorized to hold agricultural land, making penalties applicable, and providing an effective date.

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

Section 1. Section 10B.4, subsection 2, paragraph g, Code 2005, is amended to read as follows:

g. If the reporting entity is a life science enterprise, as provided in chapter 10C, as that chapter exists on or before June 30, ~~2004~~ 2005, the total amount of commercial sale of life science products and products other than life science products which are produced from the agricultural land held by the life science enterprise.

Sec. 2. Section 10C.6, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5 ~~as that section exists in the 2005 Code~~, if all of the following apply:

(1) The life science enterprise acquires the agricultural land on or before June 30, 2008.

(2) The enterprise acquires or holds the agricultural land pursuant to chapter 10C ~~as that chapter exists in the 2005 Code~~.

(3) The economic development board has approved a life science enterprise plan filed on or before June 30, ~~2004~~ 2005, with the board. The enterprise must acquire or hold the agricultural land pursuant to the plan which may be amended at any time and approved by the board pursuant to section 15.104.

Sec. 3. Section 10C.6, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person who is a successor in interest to a life science enterprise may acquire or hold agricultural land, notwithstanding section 10C.5 ~~as that section exists in the 2003 Code or 2003 Code Supplement~~, if all of the following apply:

Sec. 4. Section 10C.6, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The person meets the qualifications of a life science enterprise and acquires or holds the agricultural land as provided in chapter 10C ~~as that chapter exists in the 2003 Code or 2003 Code Supplement~~.

Sec. 5. Section 15.104, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Review and approve or disapprove a life science enterprise plan or amendments to that plan as provided in chapter 10C as that chapter exists on or before June 30, ~~2004~~ 2005,[1] and according to rules adopted by the board. A life science plan shall make a reasonable effort to provide for participation by persons who are individuals or family farm entities actively engaged in farming as defined in section 10.1. The persons may participate in the life science enterprise by holding an equity position in the life science enterprise or providing goods or service to the enterprise under contract. The plan must be filed with the board not later than June 30, ~~2004~~ 2005. The life science enterprise may file an amendment to a plan at any time. A life science enterprise is not eligible to file a plan, unless the life science enterprise files a notice with the board. The notice shall be a simple statement indicating that the life science enterprise may file a plan as provided in this section. The notice must be filed with the board not later than June ~~30, 2001~~ 1, 2005. The notice, plan, or amendments shall be submitted by a life science enterprise as provided by the board. The board shall consult with the department of agriculture and land stewardship during its review of a life science plan or amendments to that plan. The plan shall include information regarding the life science enterprise as required by rules adopted by the board, including but not limited to all of the following:

Sec. 6. CODE EDITOR DIRECTIVE. The Code editor shall, upon the repeal of sections 10C.1 through 10C.4, pursuant to section 10C.5, insert in section 10C.6 references to the Code or Code Supplement in which the most recent amendments to Code chapter 10C or portions thereof, as applicable, were incorporated.

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

Approved April 6, 2005

CHAPTER 17

DUAL PARTY RELAY SERVICE FUNDING

S.F. 264

AN ACT relating to the funding of the dual party relay service through assessments on telecommunications carriers providing telephone service.

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

Section 1. Section 477C.7, Code 2005, is amended to read as follows:

477C.7 FUNDING.

1. The board shall impose an annual assessment to fund the programs described in this chapter upon all ~~telephone utilities~~ telecommunications carriers providing service in the state ~~as follows:~~.

~~1.~~ 2. The total assessment shall be allocated ~~one-half to local exchange telephone utilities and one-half to the following telephone utilities~~ as follows:

a. Wireless communications service providers shall be assessed three cents per month for each wireless communications service number provided in this state.

[1] See chapter 179, §108 herein

b. (1) The remainder of the assessment shall be allocated one-half to local exchange telephone utilities and one-half to the following:

~~a.~~ (a) Interexchange carriers.

~~b.~~ (b) Centralized equal access providers.

~~c.~~ (c) Alternative operator services companies.

~~2.~~ (2) The assessment shall be ~~levied~~ allocated proportionally based upon revenues from all intrastate regulated, deregulated, and exempt telephone services under sections 476.1 and 476.1D.

3. The ~~telephone utilities~~ telecommunications carriers shall remit the assessed amounts quarterly to a special fund, as defined under section 8.2, subsection 9. The moneys in the fund are appropriated solely to plan, establish, administer, and promote the relay service and equipment distribution programs.

4. The ~~telephone utilities~~ telecommunications carriers subject to assessment shall provide the information requested by the board necessary for implementation of the assessment.

5. The local exchange telephone utilities shall not recover from intrastate access charges any portion of such utilities assessment imposed under this section.

Approved April 6, 2005

CHAPTER 18

IDENTITY THEFT

S.F. 270

AN ACT relating to identity theft including criminal violations and damages recoverable in a civil action, providing for forfeiture of property and for certain rights of financial institutions, and providing for civil remedies.

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

Section 1. NEW SECTION. 614.4A IDENTITY THEFT.

In actions for relief on the ground of identity theft under section 714.16B, the cause of action shall not be deemed to have accrued until the identity theft complained of is discovered by the party aggrieved.

Sec. 2. Section 714.16B, Code 2005, is amended to read as follows:

714.16B IDENTITY THEFT — CIVIL CAUSE OF ACTION.

In addition to any other remedies provided by law, a person as defined under section 714.16, subsection 1, suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, or a financial institution on behalf of an account holder suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, may bring an action against such other person to recover all of the following:

1. ~~One~~ Five thousand dollars or three times the actual damages, whichever is greater.

2. Reasonable costs incurred due to the violation of section 715A.8, including all of the following:

a. Costs for repairing the victim's credit history or credit rating.

b. Costs incurred for bringing a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim.

c. Punitive damages, attorney fees, and court costs.

For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 3. Section 715A.8, subsection 1, Code 2005, is amended to read as follows:

1. a. For purposes of this section, "identification information" ~~means~~ includes, but is not limited to, the name, address, date of birth, telephone number, driver's license number, nonoperator's identification card number, social security number, student identification number, military identification number, alien identification or citizenship status number, employer identification number, signature, electronic mail signature, electronic identifier or screen name, biometric identifier, genetic identification information, access device, logo, symbol, trademark, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

b. For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 4. Section 715A.8, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Violations of this section shall be prosecuted in any of the following venues:

a. In the county in which the violation occurred.

b. If the violation was committed in more than one county, or if the elements of the offense were committed in more than one county, then in any county where any violation occurred or where an element of the offense occurred.

c. In the county where the victim resides.

d. In the county where the property that was fraudulently used or attempted to be used was located at the time of the violation.

NEW SUBSECTION. 6. Any real or personal property obtained by a person as a result of a violation of this section, including but not limited to any money, interest, security, claim, contractual right, or financial instrument that is in the possession of the person, shall be subject to seizure and forfeiture pursuant to chapter 809A. A victim injured by a violation of this section, or a financial institution that has indemnified a victim injured by a violation of this section, may file a claim as an interest holder pursuant to section 809A.11 for payment of damages suffered by the victim including costs of recovery and reasonable attorney fees.

NEW SUBSECTION. 7. A financial institution may file a complaint regarding a violation of this section on behalf of a victim and shall have the same rights and privileges as the victim if the financial institution has indemnified the victim for such violations.

NEW SUBSECTION. 8. Upon the request of a victim, a peace officer in any jurisdiction described in subsection 5 shall take a report regarding an alleged violation of this section and shall provide a copy of the report to the victim. The report may also be provided to any other law enforcement agency in any of the jurisdictions described in subsection 5.

Approved April 6, 2005

CHAPTER 19

SUBSTANTIVE CODE CORRECTIONS

H.F. 227

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 2B.5, subsection 3, Code 2005, is amended to read as follows:

3. Cause to be published annually a correct list of state officers and deputies; members of boards and commissions; justices of the supreme court, 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~~ office of the governor ~~and secretary of state~~ shall cooperate in the preparation of the list.

Sec. 2. Section 2B.12, subsection 8, Code 2005, is amended to read as follows:

8. A Code or Code Supplement may include appropriate tables showing the disposition of Acts of the general assembly, the corresponding sections from edition to edition of a Code or Code Supplement, and other reference material as determined by the Iowa Code editor in accordance with policies of the legislative council.

Sec. 3. Section 2B.17, subsection 2, Code 2005, is amended to read as follows:

2. The Acts of each general assembly shall be known as "Acts of the . . . . General Assembly, ... Session, Chapter (or File No.) . . . . , Section . . . . " (inserting the appropriate numbers) and shall be cited as ". . . . Iowa Acts, chapter (or File No.). . . . , section . . . . " (inserting the appropriate year, chapter or file number, and section number).

Sec. 4. Section 2C.13, Code 2005, is amended to read as follows:

2C.13 NO INVESTIGATION — NOTICE TO COMPLAINANT.

If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the ~~administrative~~ agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

Sec. 5. Section 2C.14, Code 2005, is amended to read as follows:

2C.14 INSTITUTIONALIZED COMPLAINANTS.

A letter to the citizens' aide from a person in a correctional institution, a hospital, or other institution under the control of an ~~administrative~~ agency shall be immediately forwarded, unopened to the citizens' aide by the institution where the writer of the letter is a resident. A letter from the citizens' aide to such a person shall be immediately delivered, unopened to the person.

Sec. 6. Section 2C.17, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The citizens' aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor~~,~~ or the general assembly or any of its committees. When publishing an opinion adverse to an ~~administrative~~ agency or official the citizens' aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Sec. 7. Section 3.3, Code 2005, is amended to read as follows:

3.3 HEADNOTES AND HISTORICAL REFERENCES.

Proper headnotes may be placed at the beginning of a section of a bill or a Code section, and at the end of ~~the~~ a Code section there may be placed a reference to the section number of the Code, or any Iowa Act from which the matter of the ~~bill~~ Code section was taken~~, but~~. However, except as provided in the uniform commercial code, section 554.1109, neither said headnotes nor said historical references shall be considered as a part of the law as enacted.

Sec. 8. Section 7A.27, unnumbered paragraph 2, Code 2005, is amended to read as follows:

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 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 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 director of the department of administrative services by dividing the total cost of printing, paper, distribution, and binding by the number printed. 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 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 printing revolving fund established in section 8A.345. This section does not apply to the printed versions of the official legal publications listed in section 2A.5.

Sec. 9. Section 8A.205, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. Establish standards, consistent with other state law, for the implementation of electronic commerce, including standards for ~~digital~~ electronic signatures, electronic currency, and other items associated with electronic commerce.

Sec. 10. Section 8A.316, subsection 1, Code 2005, is amended to read as follows:

1. ~~Revise~~ Develop 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.

Sec. 11. Section 9E.12, subsection 4, Code 2005, is amended to read as follows:

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section ~~331.602, subsection 1~~ 331.606B.

Sec. 12. Section 12.82, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. To assure the continued solvency of any bonds secured by the bond reserve fund, provision is made in paragraph ~~"a"~~ "c" for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the treasurer shall, on or before January 1 of each calendar year, make and deliver to the governor the treasurer's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the treasurer pursuant to this subsection shall be deposited by the treasurer in the applicable bond reserve fund.

Sec. 13. Section 13B.9, subsection 2, Code 2005, is amended to read as follows:

2. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 14. Section 15.331C, Code 2005, is amended to read as follows:

15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPER.

1. An eligible business or a supporting business may claim a corporate tax credit in an amount equal to the sales and use taxes paid by a third-party developer 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 supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be included, but taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall be included. Any 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 earlier. An eligible business may elect to receive a refund of all or a portion of an unused tax credit.

2. A third-party developer shall state under oath, on forms provided by the department of economic development, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. After receiving the form from the third-party developer, the department shall issue a tax credit certificate to the eligible business or supporting business equal to the sales and use taxes paid by a third-party developer 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. The department shall also issue a tax credit certificate to the eligible business or supporting business equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall not exceed five hundred thousand dollars in a fiscal year. If an applicant for a tax credit certificate does not receive a certificate for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center, the application shall be considered in succeeding fiscal years. The eligible business or supporting business 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. A tax credit certificate shall contain the eligible business's or supporting business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

Sec. 15. Section 22.1, subsection 3, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Public records" also includes all records relating to

the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.

Sec. 16. Section 22.7, subsection 38, paragraph a, Code 2005, is amended to read as follows:

a. Records containing information that would disclose, or might lead to the disclosure of, private keys used in ~~a digital~~ an electronic signature or other similar technologies as provided in chapter 554D.

Sec. 17. Section 28M.3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A regional transit district shall have all the rights, powers, and duties of a county enterprise pursuant to sections 331.462 through 331.469 as they relate to the purpose for which the regional transit district is created, including the authority to issue revenue bonds for the establishment, construction, reconstruction, repair, equipping, remodeling, extension, maintenance, and operation of works, vehicles, and facilities of a regional transit district. In addition, a regional transit district, with the approval of the board of supervisors, may issue general obligation bonds as an essential county purpose pursuant to chapter 331, division IV, part 3, for the establishment, construction, reconstruction, repair, equipping, remodeling, extension, maintenance, and operation of works, vehicles, and facilities of a regional transit district. Such general obligation bonds are payable from the property tax levy authorized in section 28M.5.

Sec. 18. Section 48A.11, subsection 8, Code 2005, is amended to read as follows:

8. A voter registration application lacking the registrant's name, sex, date of birth, or residence address or description shall not be processed. A voter registration application lacking the registrant's Iowa driver's license number, Iowa nonoperator's identification card number, or the last four digits of the registrant's social security number shall not be processed. A registrant whose registration is not processed pursuant to this subsection shall be notified pursuant to section 48A.26, subsection 3. A registrant who does not have an Iowa driver's license number, an Iowa nonoperator's identification number, or a social security number and who notifies the registrar of such shall be assigned a unique identifying number that shall serve to identify the registrant for voter registration purposes.

Sec. 19. Section 48A.25A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon receipt of an application for voter registration by mail, the state registrar of voters shall compare the Iowa driver's license number, the Iowa nonoperator's identification card number, or the last four numerals of the social security number provided by the registrant with the records of the state department of transportation. To be verified, the voter registration record shall contain the same name, date of birth, and Iowa driver's license number or Iowa nonoperator's identification card number or whole or partial social security number as the records of the state department of transportation. If the information cannot be verified, the application shall be rejected and the registrant shall be notified of the reason for the rejection. If the information can be verified, a record shall be made of the verification and the application shall be accepted.

Sec. 20. Section 48A.38, subsection 1, paragraph f, Code 2005, is amended to read as follows:

f. The county commissioner of registration and the state registrar of voters shall remove a voter's whole or partial social security number, as applicable, Iowa driver's license number, or Iowa nonoperator's identification card number from a voter registration list prepared pursuant to this section.

Sec. 21. Section 50.20, Code 2005, is amended to read as follows:

50.20 NOTICE OF NUMBER OF PROVISIONAL BALLOTS.

The commissioner shall compile a list of the number of provisional ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session. Any elector may present written statements or documents, supporting or opposing the counting of any ~~special~~ provisional ballot, at the commissioner's office until the reconvening of the special precinct board.

Sec. 22. Section 50.22, unnumbered paragraphs 1 through 3, Code 2005, are amended to read as follows:

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the ~~special~~ provisional ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel.

The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the ~~special~~ provisional ballot, the evidence concerning the challenge, the registration and the returned receipts of registration.

If a ~~special~~ provisional ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the ~~special~~ provisional ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The ~~special~~ provisional ballots which are accepted shall be counted in the manner prescribed by section 53.24. The commissioner shall make public the number of ~~special~~ provisional ballots rejected and not counted, at the time of the canvass of the election.

Sec. 23. Section 53.23, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The special precinct election board shall preserve the secrecy of all absentee and ~~special~~ provisional ballots. After the affidavits on the envelopes have been reviewed and the qualifications of the persons casting the ballots have been determined, those that have been accepted for counting shall be opened. The ballots shall be removed from the affidavit envelopes without being unfolded or examined, and then shall be thoroughly intermingled, after which they shall be unfolded and tabulated. If secrecy folders or envelopes are used with ~~special~~ provisional paper ballots, the ballots shall be removed from the secrecy folders after the ballots have been intermingled.

6. The special precinct election board shall not release the results of its tabulation on election day until all of the ballots it is required to count on that day have been counted, nor release the tabulation of ~~challenged~~ provisional ballots accepted and counted under chapter 50 until that count has been completed.

Sec. 24. Section 53.24, Code 2005, is amended to read as follows:

53.24 COUNTIES USING VOTING MACHINES.

In counties which provide the special precinct election board with voting machines, the absentee ballot envelopes shall be opened by the board and the ballots shall, without being unfolded, be thoroughly intermingled, after which they shall be unfolded and, under the personal supervision of precinct election officials of each of the political parties, be registered on voting machines the same as if the absent voter had been present and voted in person, except that a tally of the write-in votes may be kept in the tally list rather than on the machine. When two or more political subdivisions in the county are holding separate elections simultaneously, the

commissioner may arrange the machine so that the absentee and ~~special~~ provisional ballots for more than one election may be recorded on the same machine.

Sec. 25. Section 53.31, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commissioner shall immediately send a written notice to the elector whose qualifications have been challenged. The notice shall be sent to the address at which the challenged elector is registered to vote. If the ballot was mailed to the challenged elector, the notice shall also be sent to the address to which the ballot was mailed if it is different from the elector's registration address. The notice shall advise the elector of the reason for the challenge, the date and time that the special precinct election board will reconvene to determine challenges, and that the elector has the right to submit written evidence of the elector's qualifications. The notice shall include the telephone number of the commissioner's office. If the commissioner has access to a facsimile machine, the notice shall include the telephone number of the facsimile machine. As far as possible, other procedures for considering ~~special~~ provisional ballots shall be followed.

Sec. 26. Section 85.34, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

v. If it is determined that an injury has produced a disability less than that specifically described in ~~said~~ the schedule described in paragraphs "a" through "t", compensation shall be paid during the lesser number of weeks of disability determined, as will not exceed a total amount equal to the same percentage proportion of said scheduled maximum compensation.

Sec. 27. Section 97.51, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

b. Under the direction of the ~~department~~ system and as designated by the ~~department~~ system, 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 the department of administrative services pursuant to the order of the ~~Iowa public employees' retirement~~ system ~~created in section 97B.1~~.

Sec. 28. Section 97.51, subsections 2, 3, 4, and 6, Code 2005, are amended to read as follows:

2. All moneys which are paid or deposited into this fund are hereby appropriated and made available to the ~~department~~ system to be used only for the purposes herein provided:

a. To be used by the ~~department~~ system for the payment of claims for benefits.

b. To be used by the ~~department~~ system for the payment in accordance with any agreement with the federal social security administration of amounts required to obtain retroactive federal social security coverage of Iowa public employees, dating from January 1, 1951, and for the payment of refunds which were authorized by the provisions of section 97.7, Code 1950, and for the payment of such other refunds to employees as may be authorized by the general assembly, and such other purposes as may be authorized by the general assembly.

3. The ~~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.

4. Any public employee subject to coverage under the provisions of chapter 97, Code 1950, as amended, in public service as of June 30, 1953, and who has not applied for and qualified for benefit payments under the provisions of chapter 97, Code 1950, as amended, who had con-

tributed to the Iowa old-age and survivors' insurance fund prior to the repeal of said chapter 97, as amended, shall be entitled to a refund of contributions paid into the Iowa old-age and survivors' insurance fund by such employee without interest, but there shall be deducted from the amount of any such refund any amount which has been or will be paid in the employee's behalf as the employee's contribution as an employee to obtain retroactive federal social security coverage. Any former public employee not in public service as of June 30, 1953, who has contributed to the Iowa old-age and survivors' insurance fund, the employee's beneficiaries or estate, when no benefit has been paid under chapter 97, Code 1950, based upon such employee's prior record, shall be entitled to a refund of seventy-five percent of all contributions paid by the employee into said fund, without interest. The ~~department~~ system shall prescribe rules in regard to the granting of such refunds. In the event of such refund any individual receiving the same shall be deemed to have waived any and all rights in behalf of the individual or any beneficiary or the individual's estate to further benefits under the provisions of chapter 97, Code 1950, as amended.

6. In the payment of any benefits in the future, as a result of the provisions of chapter 97, Code 1950, as amended, the ~~department~~ system shall follow the same procedure as provided by said chapter 97, as amended, as though said chapter had not been repealed, except the requirements of section 97.21, subsection 4, paragraph "a", and 97.21, subsection 5, shall not be applicable, but no primary benefit, based upon employment prior to June 30, 1953, shall be paid to any individual for any month during which the individual receives compensation for work in any position which would have been subject to coverage under the provisions of said chapter 97, as amended, if the individual's earnings for such month exceed one hundred dollars, nor shall any benefit be paid to a wife or dependent of such employee for such months, except that after a retired member reaches the age of seventy-two years, the member, the member's wife and dependents shall be entitled to the benefits of this chapter regardless of the amount earned.

Sec. 29. Section 97B.49C, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. "Eligible service" means membership and prior service as a sheriff ~~and~~ or deputy sheriff under this section. In addition, eligible service includes membership and prior service as a marshal in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411, and as an airport fire fighter prior to July 1, 1994.

Sec. 30. Section 99B.7, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. The annual license fee for a statewide raffle license shall be one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days, except that a bingo occasion may only be conducted once per each seven consecutive calendar days of the specified period. In addition, a qualified organization may be issued a limited license to conduct raffles pursuant to this section for a period of ninety days for a license fee of forty dollars or for a period of one hundred eighty days for a license fee of seventy-five dollars. For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the period for which the license is issued.

Sec. 31. Section 99D.24, subsection 3, Code 2005, is amended to read as follows:

3. A person wagering or accepting a wager at any location outside the ~~betting enclosure~~ wagering area is subject to the penalties in section 725.7.

Sec. 32. Section 135.144, subsection 11, Code 2005, is amended to read as follows:

11. If a public health disaster or other public health emergency situation exists which poses an imminent threat to the public health, safety, and welfare, the department, in conjunction with the governor, may provide financial assistance, from funds appropriated to the department that are not otherwise encumbered, to political subdivisions as needed to alleviate the disaster or the emergency. If the department does not have sufficient ~~encumbered~~ unencumbered funds, the governor may request that the executive council, pursuant to the authority of section 7D.29, commit sufficient funds, up to one million dollars, that are not otherwise encumbered from the general fund, as needed and available, for the disaster or the emergency. If additional financial assistance is required in excess of one million dollars, approval by the legislative council is also required.

Sec. 33. Section 136A.5, subsection 3, Code 2005, is amended to read as follows:

3. This section does not apply if ~~the~~ a parent objects to the screening. If a parent objects to the screening of a newborn, the attending health care provider shall document the refusal in the newborn's medical record and shall obtain a written refusal from the parent and report the refusal to the department as provided by rule of the department.

Sec. 34. Section 166.1, subsection 3, Code 2005, is amended to read as follows:

3. "Manufacturer" includes every person engaged in the preparation, at any stage of the process, of biological products, except those engaged in such preparation ~~in the biological laboratory in the Iowa State University of science and technology, or~~ in any ~~other~~ state or governmental institution.

Sec. 35. Section 174.15, Code 2005, is amended to read as follows:

174.15 PURCHASE AND MANAGEMENT.

Title to land purchased or received for purposes of conducting a fair event shall be taken in the name of the county or a fair. However, the board of supervisors shall place the land under the control and management of a fair. The fair may act as agent for the county in the erection of buildings~~,~~ and maintenance of the fairgrounds, including the buildings and improvements constructed on the grounds. Title to new buildings or improvements shall be taken in the name of the county or a fair. However, the county is not liable for the improvements or expenditures for them.

Sec. 36. Section 225C.42, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. An analysis of the extent to which payments enabled children to remain in their homes. The analysis shall include but is not limited to all of the following items concerning children affected by the payments: the number and percentage of children who remained with their families; the number and percentage of children who returned to their home from an out-of-home placement and the type of placement from which the children returned; and the number of children who received an out-of-home placement during the ~~fiscal year~~ period and the type of placement.

Sec. 37. Section 235A.15, subsection 2, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) To a court or ~~administrative agency~~ the department hearing an appeal for correction of report data and disposition data as provided in section 235A.19.

Sec. 38. Section 257.11, subsection 4, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 39. Section 284.12, subsections 2 and 4, Code 2005, are amended to read as follows:

2. The report shall be made available to the chairpersons and ranking members of the senate and house committees on education, ~~the legislative education accountability and oversight~~

~~committee,~~ the deans of the colleges of education at approved practitioner preparation institutions in this state, the state board, the governor, and school districts by January 1. School districts shall provide information as required by the department for the compilation of the report and for accounting and auditing purposes.

4. In developing administrative rules for consideration by the state board, the department shall consult with persons representing teachers, administrators, school boards, approved practitioner preparation institutions, and other appropriate education stakeholders~~, and the legislative education accountability and oversight committee~~.

Sec. 40. Section 321.69, subsection 3, Code 2005, is amended to read as follows:

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. 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, rebuilt, or flood title had ever existed for the vehicle, and~~,~~ if not, whether the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", during or prior to the transferor's ownership of the vehicle, and the year, make, and vehicle identification number of the motor vehicle. The transferee shall not be required to indicate whether the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", 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. 41. Section 321.69, subsection 9, Code 2005, is amended to read as follows:

9. Except for subsections 10 and 11, 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 seven 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 whether a prior owner had disclosed that the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", 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. Except for subsections 10 and 11, 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~~ described in subsection 2.

Sec. 42. Section 322.10, Code 2005, is amended to read as follows:

322.10 JUDICIAL REVIEW.

Judicial review of actions of the department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. The petitioner shall file with the clerk a bond for the use of the respondent, with sureties approved by ~~such~~ the clerk and in an amount fixed by the clerk~~, provided in~~. In no case shall the bond be less than fifty dollars~~, conditioned~~. All bonds shall include the condition that the petitioner shall perform the orders of the court.

Sec. 43. Section 331.260, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The question of forming a community commonwealth shall be submitted to the electorate in substantially the same ~~manner~~ form as provided in section ~~331.247, subsection 4, and section~~ 331.252. The effective date of the charter and election of new officers of the community commonwealth shall be as provided in section 331.247, subsection 5.

Sec. 44. Section 331.506, subsection 1, paragraphs b and d, Code 2005, are amended to read as follows:

b. The auditor shall not issue a warrant to a drawee until the auditor has transmitted to the treasurer a list of the warrants to be issued. The list shall include the date, amount, and number of the warrant, name of the person to whom the warrant is issued, and the purpose for which the warrant is issued. The treasurer shall acknowledge receipt of the list by affixing the treasurer's signature at the bottom of the list and immediately returning the list to the auditor. The requirement that the treasurer sign to acknowledge receipt of the list is satisfied by use of a ~~digital signature or other~~ secure electronic signature if the county auditor and treasurer have complied with the applicable provisions of chapter 554D.

d. The requirement that the county auditor sign a warrant is satisfied by use of a ~~digital signature or other~~ secure electronic signature if the county auditor has complied with the applicable provisions of chapter 554D.

Sec. 45. Section 331.512, subsection 10, Code 2005, is amended to read as follows:

10. Furnish the assessor a plat book which is platted with the lands and lots within the assessment district as provided in section 441.29. ~~The auditor, with the approval of the board of supervisors, may establish a permanent real estate index number system as provided in section 441.29.~~

Sec. 46. Section 354.1, subsection 3, Code 2005, is amended to read as follows:

3. To provide for statewide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities and counties to establish and enforce ordinances regulating the division and use of land, within the scope of, but not limited to, chapters 331, 335, 364, 414, and this chapter. All documents presented for recording pursuant to this chapter shall comply with section ~~331.602, subsection 1~~ 331.606B.

Sec. 47. Section 354.4, subsection 2, Code 2005, is amended to read as follows:

2. The auditor ~~may~~ shall note a permanent real estate index number upon each parcel shown on a plat of survey according to section 441.29 for real estate tax administration purposes. The surveyor shall not assign parcel letters or prepare a metes and bounds description for any parcel shown on a plat of survey unless the parcel was surveyed by the surveyor in compliance with chapter 355. Parcels within a plat of survey prepared pursuant to this section are subject to the regulations and ordinances of the governing body.

Sec. 48. Section 354.5, subsection 5, Code 2005, is amended to read as follows:

5. A description by reference to a permanent real estate index number is valid for the purpose of assessment and taxation ~~when a county has established a~~ under the permanent real estate index number system pursuant to section 441.29.

Sec. 49. Section 354.27, Code 2005, is amended to read as follows:

354.27 NOTING THE PERMANENT REAL ESTATE INDEX NUMBER.

When a permanent real estate index number system ~~has been~~ is established by a county pursuant to section 441.29, the auditor ~~may~~ shall note the permanent real estate index number on every conveyance.

Sec. 50. Section 368.7, subsection 1, paragraphs a and d, Code 2005, are amended to read as follows:

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. 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~~ shall not be used to determine the per-

centage of territory that is included with the consent of the owner and without the consent of the owner.

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 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~~ shall not assess the costs of providing notice as required in this section to the applicants.

Sec. 51. Section 368.25, Code 2005, 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~~ 3, paragraph "n", 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~~ 3, paragraph "n". 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~~ 3, paragraph "n", within the time period specified in that subsection, the city development board 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. A city may request that the board allow up to an additional three years to provide municipal services if good cause is shown. 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 included in the plan required by section 368.11, subsection ~~14~~ 3, paragraph "n", for extending municipal services.

Sec. 52. Section 421.17, subsection 27, paragraph a, Code 2005, is amended to read as follows:

a. To establish, administer, and make available a centralized debt collection capability and procedure for the use by any state agency as defined in ~~former subsection 29~~ section 8A.504 to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department's collection facilities shall only be available for use by other state agencies for their discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency.

Sec. 53. Section 422.7, subsection 34, Code 2005, is amended by striking the subsection.

Sec. 54. Section 422.35, subsection 14, Code 2005, is amended by striking the subsection.

Sec. 55. Section 423.33, subsection 3, Code 2005, is amended to read as follows:

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~~ the state~~, county, or district agricultural~~ fair or a fair as defined in section 174.1.

Sec. 56. Section 441.39, Code 2005, 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 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~~ or 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. 57. Section 455B.174, subsection 4, paragraph e, Code 2005, is amended to read as follows:

e. If a public water supply has a groundwater source that contains petroleum, a fraction of crude oil, or their degradation products, or is located in an area deemed by the department as likely to be contaminated by such materials, and after consultation with the public water supply system and consideration of all applicable rules relating to remediation, the department may require the public water supply system to replace that groundwater source in order to receive a permit to operate. The requirement to replace the source shall only be made by the department if the public water supply system is fully compensated for any additional design, construction, operation, and monitoring costs from the Iowa comprehensive petroleum underground storage tank fund created by chapter 455G or from any other funds that do not impose a financial obligation on the part of the public water supply system. Funds available to or provided by the public water supply system may be used for system improvements made in conjunction with replacement of the source. The department cannot require a public water supply system to replace its water source with a less reliable water source or with a source that does not meet federal primary, secondary, or other health-based standards unless treatment is provided to ensure that the drinking water meets these standards. Nothing in this paragraph shall affect the public water ~~supply's~~ supply system's right to pursue recovery from a responsible party.

Sec. 58. Section 455B.751, subsection 7, Code 2005, is amended to read as follows:

7. "Third party" means any person other than a person that holds indicia of title to property ~~as identified in section 455B.752, subsection 1,~~ or that has acquired property as identified in section 455B.752~~, subsection 2~~.

Sec. 59. Section 455G.2, subsection 6, Code 2005, is amended to read as follows:

6. "Claimant" means an owner or operator who has received assistance under the remedial account or who ~~has~~ had coverage under the underground storage tank insurance fund, established in section 455G.11, Code 2003, with respect to a release, or an installer or inspector who ~~has~~ had coverage under the underground storage tank insurance fund.

Sec. 60. Section 455G.2, subsection 15, Code 2005, is amended by striking the subsection.

Sec. 61. Section 455G.3, subsection 1, Code 2005, 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 423.43, subsection 1, paragraph "a", and sections 455G.8, 455G.9, and 455G.11, Code 2003, 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. 62. Section 455G.3, subsection 3, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 63. Section 455G.4, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. 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 as it existed on June 30, 2004, 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. 64. Section 455G.4, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The board shall adopt rules regarding its practice and procedures, develop underwriting standards, ~~establish premiums for insurance fund coverage and risk factors,~~ procedures for investigating and settling claims made against the fund, ~~determine appropriate deductibles or retentions in coverages or benefits offered,~~ and otherwise implement and administer this chapter.

Sec. 65. Section 455G.4, subsection 3, paragraphs d and e, Code 2005, are amended by striking the paragraphs.

Sec. 66. Section 455G.13, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. An owner or operator's liability for a release for which coverage is admitted under the underground storage tank insurance fund established in section 455G.11, Code 2003, shall not exceed the amount of the deductible.

Sec. 67. Section 455G.13, subsection 12, Code 2005, is amended to read as follows:

12. RECOVERY OR SUBROGATION — INSTALLERS AND INSPECTORS. Notwithstand-

ing any other provision contained in this chapter, the board or a person insured under the underground storage tank insurance fund, established in section 455G.11, Code 2003, has no right of recovery or right of subrogation against an installer or an inspector who was insured by the underground storage tank insurance fund for the tank giving rise to the liability other than for recovery of any deductibles paid.

Sec. 68. Section 455G.14, Code 2005, is amended to read as follows:

455G.14 FUND NOT SUBJECT TO REGULATION.

The fund~~, including but not limited to insurance coverage offered by the insurance fund,~~ is not subject to regulation under chapter 502 or Title XIII, subtitle 1.

Sec. 69. Section 455G.17, subsection 3, Code 2005, is amended to read as follows:

3. The board shall adopt approved curricula for training persons to install underground storage tanks ~~in such a manner that the resulting installation may be certified under section 455G.11, subsection 10,~~ and provide fire safety and environmental protection guidelines for persons removing tanks.

Sec. 70. Section 488.108, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. Each name reserved under section 488.109, or under sections 486A.1001, 490.401, 490.402, 490A.401, 490A.402, 504.401, 504.402, 504A.6, 504A.7, and 547.1.

Sec. 71. Section 488.1003, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The person ~~that~~ was a partner when the conduct giving rise to the action occurred.

2. The ~~person whose~~ person's status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

Sec. 72. Section 490.850, subsection 2, Code 2005, is amended to read as follows:

2. "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, that director 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.

Sec. 73. Section 501.103, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A cooperative that claims that it is exempt from the restrictions of section 9H.4 pursuant to subsection 2 shall file ~~an annual~~ a biennial report with the secretary of state on or before March 31 of each even-numbered year on forms supplied by the secretary of state. The report shall be signed by the president or the vice president of the cooperative and shall contain the following:

Sec. 74. Section 502.102, subsection 17, paragraph d, Code 2005, is amended to read as follows:

d. 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. 75. Section 502.204, subsection 1, Code 2005, is amended to read as follows:

1. ENFORCEMENT-RELATED POWERS. Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under section 502.201, subsection 3, paragraph "c", or subsection 7 ~~or 8~~, 8A, or 8B, or section 502.202, or an exemption or waiver created under section 502.203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in section 502.306, subsection 4, or section 502.604, and only prospectively.

Sec. 76. Section 502.508, subsection 2, Code 2005, is amended to read as follows:

2. CRIMINAL REFERENCE NOT REQUIRED. The attorney general or the proper county attorney, with or without a reference from the administrator, may institute criminal proceedings under this chapter.

Sec. 77. Section 504.111, subsection 3, Code 2005, is amended to read as follows:

3. The document must contain the information required by this ~~subchapter~~ chapter. It may contain other information as well.

Sec. 78. Section 504.141, subsection 30, Code 2005, is amended to read as follows:

30. "Record date" means the date established under subchapter VI or VII on which a corporation determines the identity of its members for the purposes of this ~~subchapter~~ chapter.

Sec. 79. Section 504.142, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. When electronically transmitted to the ~~shareholder~~ member in a manner authorized by the ~~shareholder~~ member.

Sec. 80. Section 504.142, subsection 8, Code 2005, is amended to read as follows:

8. Written notice is correctly addressed to a domestic or foreign corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered ~~an annual~~ a biennial report, in its application for a certificate of authority.

Sec. 81. Section 504.202, subsection 2, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) A violation of section ~~504.834~~ 504.835.

Sec. 82. Section 504.202, subsection 2, paragraph e, subparagraph (3), Code 2005, is amended to read as follows:

(3) A violation of section ~~504.834~~ 504.835.

Sec. 83. Section 504.401, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved or registered under section 490.402, 490.403, 504.402, ~~or~~ 504.403, or 504A.6.

Sec. 84. Section 504.401, subsection 5, Code 2005, is amended to read as follows:

5. This ~~subchapter~~ chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 85. Section 504.403, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. A corporate name reserved under section 490.402, 490.403, ~~or~~ 504.402, or 504A.6 or registered under this section.

Sec. 86. Section 504.704, subsection 1, Code 2005, is amended to read as follows:

1. Unless limited or prohibited by the articles or bylaws of the corporation, action required or permitted by this ~~subchapter~~ chapter to be approved by the members of a corporation may be approved without a meeting of members if the action is approved by members holding at least eighty percent of the voting power. The action must be evidenced by one or more written consents describing the action taken, signed by those members representing at least eighty percent of the voting power, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A written consent may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of unrevoked written consents sufficient in number to take corporation action.

Sec. 87. Section 504.705, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The notice of an annual or regular meeting includes a description of any matter or matters which must be considered for approval by the members under sections 504.833, ~~504.857~~ 504.859, 504.1003, 504.1022, 504.1104, 504.1202, ~~504.1401,~~ and 504.1402.

Sec. 88. Section 504.706, subsection 1, Code 2005, is amended to read as follows:

1. A member may waive any notice required by this ~~subchapter~~ chapter, the articles, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

Sec. 89. Section 504.713, subsection 1, Code 2005, is amended to read as follows:

1. Unless this ~~subchapter~~ chapter or the articles or bylaws of a corporation provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

Sec. 90. Section 504.714, subsection 1, Code 2005, is amended to read as follows:

1. Unless this ~~subchapter~~ chapter or the articles or bylaws of a corporation require a greater vote or voting by class, if a quorum is present, the affirmative vote of the votes represented and voting, which affirmative votes also constitute a majority of the required quorum, is the act of the members.

Sec. 91. Section 504.822, subsection 1, Code 2005, is amended to read as follows:

1. Except to the extent the articles or bylaws of a corporation require that action by the board of directors be taken at a meeting, action required or permitted by this ~~subchapter~~ chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

Sec. 92. Section 504.824, Code 2005, is amended to read as follows:

504.824 WAIVER OF NOTICE.

1. A director may at any time waive any notice required by this ~~subchapter~~ chapter, the articles, or bylaws. Except as provided in subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records.

2. A director's attendance at or participation in a meeting waives any required notice of the meeting unless the director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with this ~~subchapter~~ chapter, the articles, or bylaws, objects to lack of notice and does not thereafter vote for or assent to the objected-to action.

Sec. 93. Section 504.825, Code 2005, is amended to read as follows:

504.825 QUORUM AND VOTING.

1. Except as otherwise provided in this ~~subchapter~~ chapter, or the articles or bylaws of a corporation, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins. The articles or bylaws shall not authorize a quorum of fewer than one-third of the number of directors in office.

2. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless this ~~subchapter~~ chapter, the articles, or bylaws require the vote of a greater number of directors.

Sec. 94. Section 504.832, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. That section 504.202, subsection 2, paragraph "d", or 504.901 or the protection afforded by section ~~504.831~~ 504.833, if interposed as a bar to the proceeding by the director, does not preclude liability.

Sec. 95. Section 504.832, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. Affect any rights to which the corporation or a ~~shareholder~~ member may be entitled under another statute of this state or the United States.

Sec. 96. Section 504.833, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A transaction in which a director of a ~~mutual benefit~~ corporation has a conflict of interest may be approved if either of the following occurs:

Sec. 97. Section 504.833, subsection 5, Code 2005, is amended to read as follows:

5. For purposes of subsection 2, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection 3, paragraph "a", shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 2, paragraph "b". The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this ~~subchapter~~ chapter. A majority of the voting power, whether or not present, that is entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Sec. 98. Section 504.835, subsection 1, Code 2005, is amended to read as follows:

1. Unless a director complies with the applicable standards of conduct described in section 504.831, a director who votes for or assents to a distribution made in violation of this ~~subchapter~~ chapter is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this ~~subchapter~~ chapter.

Sec. 99. Section 504.835, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this ~~subchapter~~ chapter.

Sec. 100. Section 504.852, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. In connection with a proceeding by or in the right of the corporation, except for reason-

able expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

Sec. 101. Section 504.856, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. By the members of a ~~mutual benefit~~ corporation, but directors who are at the time parties to the proceeding shall not vote on the determination.

Sec. 102. Section 504.857, subsection 1, paragraph b, subparagraph (2), subparagraph subdivision (b), Code 2005, is amended to read as follows:

(b) An intentional infliction of harm on the corporation or the ~~shareholders~~ members.

Sec. 103. Section 504.901, subsection 3, Code 2005, is amended to read as follows:

3. A violation of section ~~504.834~~ 504.835.

Sec. 104. Section 504.1008, Code 2005, is amended to read as follows:

504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation, or any property held by it by virtue of any trust upon which such property is held by the corporation, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

Sec. 105. Section 504.1101, subsection 1, Code 2005, is amended to read as follows:

1. Subject to the limitations set forth in section 504.1102, one or more nonprofit corporations may merge with or into any one or more business corporations or nonprofit corporations or limited liability companies, if the plan of merger is approved as provided in section 504.1103.

Sec. 106. Section 504.1102, subsection 1, paragraph d, subparagraph (3), Code 2005, is amended to read as follows:

(3) The merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in or officers, employees, agents, or consultants of the surviving ~~corporation~~ entity.

Sec. 107. Section 523A.402, subsection 6, paragraph c, Code 2005, is amended to read as follows:

c. The annuity shall not be contestable, or limit death benefits in the case of suicide, with respect to that portion of the face amount of the annuity which is required by paragraph "b". The annuity shall not refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

Sec. 108. Section 524.310, subsection 1, Code 2005, is amended to read as follows:

1. The name of a state bank originally incorporated or organized after the effective date of this chapter shall include the word "bank" and may include the word "state" or "trust" in its name. A state bank using the word "trust" in its name must be authorized under this chapter to act in a fiduciary capacity. A national bank or federal savings ~~bank~~ association shall not use the word "state" in its legally chartered name.

Sec. 109. Section 524.1201, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 110. Section 524.1303, subsections 4 and 5, Code 2005, are amended to read as follows:

4. Within thirty days after the date of the ~~second~~ publication of the notice, any interested person may submit to the superintendent written comments and data on the application. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

5. Within thirty days after the date of the ~~second~~ publication of the notice, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Comments challenging the legality of an application shall be submitted separately in writing and shall not be considered at a hearing conducted pursuant to this section. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

Sec. 111. Section 524.1309, subsections 5 and 6, Code 2005, are amended to read as follows:

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after approval by the superintendent of the plan to cease the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 490A, the state bank shall give notice of its intent to persons identified in section 524.1305, subsection 4 3, in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in section 524.1305, subsections 4, 5, and 6.

6. Upon completion of all the requirements of this section, the state bank shall deliver to the superintendent articles of intent to be subject to chapter 490 or 490A, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with this section, that it has ceased to carry on the business of banking, and the information required by section 490.202 relative to the contents of articles of incorporation under chapter 490, or article of organization under chapter 490A. If the superintendent finds that the state bank has complied with this section and that the articles of intent to be subject to chapter 490 or 490A satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and ~~they~~ the superintendent shall ~~be filed~~ file and ~~recorded~~ record them in the office of the county recorder.

Sec. 112. Section 524.1402, subsections 5 and 6, Code 2005, are amended to read as follows:

5. Within thirty days after the date of the ~~second~~ publication of the notice required under subsection 4, any interested person may submit to the superintendent written comments and data on the application. Comments challenging the legality of an application shall be submitted separately in writing. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

6. Within thirty days after the date of the ~~second~~ publication of the notice required under subsection 4, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hear-

ing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

Sec. 113. Section 535.8, subsection 2, paragraph b, unnumbered paragraph 3, Code 2005, is amended to read as follows:

The collection of any costs other than as expressly permitted by this paragraph "b" is prohibited. However, additional costs incurred in connection with a loan under this paragraph "b", if bona fide and reasonable, may be collected by a state-chartered financial institution licensed under chapter 524, 533, or 534, to the extent permitted under applicable federal law as determined by the office of the comptroller of the currency of the United States department of treasury, the national credit union administration, or the office of thrift supervision of the United States department of treasury. Such costs shall apply only to the same type of state-chartered entity as the federally chartered entity affected and shall apply to and may be collected by an insurer organized under chapter 508 or 515, or otherwise authorized to conduct the business of insurance in this state.

Sec. 114. Section 535.8, subsection 2, paragraph b, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Nothing in this section shall be construed to change the prohibition against the sale of title insurance or sale of insurance against loss or damage by reason of defective title or encumbrances as provided in section 515.48, subsection 10.

Sec. 115. Section 546.10, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The real estate appraiser examining board created pursuant to section 543D.4.

Sec. 116. Section 551A.9, subsection 3, paragraph e, Code 2005, is amended to read as follows:

e. Misrepresent the amount of profits, net or gross, which the ~~business opportunity~~ purchaser can expect from the operation of the business opportunity.

Sec. 117. Section 602.8102, subsection 135A, Code 2005, is amended to read as follows:

135A. Assess the surcharges provided by sections 911.1, 911.2, 911.3, and 911.4.

Sec. 118. Section 714.22, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The provisions of sections 714.17 ~~to 714.22~~ through 714.21 shall not apply to trade or vocational schools if they meet either of the following conditions:

Sec. 119. Section 814.11, subsection 7, Code 2005, is amended to read as follows:

7. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 120. Section 815.10, subsection 6, Code 2005, is amended to read as follows:

6. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from

ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined that the attorney has provided ineffective assistance of counsel, and the ineffective assistance of counsel ~~claim~~ is the proximate cause of the damage.

Sec. 121. 2002 Iowa Acts, chapter 1111, section 36, is repealed.

Sec. 122. 2004 Iowa Acts, chapter 1049, section 81, the portion enacting section 504.810, subsection 1, paragraph a, is amended to read as follows:

a. A director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation.

Sec. 123. 2004 Iowa Acts, chapter 1049, section 101, the portion enacting section 504.851, subsection 6, paragraph b, is amended to read as follows:

b. When used with respect to an officer, as contemplated in section 504.857, the office in a corporation held by the officer. "Official capacity" does not include service for any other foreign or domestic business or nonprofit corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

Sec. 124. 2004 Iowa Acts, chapter 1161, is amended by adding the following new section:

SEC. 62A. Section 502.701, subsection 1, Code 2003, is amended to read as follows:

1. A joint investment trust organized pursuant to chapter 28E for the purposes of joint investment of public funds is subject to the jurisdiction and authority of the administrator, including all requirements of this chapter, except the registration provisions of sections ~~502.201~~ 502.301 and ~~502.218~~ 502.321I.

Sec. 125. Sections 101.28, 163.13, 163.22, and 266.32, Code 2005, are repealed.

Sec. 126. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. The section of this Act amending section 22.1, subsection 3, is retroactively applicable to July 1, 2004, and is applicable on and after that date.

2. The section of this Act repealing 2002 Iowa Acts, chapter 1111, section 36, takes effect upon enactment and applies retroactively to June 30, 2004.

3. The section of this Act amending 2004 Acts, chapter 1049, section 81, takes effect upon enactment and applies retroactively to July 1, 2004.

4. The section of this Act amending 2004 Iowa Acts, chapter 1049, section 101, takes effect upon enactment and applies retroactively to July 1, 2004.

5. The section of this Act amending 2004 Iowa Acts, chapter 1161, takes effect upon enactment and applies retroactively to January 1, 2005.

Approved April 6, 2005

CHAPTER 20

TRANSPORTATION — ADMINISTRATION, FUNDING, AND MISCELLANEOUS REGULATIONS

H.F. 591

AN ACT relating to state department of transportation duties concerning its budget, distribution of state institutional road funds, vehicle weight and length restrictions, all-terrain vehicle use, evidence of interstate authority and penalties, and providing an effective date.

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

Section 1. Section 307.10, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 2. Section 307.22, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 3. Section 307A.2, subsection 11, Code 2005, is amended to read as follows:

11. Construct, reconstruct, improve, and maintain state institutional roads and state park roads, which are part of the state park, state institution, and other state land road system as defined in section 306.3, and bridges on such roads, roads located on state fairgrounds as defined in chapter 173, and the roads and bridges located on community college property as defined in chapter 260C, upon the request of the state board, department, or commission which has jurisdiction over such roads. This shall be done in such manner as may be agreed upon by the state transportation commission and the state board, department, or commission which has jurisdiction. The commission may contract with any county or municipality for the construction, reconstruction, improvement, or maintenance of such roads and bridges. Any state park road which is an extension of either a primary or secondary highway which both enters and exits from a state park at separate points shall be constructed, reconstructed, improved, and maintained as provided in section 306.4. Funds allocated from the road use tax fund for the purposes of this subsection shall be apportioned in the ~~ratio that the needs of the state institutional roads and bridges, park roads and bridges, or community college roads and bridges bear to the total needs of these facilities based upon the most recent quadrennial park and institution need study.~~ following manner and amounts:

a. For department of natural resources facility roads, forty-five and one-half percent.
b. For department of human services facility roads, six and one-half percent.
c. For department of corrections facility roads, five and one-half percent.
d. For national guard facility roads, four percent.
e. For state board of regents facility roads, thirty percent.
f. For state fair board facility roads, two percent.
g. For department of administrative services facility roads, one-half percent.
h. For department of education facility roads, six percent.

Sec. 4. Section 321.1, subsection 88, Code 2005, is amended to read as follows:

88. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. However, a truck tractor may have a box, deck, or plate for carrying freight, mounted on the frame behind the cab, and forward of the fifth-wheel connection point.

Sec. 5. Section 321.463, subsection 5, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The maximum gross weight allowed to be carried on a vehicle or combination of vehicles on highways which are part of the ~~interstate~~ primary system is as follows:

Sec. 6. Section 321.463, subsection 5, paragraph b, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The maximum gross weight allowed to be carried on a vehicle or combination of vehicles on ~~noninterstate~~ nonprimary highways is as follows:

Sec. 7. Section 321.463, subsection 8, Code 2005, is amended to read as follows:

8. A vehicle or combination of vehicles transporting materials or equipment on nonprimary highways to or from a construction project or commercial plant site may operate under the maximum gross weight table for ~~interstate~~ primary highways in subsection 5, paragraph "a", if the route is approved by the ~~department or~~ appropriate local authority. Route approval is not required if the vehicle or combination of vehicles transporting materials or equipment to or from a construction project or commercial plant site complies with the maximum gross weight table for noninterstate highways in subsection 5, paragraph "c".

Sec. 8. Section 321I.2, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 9. Section 321I.10, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department of transportation may issue a permit to a state agency, a county, or a city to allow an all-terrain vehicle trail to cross a primary highway. The trail crossing shall be part of an all-terrain vehicle trail designated by the state agency, county, or city. A permit shall be issued only if the crossing can be accomplished in a safe manner and allows for adequate sight distance for both motorists and all-terrain vehicle operators. The department may adopt rules to administer this subsection.

Sec. 10. Section 327B.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 6. A motor carrier owner or driver shall carry proper evidence of interstate authority in the motor carrier and shall make such evidence available to a peace officer upon request.[1]

NEW SUBSECTION. 7. If a motor carrier owner or driver is cited for failure to have proper evidence of interstate authority, the owner or driver may produce such evidence to the clerk of court prior to the date of such person's court appearance as indicated on the citation, and the owner or driver shall not be convicted of such violation and the citation issued shall be dismissed.

Sec. 11. Section 327B.5, Code 2005, is amended to read as follows:

327B.5 PENALTY.

Any person violating the provisions of this chapter shall, upon conviction, be subject to a scheduled fine ~~of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days~~ as provided in section 805.8A, subsection 13, paragraphs "f" and "g".

Sec. 12. CODE EDITOR DIRECTIVE. The Code editor shall correct the titles of the charts in section 321.463, subsection 5, paragraphs "a" and "b", to conform with the amendments to those provisions of section 321.463 as contained in this Act.

Sec. 13. EFFECTIVE DATE. The sections of this Act amending section 321.463, being deemed of immediate importance, take effect upon enactment.

Approved April 6, 2005

[1] See chapter 179, §129 herein

CHAPTER 21

REGULATION OF AGRICULTURAL SEED

H.F. 642

AN ACT relating to the regulation of agricultural seed, by providing for preemption of local legislation.

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

Section 1. INTENT. It is the intent of the general assembly in enacting this Act to accomplish uniformity in oversight and regulation of seed used in agriculture. It is not intended that this Act preclude a local governmental entity from pursuing governmental activities not in conflict with this Act.

Sec. 2. Section 199.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11A. a. "Local governmental entity" means any political subdivision, or any state authority which is not any of the following:

(1) The general assembly.

(2) A principal central department as enumerated in section 7E.5, or a unit of a principal central department.

b. "Local governmental entity" includes but is not limited to a county, special district, township, or city as provided in title IX of this Code.

NEW SUBSECTION. 11B. "Local legislation" means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

Sec. 3. NEW SECTION. 199.13A LOCAL LEGISLATION — PROHIBITION.

1. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the production, use, advertising, sale, distribution, storage, transportation, formulation, packaging, labeling, certification, or registration of an agricultural seed. A local governmental entity shall not adopt or continue in effect such local legislation regardless of whether a statute or a rule adopted by the department specifically preempts the local legislation. Local legislation in violation of this section is void and unenforceable.

2. This section does not apply to any of the following:

a. Local legislation of general applicability to commercial activity.

b. A motion or resolution that provides for any activity relating to agricultural seed which is owned by the local governmental entity and which is kept or used on land held by the local governmental entity.

Approved April 6, 2005

CHAPTER 22

FINANCIAL INSTITUTION OR INSURER NAMES,
TRADEMARKS, LOGOS, OR SYMBOLS — PROHIBITED USE

S.F. 74

AN ACT relating to financial institutions and insurers, by prohibiting the deceptive use of name, and providing remedies and penalties.

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

Section 1. NEW SECTION. 547A.1 DEFINITION.

As used in this chapter, unless the context otherwise requires, "financial institution" means the same as defined in section 527.2, and "insurer" means an insurer organized under Title XIII, subtitle 1, or similar laws of any other state or the United States.

Sec. 2. NEW SECTION. 547A.2 MISUSE OF NAME — PENALTY.

1. A person who uses the name, trademark, logo, or symbol of a financial institution or insurer in connection with the sale, offering for sale, distribution, or advertising of any product or service without the consent of the financial institution or insurer, if such use is misleading or deceptive as to the source of origin or sponsorship of, or the affiliation with, the product or service, is guilty of a serious misdemeanor.

2. A financial institution or insurer may bring an action to enjoin the misleading or deceptive use prohibited in subsection 1 and recover all damages suffered by reason of the prohibited use, including reasonable attorney fees. The financial institution or insurer may recover any profits derived from the prohibited use. The state agency with regulatory authority over the financial institution or insurer may also bring an action to enjoin the misleading or deceptive use prohibited in subsection 1. This subsection does not preclude any other remedy provided by law.

Approved April 13, 2005

CHAPTER 23

CIVIL RIGHTS COMMISSION —
SERVICE AND DELIVERY OF COMPLAINTS AND ORDERS

S.F. 215

AN ACT modifying the certified mail requirement concerning the service and delivery of certain civil rights complaints and orders.

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

Section 1. Section 216.15, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. After the filing of a verified complaint, a true copy shall be served within twenty days ~~by certified mail~~ on the person against whom the complaint is filed. If the first named respondent on a complaint is not a governmental entity, service of a true copy on the respondent shall be by certified mail. An authorized member of the commission staff shall make a prompt inves-

tigation and shall issue a recommendation to an administrative law judge employed either by the commission or by the division of administrative hearings created by section 10A.801, who shall then issue a determination of probable cause or no probable cause.

Sec. 2. Section 216.15, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. If the administrative law judge concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the administrative law judge finds that no probable cause exists, the administrative law judge shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent ~~by certified mail~~. A finding of probable cause shall not be introduced into evidence in an action brought under section 216.16.

Sec. 3. Section 216.15, subsection 10, Code 2005, is amended to read as follows:

10. If, upon taking into consideration all of the evidence at a hearing, the commission finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue an order denying relief and stating the findings of fact and conclusions of the commission, and shall cause a copy of the order dismissing the complaint to be served ~~by certified mail~~ on the complainant and the respondent.

Sec. 4. Section 216.17, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure Act, chapter 17A, specified by section 17A.19, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed ~~by certified mail,~~ to the parties.

Approved April 13, 2005

CHAPTER 24

INTERNAL REVENUE CODE REFERENCES
AND INCOME TAX REVISIONS

H.F. 186

AN ACT updating the Code references to the Internal Revenue Code and including retroactive applicability and effective date provisions.

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

Section 1. Section 15.335, subsection 4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~1~~ 31, ~~2004~~ 2005.

Sec. 2. Section 15A.9, subsection 8, paragraph e, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~1~~ 31, ~~2004~~ 2005.

Sec. 3. Section 422.3, subsection 5, Code 2005, 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 ~~1~~ 31, ~~2003, and as amended by Pub. L. No. 108-27, section 202, whichever is applicable~~ 2005.

Sec. 4. Section 422.7, subsections 41 and 43, Code 2005, are amended by striking the subsections.

Sec. 5. Section 422.9, subsection 2, paragraph k, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

k. The deduction for state sales and use taxes is allowable only if the taxpayer elected to deduct the state sales and use taxes in lieu of state income taxes under section 164 of the Internal Revenue Code. A deduction for state sales and use taxes is not allowed if the taxpayer has taken the deduction for state income taxes or claimed the standard deduction under section 63 of the Internal Revenue Code. This paragraph applies to taxable years beginning after December 31, 2003, and before January 1, 2006.

Sec. 6. Section 422.10, subsection 3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~1~~ 31, ~~2004~~ 2005.

Sec. 7. Section 422.32, subsection 7, Code 2005, is amended to read as follows:

7. "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~~ 31, ~~2003, and as amended by Pub. L. No. 108-27, section 202, whichever is applicable~~ 2005.

Sec. 8. Section 422.33, subsection 5, paragraph d, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~1~~ 31, ~~2004~~ 2005.

Sec. 9. Section 422.35, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Subtract the amount of foreign dividend income, including subpart F income as defined in section 952 of the Internal Revenue Code, based upon the percentage of ownership as set forth in section 243 of the Internal Revenue Code.

Sec. 10. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2003, for tax years beginning on or after that date.

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

Approved April 13, 2005

CHAPTER 25

UTILITY REPLACEMENT TAX TASK FORCE

H.F. 187

AN ACT relating to the utility replacement tax task force.

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

Section 1. Section 437A.15, subsection 7, Code 2005, is amended to read as follows:

7. The department of management, in consultation with the department of revenue, shall coordinate the 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, electric companies, natural gas companies, municipal utilities, electric cooperatives, counties, cities, school boards, and industrial, commercial, and residential consumers, and other appropriate stakeholders. The director of the department of management and the director of revenue shall serve as cochairpersons of the task force.

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, 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 2004, the status of the task force study and any recommendations~~ through January 1, 2007. If the task force recommends modifications to the replacement tax that 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 transmit those recommendations to the general assembly.

Approved April 13, 2005

CHAPTER 26

TITLE GUARANTY PROGRAM —
MORTGAGE RELEASES — ABSTRACTOR CERTIFICATIONS

H.F. 332

AN ACT allowing certain abstractors to request a mortgage release.

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

Section 1. Section 16.92, subsection 1, paragraph g, Code 2005, is amended to read as follows:

g. "Real estate lender or closer" means a person licensed to regularly lend moneys to be secured by a mortgage on real property in this state, a licensed real estate broker, ~~or~~ a licensed attorney, or a participating abstractor.

Sec. 2. Section 16.92, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. "Participating abstractor" means an abstractor participating in the title guaranty program.

Approved April 13, 2005

CHAPTER 27

EQUIPMENT DEALERSHIPS — SALE OR TRANSFER

H.F. 373

AN ACT relating to equipment dealerships, by providing for the sale or transfer of a dealership and providing for the Act's applicability.

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

Section 1. NEW SECTION. 322F.5A TRANSFER OF DEALERSHIP.

1. If a supplier has contractual authority to approve or deny a request for a sale or transfer of a dealer's business or an equity ownership interest in the business, the supplier shall approve or deny the request within sixty days after receiving a written request from the dealer. If the supplier has not approved or denied the request within the sixty-day period, the request shall be deemed approved. The dealer's request shall include reasonable financial information, personal background information, character references, and work histories for each acquiring person.

2. If a supplier denies a request made pursuant to this section, the supplier shall provide the dealer with a written notice of the denial that states the reasons for the denial. A supplier may only deny a request based on the failure of a proposed transferee to meet the reasonable requirements consistently imposed by the supplier in determining whether to approve a transfer or a new dealership.

Sec. 2. Section 322F.9, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For all dealership agreements governing the sale or transfer of a dealer's business, section 322F.5A 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, 2005. Any dealership agreement in effect on July 1, 2005, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 2005.

Approved April 13, 2005

CHAPTER 28

DENTAL ASSISTANTS — EDUCATION AND TRAINING

H.F. 131

AN ACT relating to the required education and training for dental assistants.

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

Section 1. Section 153.39, subsection 2, Code 2005, is amended to read as follows:

2. A person shall be registered upon the successful completion of education and examination requirements pursuant to paragraph "a" or "b". ~~Education requirements shall be determined by the board by rule, and may be satisfied either through a formal series of classes or through job equivalency training, according to standards to be determined by the board.~~ Education requirements shall be determined by the board by rule, according to standards to be determined by the board.

a. Successful completion of a course of study and examination approved by the board and sponsored by a board-approved postsecondary school.

b. Successful completion of on-the-job training and examination consisting of all of the following:

(1) Completion of on-the-job training as specified in rule.

(2) Successful completion of an examination process approved by the board. A written examination may be waived by the board pursuant to section 17A.9A, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist's practice.

The education requirements in paragraphs "a" and "b" may include possession of a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. Successful passage of an examination administered by the board, under paragraph "a" or "b", which shall include sections regarding infection control, hazardous materials, and jurisprudence, shall also be required. The board shall establish continuing education requirements as a condition of renewing registration as a registered dental assistant, as well as standards for the suspension or revocation of registration.

Sec. 2. Section 153.39, subsection 3, Code 2005, is amended to read as follows:

3. Individuals ~~employed as a dental assistant as of July 1, 2001, shall be registered with the board and receive a certificate of registration, and individuals~~ employed as a dental assistant after July 1, ~~2001~~ 2005, shall have a ~~six-month~~ twelve-month period following their first date of employment after July 1, ~~2001~~ 2005, to comply with the provisions of subsection 1.

Approved April 15, 2005

CHAPTER 29

WATER QUALITY PROTECTION FUND — ACCOUNTS AND FEES

H.F. 291

AN ACT relating to accounts and fees under the water quality protection fund.

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

Section 1. Section 455B.183A, subsection 1, Code 2005, 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 ~~three accounts, including the administration account,~~ the public water supply system account~~,~~ and the private water supply system account. Moneys in the ~~administration~~ public water supply system account 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 are appropriated to the department~~, and 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.183A, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The operation of a public water supply system, including any part of the system. The commission shall adopt a fee schedule which shall be based on the total number of persons served by public water supply systems in this state. However, a public water supply system shall be assessed a fee of at least twenty-five dollars. A public water supply system not owned or operated by a community and serving a transient population shall be assessed a fee of twenty-five dollars. The commission shall calculate all fees in the schedule to produce total revenues equaling three hundred fifty thousand dollars for each fiscal year, commencing with the fiscal year beginning July 1, 1995, and ending June 30, 1996. For each fiscal year, ~~one-half of~~ the fees shall be deposited ~~into the administration account and one-half of the fees shall be deposited~~ into the public water supply system account. By May 1 of each year, the department shall estimate the total revenue expected to be collected from the overpayment of fees, which are all fees in excess of the amount of the total revenues which are expected to be collected under the current fee schedule, and the total revenue expected to be collected from the payment of fees during the next fiscal year. The commission shall adjust the fees if the estimate exceeds the amount of revenue required to be deposited in the ~~fund~~ account pursuant to this paragraph.

Approved April 15, 2005

CHAPTER 30

IOWA FINANCE AUTHORITY —
QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS

H.F. 370

AN ACT allowing the Iowa finance authority to issue qualified residential rental project bonds under the private activity bond allocation Act.

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

Section 1. Section 7C.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Qualified residential rental project bond" means a qualified residential rental project bond as defined in section 142(d) of the Internal Revenue Code.

Sec. 2. Section 7C.4A, subsection 1, Code 2005, is amended to read as follows:

1. Thirty percent of the state ceiling shall be allocated solely to the Iowa finance authority for any of the following purposes:

a. Issuing qualified mortgage bonds.

b. Reallocating the amount, or any portion thereof, to another qualified political subdivision for the purpose of issuing qualified mortgage bonds~~; or.~~

c. Exchanging the allocation, or any portion thereof, for the authority to issue mortgage credit certificates by election under section 25(c) of the Internal Revenue Code.

d. Issuing qualified residential rental project bonds.

However, at any time during the calendar year the executive director of the Iowa finance authority may determine that a lesser amount need be allocated to the Iowa finance authority and on that date this lesser amount shall be the amount allocated to the authority and the excess shall be allocated under subsection 7.

Approved April 15, 2005

CHAPTER 31

SOLID WASTE MANAGEMENT AND DISPOSAL

H.F. 399

AN ACT relating to the disposal of solid waste by planning areas and related solid waste management plans and reports.

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

Section 1. Section 455B.305, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The director shall not issue or renew a permit for a transfer station operating as part of an agreement between two planning areas pursuant to section 455B.306, subsection 1A, until the applicant, in conjunction with all local governments using the transfer station, documents that alternative methods of solid waste disposal other than final disposal in a sanitary landfill have been implemented as set forth in the plan filed pursuant to section 455B.306.

Sec. 2. Section 455B.306, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A city, county, and a private agency operating or planning to operate a sanitary disposal project shall file with the director ~~a~~ one of two types of comprehensive ~~plan~~ plans detailing the method by which the city, county, or private agency will comply with this part 1. The first type is a comprehensive plan in which solid waste is disposed of in a sanitary landfill within the planning area. The second type is a comprehensive plan in which all solid waste is consolidated at and transported from a transfer station for disposal at a sanitary landfill in another comprehensive planning area.

PARAGRAPH DIVIDED. All cities and counties shall also file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents.

Sec. 3. Section 455B.306, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses to use a municipal solid waste sanitary landfill in another planning area that complies with all requirements under subtitle D of the federal Resource Conservation and Recovery Act, with all solid waste generated within the planning area being consolidated at and transported from a permitted transfer station, may elect to retain autonomy as a planning area and shall not be required to join the planning area where the landfill being used for final disposal of solid waste is located. If a planning area makes the election under this subsection, the planning area receiving the solid waste from the planning area making the election shall not be required to include the planning area making the election in a comprehensive plan provided no services are shared between the two planning areas other than the acceptance of solid waste for sanitary landfill. The planning area receiving the solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs in the planning area receiving the solid waste. If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station, the department may establish permit conditions to address the transport and disposal of the solid waste. An election may be made under this subsection only if the two comprehensive planning areas enter into an agreement pursuant to chapter 28E that includes, at a minimum, all of the following:

a. A detailed methodology of the manner in which solid waste will be tracked and reported between the two planning areas.

b. A detailed methodology of the manner in which the receiving sanitary landfill will collect, remit, and report tonnage fees, pursuant to section 455B.310, paid by the planning area that is transporting the solid waste. The methodology shall include both the remittances of tonnage fees to the state and the retained tonnage fees.

Sec. 4. Section 455B.306, subsection 6, paragraph e, Code 2005, is amended to read as follows:

e. A description of the planning area and service area to be served by the city, county, or private agency under the comprehensive plan. ~~A~~ Except as provided in subsection 1A, a comprehensive plan shall not include a planning area or service area, any part of which is included in another comprehensive plan.

Sec. 5. Section 455B.310, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. Each sanitary landfill owner or operator shall submit a return to the department identifying the use of all fees retained under this section including the manner in which the fees were distributed. A planning area entering into an agreement pursuant to section 455B.306, subsection 1A, shall submit such information to the department and a planning area receiving the solid waste under such an agreement shall, in addition, submit evidence to the department

demonstrating that required retained fees were returned in a timely manner to other planning areas under the agreement. The return shall be submitted concurrently with the return required under subsection 7.

Sec. 6. Section 455B.310, subsection 7, Code 2005, is amended to read as follows:

7. Fees imposed by this section shall be paid to the department on a quarterly basis with payment due by no more than ninety days following the quarter during which the fees were collected. The payment shall be accompanied by a return which shall identify the amount of fees to be allocated to the landfill alternative financial assistance program, the amount of fees, in terms of cents per ton, retained for meeting waste reduction and recycling goals under section 455D.3, and additional fees imposed for failure to meet the twenty-five percent waste reduction and recycling goal under section 455D.3. Sanitary landfills serving more than one planning area shall submit separate reports for each planning area.

Approved April 15, 2005

CHAPTER 32

INTERSTATE NATURAL GAS PIPELINES

H.F. 581

AN ACT relating to interstate natural gas pipelines including requirements regarding construction, operation, and maintenance, applicable penalties and resultant damages, and easements.

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

Section 1. Section 306A.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department shall adopt rules, pursuant to chapter 17A, embodying a utility accommodation policy which imposes reasonable restrictions on placements occurring on or after the effective date of the rules, on primary road rights-of-way. The rules may require utilities to give notice to the department prior to installation of a utility system on a primary road right-of-way and obtain prior permission from the department for the proposed installation. The rules shall recognize emergency situations and the need for immediate installation of service extensions subject to the standards adopted by the department and the utilities board. The rules shall be no less stringent than the standards adopted by the utilities board pursuant to chapters 478, 479, ~~479A,~~ and 479B. This paragraph shall not be construed as granting the department authority which has been expressly granted to the utilities board to determine the route of utility installations. If the department requires a utility company permit, the department shall be required to act upon the permit application within thirty days of its filing. In cases of federal-aid highway projects on nonprimary highways, the local authority with jurisdiction over the highway and the department shall comply with all federal regulations and statutes regarding utility accommodation.

Sec. 2. Section 479A.1, Code 2005, is amended to read as follows:

479A.1 PURPOSE.

It is the purpose of the general assembly in enacting this law to confer upon the utilities

board the power and authority ~~to implement certain controls over the transportation of natural gas to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a pipeline within the state. It is also the purpose of the general assembly in enacting this law to provide for the board~~ to act as an agent for the federal government in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state.

Sec. 3. Sections 479A.3, 479A.5, 479A.6, 479A.8, 479A.10, 479A.12 through 479A.17, and 479A.19 through 479A.28, Code 2005, are repealed.

Approved April 15, 2005

CHAPTER 33

HOUSEHOLD HAZARDOUS WASTE —
COLLECTION, TRANSPORTATION, AND DISPOSAL

H.F. 602

AN ACT relating to the collection, transportation, and disposal of household hazardous waste.

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

Section 1. Section 455F.8A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A private agency which provides for the collection and disposal of household hazardous waste as part of an approved comprehensive plan pursuant to section 455B.306 shall be eligible for reimbursement moneys pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (2), subparagraph subdivision (e).

Sec. 2. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (d), Code 2005, is amended to read as follows:

(d) ~~Nine~~ For the fiscal year beginning July 1, 2005, nine and one-half percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis. Beginning July 1, 2006, six and one-quarter percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis. Beginning July 1, 2007, three percent to the department to establish permanent household hazardous waste collection sites so that both urban and rural populations are served and so that collection services are available to the public on a regular basis. Any moneys collected pursuant to this subparagraph subdivision that remain unexpended at the end of a fiscal year for establishment of permanent household hazardous waste collection sites shall be used for purposes of subparagraph subdivision (e).

Sec. 3. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (e), Code 2005, is amended to read as follows:

(e) ~~Three~~ For the fiscal year beginning July 1, 2005, three percent to the department for pay-

ment of transportation costs related to household hazardous waste collection programs. Beginning July 1, 2006, six and one-quarter percent to the department for payment of transportation costs related to household hazardous waste collection programs. Beginning July 1, 2007, nine and one-half percent to the department for payment of transportation costs related to household hazardous waste collection programs.

Approved April 15, 2005

CHAPTER 34

POWERS AND DUTIES OF COUNTY TREASURERS
— TAXES, FEES, AND EVIDENCE OF OWNERSHIP

S.F. 265

AN ACT relating to delinquent property taxes and other duties of the county treasurer and including effective date and applicability date provisions.

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

Section 1. Section 311.18, Code 2005, is amended to read as follows:

311.18 ASSESSMENT DELINQUENT — INTEREST.

The assessed taxes shall become delinquent from October 1 after their maturity ~~including those instances~~. However, when the last day of September is a Saturday or Sunday, the assessed taxes shall become delinquent from the second business day of October. Taxes assessed pursuant to this chapter which become delinquent shall bear the same interest, and be attended with the same rights and remedies for collection, as ordinary taxes.

Sec. 2. Section 317.21, subsection 1, Code 2005, is amended to read as follows:

1. Annually, after the weed commissioner has completed the program of destruction of weeds by reason of noncompliance by persons responsible for the destruction, the board of supervisors shall determine as to each tract of real estate the actual cost of labor and materials used by the commissioner in cutting, burning, or otherwise destroying the weeds, the cost of serving notice, and of special meetings or proceedings, if any. To the total of all sums expended, the board shall add an amount equal to twenty-five percent of that total to compensate for the cost of supervision and administration and assess the resulting sum against the tract of real estate by a special tax, which shall be certified to the county auditor and county treasurer by the clerk of the board of supervisors, and shall be placed upon the tax books, and collected, with interest after delinquent, in the same manner as other unpaid taxes. The tax shall be due on March 1 after assessment, and shall be delinquent from April 1 after due~~, including those instances~~. However, when the last day of March is a Saturday or Sunday, such amount shall be delinquent from the second business day of April. When collected, the moneys shall be paid into the fund from which the costs were originally paid.

Sec. 3. Section 321.20, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Except as provided in this chapter, an owner of a vehicle subject to registration shall make application to the county treasurer of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, or if

a lessor of the vehicle pursuant to chapter 321F which vehicle has a gross vehicle weight of less than ten thousand pounds, to the county treasurer of the county of the lessee's residence, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department. However, upon the transfer of ownership, the owner of a vehicle subject to the proportional registration provisions of chapter 326 shall make application for registration and issuance of a certificate of title to either the department or the appropriate county treasurer. The application shall be accompanied by a fee of ten dollars, and shall bear the owner's signature. A nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home or manufactured home shall make application for a certificate of title under this section from the county treasurer of the county where the mobile home or manufactured home is located. The application shall contain:

Sec. 4. Section 321.42, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. After five days, the department or county treasurer shall issue a replacement copy using the applicant's most recent bona fide address; however, the five-day waiting period does not apply to an applicant who is a lienholder or to an applicant who has surrendered the original certificate of title to the department or county treasurer. The replacement copy shall be clearly marked "replacement" and shall include security interests and liens. When a replacement copy has been issued, the previous certificate is void. The department or county treasurer is not authorized to refund fees collected for a replacement title under this section or section 321.52A.

Sec. 5. Section 321.46, subsection 1, Code 2005, is amended to read as follows:

1. The transferee shall, within thirty calendar days after purchase or transfer, apply for and obtain from the county treasurer of the person's residence or, if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, or, in the case of a mobile home or manufactured home, the county treasurer of the county where the mobile home or manufactured home is located, a new registration and a new certificate of title for the vehicle except as provided in section 321.25, 321.48, or 322G.12. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and shall indicate the name of the county in which the vehicle was last registered and the registration expiration date.

Sec. 6. Section 321.47, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If ownership of a vehicle is transferred by operation of law upon inheritance, devise or bequest, dissolution decree, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, a storage lien as provided in chapter 579, a judgment in an action for abandonment of a manufactured or mobile home as provided in chapter 555B, upon presentation of an affidavit relating to the disposition of a valueless mobile, modular, or manufactured home as provided in chapter 555C, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence or, in the case of a mobile home or manufactured home, the county treasurer of the county where the mobile home or manufactured home is located, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a regis-

tration card for the vehicle and a certificate of title to the vehicle. A person entitled to ownership of a vehicle under a decree of dissolution shall surrender a reproduction of a certified copy of the dissolution and upon fulfilling the other requirements of this chapter is entitled to a certificate of title and registration receipt issued in the person's name.

Sec. 7. Section 331.553, subsection 6, Code 2005, is amended to read as follows:

6. Require a payor or an agent of a payor to make payment by electronic transfer of the funds through the county treasurer's authorized website when the payment totals ~~one hundred~~ fifty thousand dollars or more.

Sec. 8. Section 331.553, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Treat a payment made by electronic funds transfer as if it were a paper check for purposes of section 554.3512.

Sec. 9. Section 384.60, subsection 2, Code 2005, is amended to read as follows:

2. On or before the second publication of the notice, the clerk shall send by mail to each property owner whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. The notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of the first notice of the final assessment schedule, and thereafter all unpaid special assessments bear interest at the rate specified by the council, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments as provided in section 384.65, subsection 3, and each installment will be delinquent from October 1 following its due date~~, including those instances~~. However, when the last day of September is a Saturday or Sunday, ~~and~~ that amount shall be delinquent from the second business day of October. Delinquent installments will draw ~~additionally~~ the same delinquent interest as ordinary taxes. The notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment or interest due on the special assessment.

Sec. 10. Section 384.65, subsection 4, Code 2005, is amended to read as follows:

4. Each installment of an assessment with interest on the unpaid balance is delinquent from October 1 after its due date~~, including those instances when the last day of September is a Saturday or Sunday,~~ and bears the same delinquent interest as ordinary taxes. However, when the last day of September is a Saturday or Sunday, the unpaid balance of the installment is delinquent from the second business day of October after its due date. When collected, the interest must be credited to the same fund as the special assessment.

To avoid interest on delinquent special assessment installments, a payment of the full installment amount must be received by the treasurer on or before the last business day of the month preceding the delinquent date, or mailed with appropriate postage and applicable fees paid, and a United States postal service postmark affixed to the payment envelope, with the postmark bearing a date preceding the delinquent date. Items returned to the sender by the United States postal service for insufficient postage or applicable fees shall be assessed interest, unless the appropriate postage and fees are paid and the items are postmarked again before the delinquent date. However, if the last calendar day of a month falls on a Saturday, Sunday, or a holiday, that amount becomes delinquent on the second business day of the following month.

To avoid interest on current or delinquent special assessment installments, for payments made through a county treasurer's authorized website only, if the last day of the month falls on a Saturday, Sunday, or a holiday, the electronic payment must be initiated by midnight on the first business day of the next month. All other electronic payments must be initiated by midnight on the last day of the month preceding the delinquent date.

Sec. 11. Section 435.24, subsection 6, Code 2005, is amended to read as follows:

6. a. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year home taxes. ~~A minimum payment amount shall be established by the treasurer.~~ The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in sections 445.3 and 445.4 and chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year home taxes.

b. Partial payment of taxes which are delinquent may be made to the county treasurer. ~~A minimum payment amount shall be established by the treasurer. The minimum payment must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent installment of the tax and~~ For the installment being paid, payment shall first be applied toward any interest, fees, and costs accrued and the remainder applied to the tax due. A partial payment must equal or exceed the interest, fees, and costs of the installment being paid. A partial payment made under this paragraph shall be apportioned in accordance with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 12. Section 445.5, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The treasurer may negotiate and charge a reasonable fee not to exceed the cost of producing the information for ~~the~~ a requestor described in paragraphs "c" through "e", for a tax statement or tax statement information provided by the treasurer.

Sec. 13. Section 445.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The titleholder may make written request to the treasurer to have the tax statement delivered to a person or entity in lieu of to the titleholder. A fee shall not be charged by the treasurer for delivering the tax statement to such person in lieu of to the titleholder.

Sec. 14. Section 445.36A, Code 2005, is amended to read as follows:

445.36A PARTIAL PAYMENTS.

1. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of taxes. ~~A minimum payment amount shall be established by the treasurer.~~ The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are

received, the treasurer shall collect the unpaid balance as provided in sections 445.3 and 445.4 and chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of taxes.

2. Partial payment of taxes which are delinquent may be made to the county treasurer. ~~A minimum payment amount shall be established by the treasurer. The minimum payment must be equal to or exceed the interest and costs attributed to the oldest delinquent installment of the tax and~~ For the installment being paid, payment shall first be applied to any interest, fees, and costs accrued and the remainder applied to the taxes due. A partial payment must equal or exceed the amount of interest, fees, and costs of the installment being paid. A partial payment made under this subsection shall be apportioned in accordance with section 445.57. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Current year taxes may be paid at any time regardless of any outstanding prior year delinquent tax.

This section does not apply to the payment of manufactured or mobile home taxes, special assessments, or rates or charges.

Sec. 15. Section 446.16, subsection 1, Code 2005, is amended to read as follows:

1. The person who offers to pay the total amount due, which is a lien on any parcel, for the smallest percentage of the parcel is the purchaser, and when the purchaser designates the percentage of any parcel for which the purchaser will pay the total amount due, the percentage thus designated shall give the person an undivided interest upon the issuance of a treasurer's deed, as provided in chapter 448. If two or more persons have placed an equal bid and the bids are the smallest percentage offered, the county treasurer shall use a random selection process to select the bidder to whom a certificate of purchase will be issued. The percentage that may be designated by any purchaser under this subsection shall not be less than one percent.

Sec. 16. Section 446.19A, subsections 1 through 4, Code 2005, are amended to read as follows:

1. The board of supervisors of a county may adopt an ordinance authorizing the county and each city in the county to bid on and purchase delinquent taxes and to assign tax sale certificates of abandoned property or vacant lots. This section may only be used by a county or by a city in the county if such an ordinance is in effect.

2. On the day of the regular tax sale or any continuance or adjournment of the tax sale, the county or a city may bid for abandoned property assessed as residential property or as commercial multifamily housing property or for a vacant lot a sum equal to the total amount due. Money shall not be paid by the county or city for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price. Prior to the purchase, the county or city shall file with the county treasurer a verified statement that a parcel to be purchased is abandoned ~~and deteriorating in condition or is, or is likely to become, a public nuisance~~ property, and that the parcel is suitable for use as housing following rehabilitation or that a parcel to be purchased is a vacant lot.

3. If after the date that a parcel is sold pursuant to this chapter, or after the date that a parcel is sold under section 446.18, 446.38, or 446.39, the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned or as a vacant lot pursuant to a verified statement filed with the county treasurer by a city or county in the form set

forth in subsection 2, a city or county may require the assignment of the tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and recorded with the county treasurer. If a certificate holder fails to assign the certificate of purchase to the city or county, the county treasurer is authorized to issue a duplicate certificate of purchase, which shall take the place of the original certificate, and assign the duplicate certificate to the city or county. If the certificate is not assigned by the county or city pursuant to subsection 4, the county or city, whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to section 447.1, as of the date of assignment.

4. a. The city or county may assign the tax sale certificate obtained pursuant to this section. Persons who purchase certificates from the city or county under this subsection are liable for the total amount due the certificate holder pursuant to section 447.1.

b. All persons who purchase certificates from the city or county under this subsection shall demonstrate the intent to rehabilitate the abandoned property for habitation or build a residential structure on the vacant lot if the property is not redeemed. In the alternative, the county or city may, if title to the property has vested in the county or city under section 448.1, dispose of the property in accordance with section 331.361 or 364.7, as applicable.

Sec. 17. Section 446.19A, subsection 5, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

5. For purposes of this section:

a. "Abandoned property" means a lot or parcel containing a building which is used or intended to be used for residential purposes and which has remained vacant and has been in violation of the housing code of the city in which the property is located or of the housing code applicable in the county in which the property is located if outside the limits of a city, for a period of six consecutive months.

b. "Vacant lot" means a lot or parcel located in a city or outside the limits of a city in a county that contains no buildings or structures and that is zoned to allow for residential structures.

Sec. 18. Section 446.37, Code 2005, is amended to read as follows:

446.37 FAILURE TO OBTAIN DEED — CANCELLATION OF SALE.

After three years have elapsed from the time of any tax sale, and ~~action has not been completed during the time which qualifies the holder of a certificate to obtain a deed~~ the holder of a certificate has not filed an affidavit of service of notice of expiration of right of redemption under section 447.12, the county treasurer shall cancel the sale from the county system. However, ~~this~~ if the filing of affidavit of service is stayed by operation of law, the time period for the filing of the affidavit shall not expire until the later of six months after the stay has been lifted or three years from the time of the tax sale. This section does not apply to certificates of purchase at tax sale which are held by a county.

Sec. 19. Section 447.8, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

447.8 REDEMPTION AFTER DELIVERY OF DEED.

1. After the delivery of the treasurer's deed, a person entitled to redeem a parcel sold at tax sale shall do so only by an equitable action in the district court of the county where the parcel is located. The action may be maintained only by a person who was entitled to redeem the parcel during the ninety-day redemption period in section 447.12, except that such a person may assign the person's right of redemption or right to maintain the action to another person.

In order to establish the right to redeem, the person maintaining the action shall be required to prove to the court either that the person maintaining the action or a predecessor in interest was not properly served with notice in accordance with the requirements of sections 447.9 through 447.12, or that the person maintaining the action or a predecessor in interest acquired an interest in or possession of the parcel during the ninety-day redemption period in section 447.12. A person shall not be entitled to maintain such action by claiming that a different per-

son was not properly served with notice of expiration of right of redemption, if the person seeking to maintain the action, or the person's predecessor in interest, if applicable, was properly served with the notice. A person is not allowed to redeem a parcel sold for delinquent taxes in any other manner after the execution and delivery of the treasurer's deed.

2. The person maintaining the action shall name as defendants all persons claiming an interest in the parcel derived from the tax sale, as shown by the record.

3. If the court determines that notice was properly served, the court shall enter judgment holding that all rights of redemption are terminated and that the validity of the tax title or purported tax title is conclusively established as a matter of law.

4. If the court determines that notice was not properly served and that the person maintaining the action is entitled to redeem, the court shall so order. The order shall determine the rights, claims, and interests of all parties, including liens for taxes and claims for improvements made on or to the parcel by the person claiming under the tax title. The order shall establish the amount necessary to effect redemption. The redemption amount shall include the amount for redemption computed in accordance with section 447.1, including interest computed up to and including the date of payment of the total redemption amount to the clerk of court; the amount of all costs added to the redemption amount in accordance with section 447.13; and, in the event that the person claiming under the tax title has made improvements on or to the parcel after the treasurer's deed was issued, an amount equal to the value of all such improvements. The order shall direct that the person maintaining the action shall pay to the clerk of court, within thirty days after the date of the order, the total redemption amount established in the order.

5. Upon timely receipt of the payment, the court shall enter judgment declaring the treasurer's deed to be invalid and determining the resulting rights, claims, and interests of all parties to the action. In its judgment, the court shall direct the clerk of court to deliver the entire amount of the redemption payment to the person who previously claimed title under the treasurer's deed.

If the person maintaining the action fails to timely deliver payment of the total redemption amount to the clerk of court, the court shall enter judgment holding that all rights of redemption are terminated and that the validity of the tax title or purported tax title is conclusively established as a matter of law. No subsequent action shall be brought to challenge the treasurer's deed or to recover the parcel.

6. If an affidavit is filed pursuant to section 448.15 and if the time period for filing a claim under section 448.16 expires with no claims having been filed, all persons are thereafter barred and estopped from commencing an action under this section.

Sec. 20. Section 447.13, Code 2005, is amended to read as follows:

447.13 COST — FEE — REPORT.

The cost of serving the notice, including the cost of sending certified mail notices, and the cost of publication under section 447.10, if publication is required, shall be added to the amount necessary to redeem. The cost of a record search shall also be added to the amount necessary to redeem. However, if the certificate holder is other than a county, the search must be performed by an abstracter who is an active participant in the title guaranty program under section 16.91 or by an attorney licensed to practice law in the state of Iowa, and the amount of the cost of the record search that may be added to the amount necessary to redeem shall not exceed three hundred dollars.

PARAGRAPH DIVIDED. The county treasurer shall file the proof of service and statement of costs and record these costs against the parcel. The certificate holder or the holder's agent shall report in writing to the treasurer the amount of authorized costs incurred, and the treasurer shall file the statement. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer and may be recovered through a court action against the parcel owner by the certificate holder. If the parcel is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the parcel is the subject of a conditional conveyance granted under the project,

the costs incurred for repairs and rehabilitation work required and undertaken in order to make the parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem.

~~For tax sale certificates of purchase held by a county, the cost of a record search and the cost of serving the notice, including the cost of mailing certified mail notices and the cost of publication under section 447.10, if publication is required, shall be added to the amount necessary to redeem.~~

Sec. 21. Section 448.6, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

448.6 ACTION TO CHALLENGE TREASURER'S DEED.

1. A deed executed by the county treasurer in conformity with the requirements of sections 448.2 and 448.3 shall be presumed to effect a valid title conveyance, and the treasurer's deed may be challenged only by an equitable action in the district court in the county in which the parcel is located. If the action seeks an order of the court to allow redemption after delivery of the treasurer's deed based on improper service of notice of expiration of right of redemption, the action shall be brought in accordance with section 447.8. If the action is not brought on that basis, the action shall be controlled by the provisions of this section.

2. A person shall not be permitted to maintain the action unless the person establishes that the person, or the person under whom the person claims title, had title to the parcel at the time of the sale, or that the title was obtained from the United States or this state after the sale, and that all amounts due upon the parcel for the applicable tax years have been paid by that person or by the person under whom that person claims title.

3. The person maintaining the action shall name as defendants the holder of the tax title and the treasurer of the county in which the parcel is located.

4. The person challenging the deed shall be required to prove, in order to invalidate the deed, any of the following:

a. That the parcel was not subject to taxes for the year or years named in the deed.

b. That the taxes had been paid before the sale.

c. That the parcel had been redeemed from the sale and that the redemption was made for the use and benefit of persons having the right of redemption.

d. That there had been an entire omission to list or assess the parcel, or to levy the taxes, or to give notice of the sale, or to sell the parcel.

5. If the court determines that the person challenging the treasurer's deed has established one or more of the elements required under subsection 4 to be proven in order to invalidate the deed, the court shall enter judgment declaring the deed to be invalid. The judgment shall order the treasurer to refund to the person claiming under the tax title all sums paid to the treasurer for the purchase of the tax sale certificate and for any subsequent taxes paid by the certificate holder. If the person claiming under the tax title is determined by the court to have made improvements to the parcel, the court shall enter judgment in favor of the person claiming under the tax title for an amount equal to the value of such improvements made after the treasurer's deed was issued, and such judgment shall be a lien on the parcel until paid.

6. If an affidavit is filed pursuant to section 448.15, and if the time period for filing a claim under section 448.16 expires with no claims having been filed, all persons are thereafter barred and estopped from commencing an action under this section.

Sec. 22. Section 448.12, Code 2005, is amended to read as follows:

448.12 LIMITATION OF ACTIONS.

An action under section 447.8 or 448.6 or for the recovery of a parcel sold for the nonpayment of taxes shall not be brought after three years from the execution and recording of the county treasurer's deed~~, unless the owner is, at the time of the sale, a minor, a person with mental illness, or an inmate in an adult correctional institution, in which case the action must be brought within three years after the disability is removed~~.

~~This section, as amended by 1991 Iowa Acts, chapter 191, section 111, is effective for parcels~~

~~sold at tax sales occurring on or after April 1, 1992, and for disabilities removed on or after April 1, 1992. For tax sales occurring prior to April 1, 1992, the provisions of this section in effect on the date of the tax sale apply.~~

Sec. 23. Section 448.15, Code 2005, is amended to read as follows:

448.15 AFFIDAVIT BY TAX-TITLE HOLDER.

1. ~~Immediately~~ After taking possession of the parcel, after the issuance and recording of a tax deed or an instrument purporting to be a tax deed issued by a county treasurer of this state, the then owner or holder of the title or purported title may file with the county recorder of the county in which the parcel is located an affidavit substantially in the following form:

State of Iowa,)
. . . . . County.) ss.

I, ... , being first duly sworn, on oath depose and say that on . . . . . (date) the county treasurer issued a tax deed to . . . . . (grantee) for the following described parcel: . . . . . ; that the tax deed was filed for record in the office of the county recorder of . . . . . county, Iowa, on . . . . . (date), and appears in the records of the office in . . . . . county as recorded in Book . . . . Page . . . . of the . . . . . Records; and that . . . . . claims title to an undivided . . . . percent interest in the parcel by virtue of the tax deed, or purported tax title.

Any person claiming any right, title, or interest in or to the parcel adverse to the title or purported title by virtue of the tax deed referred to shall file a claim with the recorder of the county where the parcel is located, within one hundred twenty days after the filing of this affidavit, the claim to set forth the nature of the interest, also the time and manner in which the interest claimed was acquired. A person who files such a claim shall commence an action to enforce the claim within sixty days after the filing of the claim. If a claimant fails to file a claim within one hundred twenty days after the filing of this affidavit, or files a claim but fails to commence an action to enforce the claim within sixty days after the filing of the claim, the claim thereafter shall be forfeited and cancelled without any further notice or action, and the claimant thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title.

. . . . . .

Subscribed and sworn to before me this . . . . day of . . . . . (month), . . . (year).

. . . . . .

Notary Public in and for

. . . . . County, Iowa.

2. An owner or holder of a title or purported title who has entered into a lease agreement conveying possessory rights in the parcel to a tenant in possession shall be deemed to be in possession for purposes of filing an affidavit under this section.

3. For purposes of this section, if a tax deed or instrument purporting to be a tax deed has been issued to convey an undivided interest in the parcel of less than one hundred percent, the owner or holder of the tax title or purported tax title shall be deemed to be in possession and entitled to file the affidavit in subsection 1. However, before filing the affidavit, the owner or holder of the tax title or purported tax title shall serve a copy of the affidavit on any other person in possession of the parcel by sending a copy of the affidavit by both regular and certified mail to the person at the address of the parcel or at the person's last known address if different from the address of the parcel. Such service is deemed completed when the affidavit mailed by certified mail is postmarked for delivery. An affidavit of service shall be attached to, and filed with, the affidavit in subsection 1. The affidavit of service shall include the names and addresses of all persons served and the time of mailing.

Sec. 24. Section 448.16, Code 2005, is amended to read as follows:

448.16 CLAIMS ADVERSE TO TAX TITLE BARRED.

1. When the affidavit described in section 448.15 is filed it shall be notice to all persons, and

any person claiming any right, title, or interest in or to the parcel described adverse to the title or purported title by virtue of the tax deed referred to, shall file a claim with the county recorder of the county in which the parcel is located within one hundred twenty days after the filing of the affidavit, which claim shall set forth the nature of the interest, the time when and the manner in which the interest was acquired.

2. At the expiration of the period of one hundred twenty days, if no such claim has been filed, the validity of the tax title or purported tax title shall be conclusively established as a matter of law, and all persons shall thereafter be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title, ~~and no~~ including but not limited to any claim alleging improper service of notice of expiration of right of redemption. An action shall not thereafter be brought to ~~recover the parcel, and the then tax-title owner or owner of the purported~~ challenge the tax deed or tax title ~~shall also have acquired title to the parcel by adverse possession~~.

3. An action to enforce a claim filed under subsection 1 shall be commenced within sixty days after the date of filing the claim. The action may be commenced by the claimant, or a person under whom the claimant claims title, under either section 447.8 or 448.6. If an action by the claimant, or such other person, is not filed within sixty days after the filing of the claim, the claim thereafter shall be forfeited and cancelled without any further notice or action, and the claimant, or the person under whom the claimant claims title, thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title.

Sec. 25. Section 448.7, Code 2005, is repealed.

Sec. 26. EFFECTIVE DATE AND APPLICABILITY DATE PROVISIONS.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The section of the Act amending section 446.37 applies to tax sale certificates of purchase in existence before the effective date of the Act, notwithstanding section 447.14, and to tax sale certificates of purchase issued on or after the effective date of the Act.

3. The remainder of this Act applies to parcels sold at tax sales occurring on or after June 1, 2005.

Approved April 19, 2005

CHAPTER 35

DEPARTMENT OF PUBLIC SAFETY
— MISCELLANEOUS PROVISIONS

S.F. 283

AN ACT relating to the department of public safety by updating references, changing the names of divisions in the department, and changing practices and procedures.

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

Section 1. NEW SECTION. 80.1A DEFINITIONS.

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

1. "Commissioner" means the commissioner of public safety.
2. "Controlled substance" means the same as defined in section 124.101.
3. "Counterfeit substance" means the same as defined in section 124.101.

4. "Department" means the department of public safety.
5. "Peace officer" means a peace officer of the department as defined in section 97A.1.

Sec. 2. Section 80.6, Code 2005, is amended to read as follows:

80.6 IMPERSONATING PEACE OFFICER OR EMPLOYEE — UNIFORM.

Any person who impersonates ~~a member of the Iowa state patrol or other~~ a peace officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer or employee, with intent to deceive anyone, shall be guilty of a simple misdemeanor.

Sec. 3. Section 80.8, unnumbered paragraphs 1, 3, and 5, Code 2005, are amended to read as follows:

The commissioner ~~of public safety, with the approval of the governor,~~ shall ~~appoint such deputies, inspectors, officers, clerical workers and other employees~~ employ personnel as may be required to properly discharge the duties of ~~this~~ the department.

The salaries of ~~all members~~ peace officers and employees of the department and the expenses of the department shall be provided for by ~~the~~ a legislative appropriation ~~therefor~~. The compensation of peace officers of the department shall be fixed according to grades as to rank and length of service by the commissioner with the approval of the ~~governor~~ department of administrative services, unless covered by a collective bargaining agreement that provides otherwise. The peace officers shall be paid additional compensation in accordance with the following formula: When peace officers have served for a period of five years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period; when peace officers have served for a period of ten years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service; when peace officers have served for a period of fifteen years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein; when peace officers have served for a period of twenty years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein. While on active duty, each peace officer shall also receive a flat daily sum as fixed by the commissioner ~~with the approval of the governor~~ for meals unless the amount of the flat daily sum is covered by a collective bargaining agreement that provides otherwise.

Peace ~~officer members~~ officers of the department excluded from the provisions of chapter 20 who are injured in the line of duty shall receive paid time off in the same manner as provided to peace ~~officer members~~ officers of the department covered by a collective bargaining agreement entered into between the state and the employee organization representing such covered peace ~~officer members~~ officers under chapter 20.

Sec. 4. Section 80.9, unnumbered paragraph 1, Code 2005, is amended to read as follows:

It shall be the duty of the department ~~of public safety~~ to prevent crime, to detect and apprehend criminals and to enforce such other laws as are hereinafter specified. ~~The members~~ A peace officer of the department ~~of public safety, except clerical workers therein,~~ when authorized by the commissioner ~~of public safety~~ shall have and exercise all the powers of any other peace officer of the state.

Sec. 5. Section 80.9, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. When request is made by the mayor of any city, with the approval of the commissioner ~~of public safety~~;

Sec. 6. Section 80.9, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When ~~any member~~ a peace officer of the department ~~shall be~~ is acting in cooperation with any other local peace officer, or county attorney in general criminal investigation work, or when acting on a special assignment by the commissioner, the ~~member's~~ jurisdiction ~~shall be~~ of the peace officer is statewide.

Sec. 7. Section 80.9, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. The state patrol is established in the department. The patrol shall be under the direction of the commissioner. The number of supervisory officers shall be in proportion to the membership of the state patrol.

Sec. 8. Section 80.9, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall be primarily responsible for the enforcement of all laws and rules relating to any controlled substance or counterfeit substance, except for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, physicians, hospitals, and health care facilities as defined in section 135C.1, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances.

Sec. 9. Section 80.11, Code 2005, is amended to read as follows:

80.11 COURSE OF INSTRUCTION.

The course ~~or courses~~ of instruction for peace officers of the department shall ~~include instruction in the following subjects and such others as shall be deemed advisable by the college of law and the commissioner of public safety:~~

~~1. Criminal law.~~

~~2. Identification of criminals and fingerprinting.~~

~~3. Methods of criminal investigation.~~

~~4. Rules of criminal evidence.~~

~~5. Presentation of cases in court.~~

~~6. Making of complaints and securing of criminal warrants.~~

~~7. Securing and use of search warrants.~~

~~8. How to secure extradition and return.~~

~~9. Small arms instruction.~~

~~10. Regulation of traffic.~~

~~11. First aid.~~, at a minimum, be equal to the course of instruction required by the Iowa law enforcement academy pursuant to chapter 80B.

Sec. 10. Section 80.13, Code 2005, is amended to read as follows:

80.13 TRAINING SCHOOLS.

The commissioner ~~of public safety is authorized to~~ may hold a training school for peace officer candidates ~~for~~ or ~~members~~ for peace officers of the department ~~of public safety~~, and may send to recognized training schools ~~such members~~ peace officers of the department as the commissioner may deem advisable. The expenses of such school of training shall be paid in the same manner as other expenses ~~of the patrol~~ paid by the department.

Sec. 11. Section 80.15, Code 2005, is amended to read as follows:

80.15 EXAMINATION — OATH — PROBATION — DISCIPLINE — DISMISSAL.

An applicant ~~for membership~~ to be a peace officer in the department ~~of public safety, except clerical workers and special agents appointed under section 80.7,~~ shall not be appointed as a ~~member~~ peace officer until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States and be not less than twenty-two years of age. However, an applicant applying for assignment to provide protection

and security for persons and property on the grounds of the state capitol complex or a peace officer candidate shall not be less than eighteen years of age. The mental examination shall be conducted under the direction or supervision of the commissioner ~~of public safety~~ and may be oral or written or both. ~~Each~~ An applicant shall take an oath on becoming a ~~member~~ peace officer of the ~~force~~ department, to uphold the laws and Constitution of the United States and Constitution of the ~~state~~ State of Iowa. During the period of twelve months after appointment, ~~any member~~ a peace officer of the department ~~of public safety, except members of the present Iowa state patrol who have served more than six months,~~ is subject to dismissal at the will of the commissioner. After the twelve months' service, a ~~member~~ peace officer of the department, who was appointed after having passed the examinations, is not subject to dismissal, suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the ~~member~~ peace officer, at which the ~~member~~ peace officer has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a ~~member~~ peace officer who is covered by a collective bargaining agreement which provides otherwise ~~nor~~ and do not apply to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any. All rules, except employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the commissioner in consultation with the director of the department of administrative services, subject to approval by the governor.

Sec. 12. Section 80.17, Code 2005, is amended to read as follows:

80.17 GENERAL ALLOCATION OF DUTIES.

1. In general, the allocation of duties of the department ~~of public safety~~ shall be as follows:

~~1.~~ a. Commissioner's office.

~~2.~~ b. Division of ~~statistics and records~~ administrative services.

~~3.~~ c. Division of criminal investigation.

~~4.~~ d. Division of ~~the Iowa~~ state patrol.

~~5.~~ e. Division of state fire ~~protection~~ marshal.

~~6.~~ f. Division of ~~inspection~~ narcotics enforcement.

~~7. Division of capitol police.~~

2. The commissioner may appoint a chief, director, a first and second assistant to the director, and all other supervisory officers in each division. All appointments and promotions shall be made on the basis of seniority and a merit examination.

3. ~~Nothing in the~~ The aforesaid allocation of duties shall not be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the commissioner ~~of public safety~~.

Sec. 13. Section 80.18, Code 2005, is amended to read as follows:

80.18 EXPENSES AND SUPPLIES — REIMBURSEMENT.

~~It shall be the duty of the~~ The commissioner ~~of public safety to~~ shall provide ~~for the members~~ peace officers of the department when on duty, with suitable uniforms, subsistence, arms, equipment, quarters, and other necessary supplies, and also the expense and means of travel and boarding ~~the members of the department~~, according to rules ~~made~~ adopted by the commissioner, and as may be provided by appropriation.

The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's peace officers or employees damaged or destroyed during ~~the~~ a peace officer's or employee's ~~tour of duty~~ course of employment. However, the reimbursement shall not exceed the greater of one hun-

dred fifty dollars or the amount agreed to under the collective bargaining agreement for each item. The department shall ~~establish~~ adopt rules in accordance with chapter 17A to ~~carry out the purpose of~~ administer this paragraph.

Sec. 14. Section 80.19, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The commissioner ~~of public safety~~ may ~~co-operate~~ cooperate with any recognized agency in the education of the public in highway safety.

Sec. 15. Section 80.20, Code 2005, is amended to read as follows:

80.20 DIVISIONAL HEADQUARTERS.

The commissioner ~~of public safety~~ may, subject to the approval of the governor, establish divisional headquarters at various places in the state. Supervisory officers may be at all times on duty in each district headquarters.

Sec. 16. Section 80.23, Code 2005, is amended to read as follows:

80.23 SPECIAL STATE AGENTS — MEANING.

~~Whenever mention is made, in the Code, of~~ If the term "special state agents" is used in the Code in connection with law enforcement, the ~~same~~ term shall be construed to mean ~~members~~ a peace officer of the ~~state~~ department ~~of public safety~~.

Sec. 17. Section 80.24, Code 2005, is amended to read as follows:

80.24 MUNICIPAL AND INDUSTRIAL DISPUTES.

~~The police employees~~ A peace officer of the department shall not be used or called upon for service within any municipality or in any industrial dispute unless ~~actual~~ a threat of imminent violence ~~has occurred therein~~ exists, and then only either by order of the governor or on the request of the chief executive officer of the municipality or the sheriff of the county ~~wherein~~ where the ~~dispute has occurred~~ threat of imminent violence exists if such request is approved by the governor.

Sec. 18. Section 80.33, Code 2005, is amended to read as follows:

80.33 ACCESS TO DRUG RECORDS BY ~~AGENTS~~ PEACE OFFICERS.

~~Every~~ A person required by law to keep records, and ~~any~~ a carrier maintaining records with respect to any shipment containing any controlled or counterfeit substances shall, upon request of an authorized ~~agent~~ peace officer of the department ~~of public safety~~, designated by the commissioner ~~of public safety~~, permit such ~~agent~~ peace officer at reasonable times to have access to and copy such records. For the purpose of examining and verifying such records, an authorized ~~agents~~ peace officer of the department ~~of public safety~~, designated by the commissioner ~~of public safety~~, may enter at reasonable times any place or vehicle in which any controlled or counterfeit substance is held, manufactured, dispensed, compounded, processed, sold, delivered, or otherwise disposed of and inspect such place or vehicle, and the contents ~~thereof~~ of such place or vehicle. For the purpose of enforcing laws relating to controlled or counterfeit substances, and upon good cause shown, ~~personnel of the division of drug law enforcement in~~ the peace officer of the department ~~of public safety~~ shall be allowed to inspect audits and records in the possession of the state board of pharmacy examiners.

Sec. 19. Section 80.34, Code 2005, is amended to read as follows:

80.34 ~~POWERS OF PEACE OFFICERS~~ PEACE OFFICER — AUTHORITY.

~~Any~~ An authorized ~~agent~~ peace officer of the department ~~of public safety~~ designated to conduct examinations, investigations, or inspections and enforce the laws relating to controlled or counterfeit substances shall have all the ~~powers~~ authority of other peace officers and may arrest a person without warrant for offenses under this chapter committed in the ~~agent's~~ peace officer's presence or, in the case of a felony, if the ~~agent~~ peace officer has probable cause to believe that the person arrested has committed or is committing such offense. ~~Such officers~~ A peace officer of the department shall have the same ~~powers~~ authority as other peace officers

to seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are in violation of law. Such controlled or counterfeit substances or articles shall be subject to condemnation.

Sec. 20. Section 80.36, Code 2005, is amended to read as follows:

80.36 MAXIMUM AGE.

A person shall not be employed as a peace officer in the department ~~of public safety~~ after attaining sixty-five years of age.

Sec. 21. Section 80.39, subsection 1, Code 2005, is amended to read as follows:

1. Personal property, except for motor vehicles subject to sale pursuant to section 321.89, and seizable property subject to disposition pursuant to chapter 809 or 809A, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department ~~of public safety~~ or a local law enforcement agency and which the department or agency does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department or agency shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.

Sec. 22. Section 97A.1, subsection 13, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

13. "Peace officer" means a member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming enforcement officer, who has passed a satisfactory physical and mental examination and has been duly appointed as a member of the department of public safety in accordance with section 80.15.

Sec. 23. Section 97A.3, subsection 1, Code 2005, is amended to read as follows:

1. All peace officer members of the division of ~~highway safety, uniformed force, and radio communications~~ state patrol and the division of criminal investigation ~~and bureau of identification~~ in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa on July 4, 1949, and all persons thereafter employed as members of such divisions in the department of public safety or division of ~~drug law~~ narcotics enforcement ~~and arson investigators~~ or division of state fire marshal, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities~~,~~ and fire prevention inspector peace officers employed by the department of public safety~~, and employees of the division of capitol police, except clerical workers,~~ shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

Sec. 24. Section 97B.42B, subsection 1, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 25. Section 100B.13, subsections 1 and 4, Code 2005, are amended to read as follows:

1. A volunteer fire fighter preparedness fund is created as a separate and distinct fund in the state treasury under the control of the division of state fire ~~protection~~ marshal of the department of public safety.

4. Moneys in the volunteer fire fighter preparedness fund are appropriated to the division of state fire ~~protection~~ marshal of the department of public safety to be used annually to pay the costs of providing volunteer fire fighter training around the state and to pay the costs of providing volunteer fire fighting equipment.

Sec. 26. Section 100C.9, Code 2005, is amended to read as follows:

100C.9 DEPOSIT AND USE OF MONEYS COLLECTED.

1. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of state fire ~~protection~~ marshal in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

2. Notwithstanding section 8.33, fees collected by the division of state fire ~~protection~~ marshal 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. 27. Section 100C.10, subsection 1, Code 2005, is amended to read as follows:

1. A fire extinguishing system contractors advisory board is established in the division of state fire ~~protection~~ marshal of the department of public safety and shall advise the ~~state fire marshal~~ division on matters pertaining to the application and certification of fire extinguishing system contractors pursuant to this chapter.

Sec. 28. Section 123.14, Code 2005, is amended to read as follows:

123.14 BEER, WINE, AND LIQUOR LAW ENFORCEMENT.

1. The ~~division of beer and liquor law enforcement of the~~ department of public safety~~, created pursuant to section 80.25,~~ is the primary beer, wine, and liquor law enforcement authority for this state.

2. The ~~other law enforcement divisions of the department of public safety, the~~ county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, and the alcoholic beverages division of the department of commerce, shall be supplementary aids to the ~~division of beer and liquor law enforcement~~ department of public safety. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. ~~Nothing in this~~ This section shall not be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

3. The ~~division of beer and liquor law enforcement~~ department of public safety shall have full access to all records, reports, audits, tax reports and all other documents and papers in the alcoholic beverages division pertaining to liquor licensees and wine and beer permittees and their business.

Sec. 29. Section 124.510, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This information is for the exclusive use of the division of narcotic ~~and drug~~ enforcement~~,~~ in the department of public safety, and shall not be a matter of public record.

Sec. 30. Section 305.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. In consultation with the homeland security and emergency management division of the department of public ~~safety~~ defense, 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.

Sec. 31. CODE EDITOR DIRECTIVES.

1. The Code editor is directed to change the term "Iowa state patrol" to "state patrol" wher-

ever that term appears in the 2005 Code or in Acts enacted during a regular or extraordinary 2005 session of the general assembly, or in other Acts pending codification.

2. The Code editor is directed to change the term "division of criminal investigation and bureau of identification" to "division of criminal investigation" wherever the term appears in the 2005 Code or in Acts enacted during a regular or extraordinary 2005 session of the general assembly, or in other Acts pending codification.

Sec. 32. Sections 80.4, 80.5, 80.10, 80.12, 80.16, 80.25, 80.27, 80.30, and 80.35, Code 2005, are repealed.

Approved April 19, 2005

CHAPTER 36

REAL ESTATE BROKER AND SALESPERSON LICENSING — CRIMINAL HISTORY CHECKS

S.F. 320

AN ACT requiring performance of a criminal history check of applicants for real estate broker and salesperson licenses.

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

Section 1. Section 543B.15, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. An applicant for an initial real estate broker's or salesperson's license shall be subject to a national criminal history check through the federal bureau of investigation. The commission shall request the criminal history check and shall provide the applicant's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the real estate commission. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ninety calendar days prior to the date the license application is received by the real estate commission, the commission shall reject and return the application to the applicant. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22.

Approved April 19, 2005

CHAPTER 37

REGIONAL TRANSIT DISTRICTS

S.F. 339

AN ACT relating to regional transit districts.

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

Section 1. Section 28M.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commission appointed pursuant to section 28M.4 shall have and may exercise all powers of the board of supervisors in management and administration of the regional transit district as if it ~~were~~ was a board of supervisors and as if the regional transit district was a county enterprise under sections 331.462 through 331.469.

Sec. 2. Section 28M.4, subsection 1, Code 2005, is amended to read as follows:

1. The governing bodies of counties and cities participating in a regional transit district shall appoint a commission to manage and administer the regional transit district. ~~Commission~~ Unless otherwise provided in the chapter 28E agreement, commission members shall serve for staggered six-year terms. The agreement creating the regional transit district shall set the compensation of commission members.

Sec. 3. Section 28M.5, Code 2005, is amended to read as follows:

28M.5 REGIONAL TRANSIT DISTRICT LEVY.

1. The commission, with the approval of the board of supervisors of participating counties and the city council of participating cities in the chapter 28E agreement, may levy annually a tax not to exceed ninety-five cents per thousand dollars of the assessed value of all taxable property in a regional transit district to the extent provided in this section. The chapter 28E agreement may authorize the commission to levy the tax at different rates within the participating cities and counties in amounts sufficient to meet the revenue responsibilities of such cities and counties as allocated in the budget adopted by the commission. However, for a city participating in a regional transit district, the total of all the tax levies imposed in the city pursuant to section 384.12, subsection 10, and this section shall not exceed the aggregate of ninety-five cents per thousand dollars of the assessed value of all taxable property in the participating city.

2. ~~The~~ If a regional transit district budget allocates revenue responsibilities to the board of supervisors of a participating county, the amount of the regional transit district levy that is the responsibility of ~~a~~ the participating county shall be deducted from the maximum rates of taxes authorized to be levied by the county pursuant to section 331.423, subsections 1 and 2, as applicable, unless the county meets its revenue responsibilities as allocated in the budget from other available revenue sources. However, for a regional transit district that includes a county with a population of less than three hundred thousand, the amount of the regional transit district levy that is the responsibility of ~~a~~ such participating county shall be deducted from the maximum rate of taxes authorized to be levied by the county pursuant to section 331.423, subsection 1.

3. The regional transit district tax levy imposed in a participating city located in a nonparticipating contiguous county shall, when collected, be paid to the county treasurer of the participating county.

~~2.~~ 4. The proceeds of the tax levy shall be used for the operation and maintenance of a regional transit district, for payment of debt obligations of the district, and for the creation of a reserve fund. The commission may divide the territory of a regional transit district outside the boundaries of a city into separate service areas and impose a regional transit district levy not to exceed the maximum rate authorized by this section in each service area.

Sec. 4. NEW SECTION. 28M.6 EFFECT OF AGREEMENT ON COUNTY DUTY TO PROVIDE TRANSIT SERVICES.

Notwithstanding any provision of this chapter to the contrary, a county that enters into a chapter 28E agreement to create a regional transit district under this chapter, does not, by virtue of such agreement, create a duty on the part of the county to provide transit services to any area of the county.

Sec. 5. Section 331.461, subsection 2, paragraph h, Code 2005, is amended by striking the paragraph.

Approved April 19, 2005

CHAPTER 38

PROBATE — MISCELLANEOUS REVISIONS — TRUSTS

S.F. 379

AN ACT relating to the Iowa probate code, the Iowa trust code, and certain other trusts.

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

Section 1. Section 249A.3, subsection 11, paragraph d, Code 2005, is amended to read as follows:

d. Failure of a surviving spouse to take ~~against a will~~ an elective share pursuant to chapter 633, division V, constitutes a transfer of assets for the purpose of determining eligibility for medical assistance to the extent that the value received by taking ~~against the will~~ an elective share would have exceeded the value of the inheritance received under the will.

Sec. 2. Section 633.3, subsection 15, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

15. ESTATE — the real and personal property of either a decedent or a ward, and may also refer to the real and personal property of a trust as defined in section 633.10.

Sec. 3. Section 633.3, subsection 17, Code 2005, is amended to read as follows:

17. FIDUCIARY — includes personal representative, executor, administrator, guardian, conservator, and the trustee of any trust as defined in section 633.10.

Sec. 4. Section 633.3, subsection 34, Code 2005, is amended to read as follows:

34. TRUSTEE — the person or persons ~~appointed as trustee by the instrument creating the trust, or the person or persons appointed by the court to administer the trust~~ serving as trustee of a trust as defined in section 633.10.

Sec. 5. Section 633.3, subsection 35, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

35. TRUSTS — includes only those trusts defined in section 633.10.

Sec. 6. Section 633.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

~~The~~ In addition to the jurisdiction granted the district court under the trust code or elsewhere, the district court sitting in probate shall have jurisdiction of:

Sec. 7. Section 633.10, subsection 2, Code 2005, is amended to read as follows:

2. CONSTRUCTION OF WILLS ~~AND TRUST INSTRUMENTS~~.

The construction of wills ~~and trust instruments~~ during the administration of the estate ~~or trust,~~ whether said construction be incident to such administration, or as a separate proceeding.

Sec. 8. Section 633.10, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. TRUSTS AND TRUSTEES.

a. The ongoing administration and supervision, including but not limited to the appointment of trustees, the granting of letters of trusteeship, trust administration, and trust settlement and closing, of the following trusts:

(1) A trust that was in existence on July 1, 2005, and that is subject to continuous court supervision.

(2) A trust established by court decree that is subject to continuous court supervision.

b. A trust described in paragraph "a" shall be governed by this chapter and the provisions of chapter 633A which are not inconsistent with the provisions of this chapter.

c. A trust not described in paragraph "a" shall be governed exclusively by chapter 633A and shall be subject to the jurisdiction of the district court sitting in probate only as provided in section 633.6101.

d. Upon joint application by all trustees administering a trust described in paragraph "a" and following notice to the beneficiaries pursuant to section 633.40, the court shall release the trust from further jurisdiction unless a beneficiary objects. The court whose decree created the trust may release the trust from continuous court supervision following notice to the beneficiary pursuant to section 633.40. If such judicial release occurs for a trust previously governed by this chapter, such trust shall be governed by chapter 633A and the district court sitting in probate only as provided in section 633.6101.

Sec. 9. Section 633.27, subsection 4, Code 2005, is amended to read as follows:

4. The title of each trust ~~where letters of trusteeship are issued~~ described in section 633.10 that has not been released by the court from continuous court supervision.

Sec. 10. Section 633.108, Code 2005, is amended to read as follows:

633.108 SMALL DISTRIBUTIONS TO MINORS — PAYMENT.

Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, or to a share of the estate of an intestate, ~~or to a beneficial interest in a trust fund upon the distribution of the trust fund,~~ and the value of the bequest, legacy, or share~~, or interest~~ does not exceed the sum of ~~ten~~ twenty-five thousand dollars, the personal representative ~~or trustee~~ may pay the bequest, legacy, or share~~, or interest~~ to a custodian under any uniform transfers to minors Act. Receipt by the custodian, when presented to the court or filed with the report of distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 11. Section 633.197, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Personal representatives shall be allowed such reasonable fees as may be determined by the court for services rendered, but not in excess of the following commissions upon the gross assets of the estate listed in the probate inventory ~~for Iowa inheritance tax purposes~~, which shall be received as full compensation for all ordinary services:

Sec. 12. Section 633.236, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.236 RIGHT OF ELECTIVE SHARE OF SURVIVING SPOUSE.

When a married person domiciled in Iowa at the time of death dies, the surviving spouse shall have the right to take an elective share under the provisions of sections 633.237 through 633.246. If the surviving spouse has a conservator, the court may authorize or direct the conservator to elect the share as the court deems appropriate under the circumstances.

Sec. 13. Section 633.237, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.237 PRESUMPTION AGAINST FILING ELECTIVE SHARE.

1. Following the appointment of a personal representative of the estate of the decedent, who is not the spouse, the personal representative shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election in writing with the clerk of court electing the share as set forth in section 633.236, and sections 633.238 through 633.246, the spouse shall be deemed to take under the will or to receive the intestate share. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the personal representative shall make application to the court for an order pursuant to section 633.244.

2. Following the death of a settlor of a revocable trust, the trustee of such revocable trust who is not the spouse shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election with the trustee electing the share as set forth in section 633.236, and sections 633.238 through 633.246, the spouse shall be deemed to take under the terms of the revocable trust. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the trustee shall make application to the court for an order pursuant to section 633.244.

3. If the surviving spouse has a conservator, notice shall be given to the conservator and the spouse pursuant to subsections 1 and 2.

4. The notice provisions under subsections 1 and 2 are not applicable if the surviving spouse is a personal representative of the estate or a trustee of a revocable trust. If the surviving spouse fails to file an election under this section within four months of the decedent's death, it shall be conclusively presumed that the surviving spouse elects to take under the will, receive the intestate share, or take under the revocable trust.

5. Upon application of the surviving spouse or the spouse's conservator filed before the time for making the election expires, the court may extend the period in which the surviving spouse may make the election.

Sec. 14. Section 633.238, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.238 ELECTIVE SHARE OF SURVIVING SPOUSE.

1. The elective share of the surviving spouse shall be all of the following:

a. One-third in value of all the legal or equitable estates in real property possessed by the decedent at any time during the marriage which have not been sold on execution or other judicial sale, and to which the surviving spouse has made no express written relinquishment of right.

b. All personal property that, at the time of death, was in the hands of the decedent as the head of a family, exempt from execution.

c. One-third of all personal property of the decedent that is not necessary for the payment of debts and charges.

d. One-third in value of the property held in trust not necessary for the payment of debts and

charges over which the decedent was a grantor and retained at the time of death the power to alter, amend, or revoke the trust, or over which the decedent waived or rescinded any such power within one year of the date of death, and to which the surviving spouse has not made any express written relinquishment.

2. The elective share described in this section shall be in lieu of any property the spouse would otherwise receive under the last will and testament of the decedent, through intestacy, or under the terms of a revocable trust.

Sec. 15. Section 633.239, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.239 SHARE TO EMBRACE HOMESTEAD.

The share of the surviving spouse in such real estate shall be set off in such manner as to include the homestead, or so much thereof as will be equal to the share allotted to the spouse pursuant to section 633.238 unless the spouse prefers a different arrangement, but no such different arrangement shall be allowed unless there is sufficient property remaining to pay the claims and charges against the decedent's estate.

Sec. 16. Section 633.240, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.240 ELECTION TO RECEIVE HOMESTEAD.

In estates in which the surviving spouse has filed an election and in all intestate estates, whether an election is filed or not, the surviving spouse or the spouse's conservator, if applicable, may, in lieu of the spouse's share in the real property possessed by the decedent at any time during the marriage, which has not been sold on execution or other judicial sale, and to which the surviving spouse has made no express written relinquishment of right, elect to receive a life estate in the homestead. Such election shall be made and entered of record as provided in section 633.245. In making such election, the surviving spouse shall have all the rights as to the personal property provided in section 633.238, subsection 1, paragraphs "b", "c", and "d". In case of failure to make such election, the right to receive the life estate in the homestead shall be waived.

Sec. 17. Section 633.241, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.241 TIME FOR ELECTION TO RECEIVE LIFE ESTATE IN HOMESTEAD.

If the surviving spouse does not make an election to receive the life estate in the homestead and file it with the clerk within four months from the date of second publication of notice to creditors, it shall be conclusively presumed that the surviving spouse waives the right to make the election. The court on application may, prior to the expiration of the period of four months, for cause shown, enter an order extending the time for making the election.

Sec. 18. Section 633.242, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.242 RIGHTS OF ELECTION PERSONAL TO SURVIVING SPOUSE.

The right of the surviving spouse to take an elective share, and the right of the surviving spouse to receive a life estate in the homestead, are personal. They are not transferable and cannot be exercised for the spouse subsequent to the spouse's death. If the surviving spouse dies prior to filing an election, it shall be conclusively presumed that the surviving spouse does not take such elective share.

Sec. 19. Section 633.243, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.243 FILING ELECTIONS.

The filing of the elective share and the election to receive a life estate in the homestead shall be filed in the office of the clerk in which the decedent's estate is being administered and

served on the trustee of the revocable trust. The court where the election is filed shall have exclusive jurisdiction over all matters regarding elections under this chapter.

Sec. 20. Section 633.244, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.244 INCOMPETENT SPOUSE — ELECTION BY COURT.

In case an affidavit is filed that the surviving spouse is incapable of determining whether to take the elective share, or to elect to receive a life estate in the homestead, and does not have a conservator, the court shall fix a time and place of hearing on the matter and cause a notice thereof to be served upon the surviving spouse in such manner and for such time as the court may direct. At the hearing, a guardian ad litem shall be appointed to represent the spouse and the court shall enter such orders as it deems appropriate under the circumstances. The guardian ad litem shall be a practicing attorney.

Sec. 21. Section 633.246A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.246A MEDICAL ASSISTANCE ELIGIBILITY.

Failure of a surviving spouse to make an election under this division constitutes a transfer of assets for the purpose of determining eligibility for medical assistance pursuant to chapter 249A to the extent that the value received by making the election would have exceeded the value of property received absent the election.

Sec. 22. Section 633.247, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.247 SETTING OFF ELECTIVE SHARE OF SURVIVING SPOUSE.

The share of the surviving spouse under section 633.236 may be set off by the mutual consent of all parties in interest, or by referees appointed by the court. An application to have the share set off by referees shall be made by an interested party in writing by filing with the clerk of court. A copy of such application shall be sent to all interested parties.

Sec. 23. Section 633.248, Code 2005, is amended to read as follows:

633.248 REFEREE — NOTICE.

In the absence of mutual consent of all interested parties to the appointment of referees, the court shall fix a time and place for hearing upon such application and of the fact that referees will be appointed if such application is granted, and shall prescribe the time and manner of the service of notice of the hearing.

Sec. 24. Section 633.252, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.252 CONFIRMATION CONCLUSIVE — POSSESSION.

An order confirming a report of the referee shall be binding and conclusive unless appealed within thirty days and the surviving spouse may bring an action to obtain possession of any assets set apart to the surviving spouse. Such elective share constitutes a judgment lien in favor of such surviving spouse against the possessor of such assets.

Sec. 25. Section 633.264, Code 2005, is amended to read as follows:

633.264 DISPOSAL OF PROPERTY BY WILL.

Subject to the rights of the surviving spouse to ~~elect to~~ take ~~against the will~~ an elective share as provided by section 633.236, any person of full age and sound mind may dispose by will of all the person's property, except sufficient to pay the debts and charges against the person's estate.

Sec. 26. Section 633.271, Code 2005, is amended to read as follows:

633.271 EFFECT OF DIVORCE OR DISSOLUTION.

1. If after making a will the testator is divorced or the testator's marriage is dissolved, all

provisions in the will in favor of the testator's spouse or of a relative of the testator's spouse, including but not limited to dispositions, appointments ~~relating to~~ of property, and nominations to serve in any fiduciary or representative capacity, are ~~thereby~~ revoked by the divorce or dissolution of marriage, unless the will provides otherwise.

2. ~~In~~ Unless the will provides otherwise, in the event the testator and spouse remarry each other, the provisions of the will revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise revoked by the testator, except for provisions in favor of a person who died prior to the remarriage which shall not be reinstated.

3. For the purposes of this section, "relative of the testator's spouse" means a person who is related to the divorced testator's former spouse by blood, adoption, or affinity, and who, subsequent to a divorce or dissolution of marriage, ceased to be related to the testator by blood, adoption, or affinity.

Sec. 27. Section 633.434, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Upon the expiration of the later to occur of four months after the date of the second publication of notice to creditors or one month after the service of the notice by ordinary mail upon all claimants whose identities are reasonably ascertainable, at their last known addresses and whose claims will not or may not be paid or otherwise satisfied during administration, the personal representative shall pay the debts and charges against the estate in accordance with this probate code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that the personal representative deems necessary.

Sec. 28. Section 633.477, subsection 10, Code 2005, is amended to read as follows:

10. A statement as to whether or not all statutory requirements pertaining to taxes have been complied with ~~and a statement as to~~ including whether the federal estate tax due has been paid, ~~and~~ whether a lien continues to exist for any federal estate tax, and whether inheritance tax was paid or a return was filed in this state.

Sec. 29. Section 633.574, Code 2005, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP.

If a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate ~~ten~~ twenty-five thousand dollars in value, shall be paid or delivered to a custodian under any uniform transfers to minors Act. The written receipt of the custodian constitutes an acquittance of the person making the payment of money or delivery of property.

Sec. 30. Section 633.681, Code 2005, is amended to read as follows:

633.681 ASSETS OF MINOR WARD EXHAUSTED.

When the assets of a minor ward's conservatorship are exhausted or consist of personal property only of an aggregate value not in excess of ~~ten~~ twenty-five thousand dollars, the court, upon application or upon its own motion, may terminate the conservatorship. The order for termination shall direct the conservator to deliver any property remaining after the payment of allowed claims and expenses of administration to a custodian under any uniform transfers to minors Act. Such delivery shall have the same force and effect as if delivery had been made to the ward after attaining majority.

Sec. 31. Section 633.699, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

633.699 POWERS OF TRUSTEES.

Unless it is otherwise provided by the will creating a testamentary trust, the instrument creating an express trust, or by an order or decree duly entered by a court of competent jurisdiction, a trustee shall have all the powers granted a trustee under sections 633.4401 and

633.4402. Documents incorporating by reference powers granted a trustee under the probate code or under this section shall be interpreted accordingly, even if the execution or adoption of the instrument creating the trust occurred prior to July 1, 2005.

Sec. 32. NEW SECTION. 633.699B APPLICABILITY OF LAW.

The terms of this division, and all other terms of this probate code relating to trusts and trustees, shall apply only to trusts that remain under continuous court supervision pursuant to section 633.10 and to trusts that have not been released from such continuous supervision pursuant to section 633.10. Regarding all such trusts, the terms of this chapter shall supersede any inconsistent terms in the trust code and such trusts shall be governed by terms of the trust code that are not inconsistent with this probate code.

Sec. 33. Section 633.705, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Receipt of the affidavit described in subsection 2 by the holder of the principal's property constitutes sufficient acquittance for the payment of money, delivery of property, or transfer of a registered ownership of property as directed by the attorney in fact or agent and discharges the holder from further liability with respect to the money or property, if the holder has taken reasonable steps to verify the identity of the person acting as attorney in fact or agent. The holder of the principal's property may rely in good faith on the statements contained in the affidavit and has no duty to inquire into the truth of any statements in the affidavit.

NEW SUBSECTION. 4. If an attorney in fact or agent has provided the affidavit described in subsection 2 and the holder of the principal's property refuses to pay, deliver, or transfer any property or evidence thereof within a reasonable amount of time, the principal, acting through the attorney in fact or agent, may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property.

a. If an action is brought against the holder under this subsection and the court finds that the holder of the principal's property acted unreasonably in refusing to pay, deliver, or transfer the property as directed by the attorney in fact, the court may award any or all of the following to the principal:

(1) Damages sustained by the principal.

(2) Costs of the action.

(3) A penalty in an amount determined by the court, not less than five hundred dollars or more than one thousand dollars.

(4) Reasonable attorney fees, as determined by the court, based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the principal.

b. No action shall be brought pursuant to this section more than one year after the date of the occurrence of the violation.

Sec. 34. Section 633.706, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Receipt, by the holder of the principal's property, of the affidavit described in subsection 2 constitutes sufficient acquittance for the payment of money, delivery of property, or transfer of the registered ownership of property as directed by the attorney in fact or agent and discharges the holder from any further liability to any person with respect to the money or the property, if the holder has taken reasonable steps to verify the identity of the person acting as attorney in fact or agent. The holder of the principal's property may rely in good faith on the statements in the affidavit and has no duty to inquire into the truth of any of the statements in the affidavit.

NEW SUBSECTION. 5. If an attorney in fact or agent has provided the affidavit described in subsection 2 and the holder of the principal's property refuses to pay, deliver, or transfer any property or evidence thereof within a reasonable amount of time, the principal, acting through the attorney in fact may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property.

a. If an action is brought against the holder under this subsection and the court finds that the holder of the principal's property acted unreasonably in refusing to pay, deliver, or transfer the property as directed by the attorney in fact, the court may award any or all of the following to the principal:

(1) Damages sustained by the principal.

(2) Costs of the action.

(3) A penalty in an amount determined by the court, not less than five hundred dollars or more than one thousand dollars.

(4) Reasonable attorney fees, as determined by the court, based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the principal.

b. No action shall be brought pursuant to this section more than one year after the date of the occurrence of the violation.

Sec. 35. Section 633.1102, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Adjusted gross estate", as it relates to a trust, means the same as defined in section 633.266.

Sec. 36. Section 633.1107, Code 2005, is amended to read as follows:

633.1107 SCOPE OF TRUST CODE.

1. ~~This~~ Except as otherwise provided in subsection 2, this trust code ~~is intended to~~ shall apply to trusts, as defined in section 633.1102, ~~subsection 17,~~ that are intentionally created, or deemed to be intentionally created, by individuals and other entities.

2. With regard to trusts described in section 633.10, that have not been judicially released from continuous court supervision, this trust code shall apply only to the extent not inconsistent with the relevant provisions of chapter 633. With regard to all other trusts defined in section 633.1102, the terms of chapter 633 shall be inapplicable, and the terms of this trust code shall prevail over any inconsistent provisions of Iowa law.

Sec. 37. Section 633.2208, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. By way of illustration and without limitation, a trust may be divided pursuant to this section to allow a trust to qualify as a marital deduction trust for tax purposes, as a qualified subchapter S trust for federal income tax purposes, as a separate trust for federal generation skipping tax purposes, or for any other federal or state income, estate, excise, or inheritance tax benefit, or to facilitate the administration of a trust.

Sec. 38. Section 633.2301, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A creditor or assignee of a beneficiary of a spendthrift trust ~~shall~~ may not compel a distribution that is subject to the trustee's discretion ~~if any of the following apply~~ despite the fact that:

Sec. 39. Section 633.2303, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The assets of an irrevocable trust shall not become subject to the claims of creditors of the settlor of a trust solely due to a provision in the trust that allows a trustee of the trust to reimburse the settlor for income taxes payable on the income of the trust. This subsection shall not limit the rights of a creditor of the settlor to assert a claim against the assets of the trust due to the retention or grant of any rights to the settlor under the trust instrument or any other beneficial interest of the settlor other than as specifically set forth in this subsection.

Sec. 40. Section 633.3107, Code 2005, is amended to read as follows:

633.3107 EFFECT OF DIVORCE OR DISSOLUTION.

1. If, after executing a revocable trust, the settlor is divorced or the settlor's marriage is dissolved, all provisions in the trust in favor of the settlor's spouse or of a relative of the settlor's spouse, including, but not limited to, dispositions, appointments of property, and nominations

to serve in any fiduciary or representative capacity are revoked by divorce or dissolution of marriage unless the trust instrument provides otherwise.

2. ~~In~~ Unless the trust instrument provides otherwise, in the event the settlor and spouse remarry each other, the provisions of the revocable trust revoked by the divorce or dissolution of marriage shall be reinstated unless otherwise modified by the settlor, except for provisions in favor of a person who died prior to the remarriage which shall not be reinstated.

For the purposes of this section, "relative of the settlor's spouse" means a person who is related to the divorced settlor's former spouse by blood, adoption, or affinity, and who, subsequent to the divorce or dissolution of marriage, ceased to be related to the settlor by blood, adoption, or affinity.

Sec. 41. NEW SECTION. 633.3112 CLASSIFICATION OF DEBTS AND CHARGES.

If a revocable trust becomes subject to the claims of a settlor's creditors and the costs of administration of the settlor's estate pursuant to section 633.3104, following the payment of the proper costs of administration of the trust and any claims against the trust, the debts and charges of the settlor's estate payable by the trust shall be classified pursuant to sections 633.425 and 633.426 as such sections exist on the date of the settlor's death.

Sec. 42. Section 633.4701, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. For the purposes of this section, a term of the trust requiring that a beneficiary survive a person whose death does not make the beneficiary entitled to possession or enjoyment of the beneficiary's interest in the trust shall not be considered as "otherwise specifically stated by the terms of the trust" nor as an "express condition of survivorship imposed by the terms of the trust".

Sec. 43. Section 633.4701, subsection 9, Code 2005, is amended to read as follows:

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. 44. NEW SECTION. 633.4703 GENERAL ORDER FOR ABATEMENT.

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal and state estate taxes, bequests, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

1. Shares allocated to the residuary beneficiaries of the trust shall be abated first, on a pro rata basis.

2. Shares defined by a dollar amount, on a pro rata basis.

3. Shares described as specific items of property whether tangible or intangible shall be abated last, and such abatement shall be done as equitably by the trustee among the various beneficiaries as circumstances reasonably allow.

4. Notwithstanding subsections 1, 2, or 3, a disposition in favor of the grantor's surviving spouse shall not be abated where such abatement would have the effect of increasing the amount of federal estate or federal gift taxes payable by a person or an entity.

Sec. 45. NEW SECTION. 633.4704 SIMULTANEOUS DEATH.

If the determination of the successor of a beneficial interest in a trust is dependent upon whether a beneficiary has survived the death of a settlor, of another beneficiary, or of any other person, the uniform simultaneous death Act, sections 633.523 through 633.528, shall govern the determination of who shall be considered to have died first.

Sec. 46. NEW SECTION. 633.4705 PRINCIPAL AND INCOME.
Chapter 637 shall apply to trusts subject to this chapter.

Sec. 47. NEW SECTION. 633.4706 SMALL DISTRIBUTIONS TO MINORS — PAYMENT.
When a minor becomes entitled under the terms of the trust to a beneficial interest in the trust upon the distribution of the trust fund and the value of the interest does not exceed the sum of twenty-five thousand dollars, the trustee may pay the interest to a custodian under any uniform transfers to minors Act. Receipt by the custodian shall have the same force and effect as though payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 48. NEW SECTION. 633.5105 CHARITABLE TRUSTS.
In addition to the provisions of this chapter, a charitable trust that is a private foundation shall be governed by the provisions of chapter 634.

Sec. 49. Section 633.6101, Code 2005, is amended to read as follows:
633.6101 SUBJECT MATTER JURISDICTION.
The district court sitting in probate has exclusive jurisdiction of proceedings concerning the internal affairs of a trust and of actions and proceedings to determine the existence of a trust, actions and proceedings by or against creditors or debtors of a trust, and other actions and proceedings involving a trust and third persons. Such jurisdiction may be invoked by any interested party at any time.

Sec. 50. Sections 633.28, 633.699A, 633.703A, 633.703B, 633.7101, 636.60, 636.60A, 636.61, Code 2005, are repealed.

Sec. 51. Sections 633.2; 633.3, unnumbered paragraph 1; 633.3, subsections 7 and 20; 633.22, subsection 4; 633.34; 633.38; 633.40, subsection 1; 633.44; 633.46; 633.47; 633.71; 633.88; 633.118; 633.160; 633.162; 633.350; 633.365; 633.389; 633.433; 633.500; 633.502; 633.597; 633.633; 633.633A; and 633.652, Code 2005, are amended by striking from the applicable section, paragraph, or subsection the word "Code" and inserting in lieu thereof the following: "probate code".

Sec. 52. CODE EDITOR DIRECTIVE. Sections 633.707, unnumbered paragraph 1; 633.711, subsection 2; 633.800; 633.801, unnumbered paragraph 1; 633.803; 633.807, subsections 2 and 7; 633.808; 633.809; 633.810; 633.901; 633.902, unnumbered paragraph 1; 633.903; 633.904; 633.905, subsection 6; 633.913, subsections 5 and 6; 633.914; 633.915; 633.916; 633.917; 633.1101; 633.1102, unnumbered paragraph 1; and 633.1104; Code 2005, are amended by striking from the applicable section, paragraph, or subsection the word "division" and inserting in lieu thereof the following: "chapter".

Sec. 53. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer from chapter 633, division XVII (sections 633.705 and 633.706), division XVIII (633.707 through 633.711), division XIX (633.800 through 633.811), and division XX (633.901 through 633.917), as amended in this Act, to new chapters 633B, 633C, 633D, and 633E, respectively.

Sec. 54. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer from chapter 633, sections 633.1101 through 633.1108, 633.2101 through 633.2107, 633.2201 through 633.2208, 633.2301 through 633.2303, 633.3101 through 633.3111, 633.4101 through 633.4111, 633.4201 through 633.4214, 633.4301 through 633.4309, 633.4401 and 633.4402, 633.4501 through 633.4507, 633.4601 through 633.4605, 633.4701 and 633.4702, 633.5101 through 633.5104, 633.6101 through 633.6105, 633.6201 and 633.6202, and 633.6301 through 633.6308, as amended in this Act, to new chapter 633A and to retain the same section number designations.

Sec. 55. CODE EDITOR DIRECTIVE. The Code editor is directed to correct internal references in the Code as necessary due to the enactment of this Act.

Approved April 19, 2005

CHAPTER 39

WEED CONTROL

H.F. 252

AN ACT relating to the control of noxious weeds on land by providing alternative notice procedures to landowners and other responsible persons.

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

Section 1. Section 317.6, Code 2005, is amended to read as follows:

317.6 ENTERING LAND TO DESTROY WEEDS — NOTICE.

~~In case of~~ If there is a substantial failure by the owner or person in possession or control of any land to comply with any order of destruction pursuant to the provisions of this chapter, the county weed commissioner, including the weed commissioner's deputies ~~and~~, or employees acting under the weed commissioner's direction ~~shall have full power and authority to~~ may enter upon any land within ~~their~~ the commissioner's county for the purpose of destroying noxious weeds. ~~Such~~ The entry may be made without the consent of the landowner or person in possession or control of the land ~~but~~. However, the actual work of destruction shall not be commenced until five days after the ~~service of a notice in writing on the~~ landowner and ~~on~~ the person in possession or ~~in~~ control of the land have been notified. The notice shall state the facts ~~as~~ relating to failure of compliance with the county program of weed destruction order or orders made by the board of supervisors ~~and shall be served in the same manner as an original notice except as hereinafter provided~~. The notice ~~may~~ shall be ~~served~~ delivered by personal service on the owner and persons in possession and control of the land. The personal service may be served by the weed commissioner~~, the weed commissioner's deputies~~ or any person designated in writing by the weed commissioner ~~and~~. However, in lieu of personal service, the weed commissioner may provide that the notice be delivered by certified mail. A copy of the notice shall be filed in the office of the county auditor. ~~Provided, however, that service on persons living temporarily or permanently outside of the county may be made by sending the written notice of noncompliance by certified mail to said person at the~~ The last known address ~~to~~ of the owner or person in possession or control of the land may be ascertained, if necessary, from the last tax list in the county treasurer's office. Where any person~~, firm or corporation~~ owning land within the county has filed a written instrument in the office of the county auditor designating the name and address of its agent, the notice ~~herein provided~~ may be ~~served on~~ delivered to that agent. In computing time ~~hereunder~~ for notice, it shall be from the date of service as evidenced on the return ~~or if~~ of service. If delivery is made by certified mail, it shall be from the date of mailing ~~as evidenced by the certified mail book at the post office where mailed~~.

Sec. 2. Section 317.16, Code 2005, is amended to read as follows:

317.16 FAILURE TO COMPLY.

1. In case of a substantial failure to comply by the date prescribed in any order of destruction

of weeds made pursuant to this chapter, the weed commissioner ~~or the deputies~~ may~~, subsequent to the time after service of the notice provided for in section 317.6 enter~~ do any of the following:

a. Enter upon the land ~~and~~ as ~~cause~~ provided in section 317.6 and provide for the destruction of the weeds ~~to be destroyed, or may impose~~ as provided in section 317.6.

b. Impose a maximum penalty of a ten dollar fine for each day, up to ten days, that the owner or person in possession or control of the land fails to comply. If a penalty is imposed and the owner or person in possession or control of the land fails to comply, the weed commissioner shall cause the weeds to be destroyed.

2. If the weed commissioner enters the land and causes the weeds to be destroyed, the actual cost and expense of cutting, burning or otherwise destroying the weeds, along with the cost of ~~serving~~ providing notice and special meetings or proceedings, if any, shall be paid by the county and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21. Any fine imposed under this section shall be recovered by a similar assessment.

Approved April 19, 2005

CHAPTER 40

REAL ESTATE BROKERAGE AGREEMENTS

H.F. 375

AN ACT relating to the duties imposed on a real estate broker by a brokerage agreement.

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

Section 1. Section 543B.5, subsection 7, Code 2005, is amended to read as follows:

7. "Brokerage agreement" means a contract between a broker and a client which establishes the relationship between the parties as to the brokerage services to be performed and contains the provisions required in section 543B.56A.

Sec. 2. NEW SECTION. 543B.56A BROKERAGE AGREEMENTS — CONTENTS.

A brokerage agreement shall specify that the broker shall, at a minimum, do all of the following:

1. Accept delivery of and present to the client offers and counteroffers to buy, sell, rent, lease, or exchange the client's property or the property the client seeks to purchase or lease.

2. Assist the client in developing, communicating, negotiating, and presenting offers or counteroffers until a rental agreement, lease, exchange agreement, offer to buy or sell, or purchase agreement is signed and all contingencies are satisfied or waived and the transaction is completed.

3. Answer the client's questions relating to the brokerage agreements, listing agreements, offers, counteroffers, notices, and contingencies.

4. Provide prospective buyers access to listed properties.

Approved April 19, 2005

CHAPTER 41

REAL ESTATE COMMISSION MEMBERSHIP

H.F. 469

AN ACT increasing the membership of the real estate commission.

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

Section 1. Section 543B.8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A real estate commission is created within the professional licensing and regulation division of the department of commerce. The commission consists of ~~three~~ five members licensed under this chapter and two members not licensed under this chapter and who shall represent the general public. At least one of the licensed members shall be a licensed real estate salesperson, except that if the licensed real estate salesperson becomes a licensed real estate broker during a term of office, that person may complete the term, but is not eligible for reappointment on the commission as a licensed real estate salesperson. A licensed member shall be actively engaged in the real estate business and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Professional associations or societies of real estate brokers or real estate salespersons may recommend the names of potential commission members to the governor. However, the governor is not bound by their recommendations. A commission member shall not be required to be a member of any professional association or society composed of real estate brokers or salespersons. Commission members shall be appointed by the governor subject to confirmation by the senate. Appointments shall be for three-year terms and shall commence and end as provided in section 69.19. A member shall serve no more than three terms or nine years, whichever is less. No more than one member shall be appointed from a county. A commission member shall not hold any other elective or appointive state or federal office. Vacancies shall be filled for the unexpired term by appointment of the governor and are subject to senate confirmation. A majority of the commission members constitutes a quorum. The administrator of the professional licensing and regulation division shall hire and provide staff to assist the commission with implementing this chapter.

Approved April 19, 2005

CHAPTER 42

IOWA COMMISSION ON VOLUNTEER SERVICE

H.F. 478

AN ACT relating to the Iowa commission on volunteer service.

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

Section 1. NEW SECTION. 15H.1 FINDINGS.

The general assembly finds:

1. There is a compelling need for more civic participation to solve community and state problems, and to address many of the country's unmet social, environmental, educational, and public safety needs.

2. Promoting the capability of Iowa's people, communities, and enterprises to work collaboratively is vital to the long-term prosperity of this state.

3. Building and encouraging community services and volunteerism is an integral part of the state's future well-being, and requires cooperative efforts by the public and private sectors.

4. The development of a volunteer service program in Iowa requires an administrative vehicle which conforms with federal guidelines detailed in the federal National and Community Service Trust Act of 1993.

Sec. 2. NEW SECTION. 15H.2 IOWA COMMISSION ON VOLUNTEER SERVICE ESTABLISHED.

1. The governor shall establish the Iowa commission on volunteer service which shall be part of the governor's office. The governor shall appoint the commission's members.

2. The mission of the commission is to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation in Iowa, as well as to serve as the state's liaison to national and state organizations which support the commission's mission.

3. The commission shall do all of the following:

a. Prepare a three-year national service plan as called for under the federal National and Community Service Trust Act of 1993.

b. Fulfill federal program administration requirements, including provision of health care and child care for program participants.

c. Submit annual state applications for federal funding of commission-selected AmeriCorps programs.

d. Integrate AmeriCorps programs, the corporation for national and community service program, and the older American volunteer program into the state strategic service plan.

e. Conduct local outreach to develop a comprehensive and inclusive state service plan and coordinate with existing programs in order to prevent unnecessary competition for private sources of funding.

f. Provide technical assistance to service programs, including the development of training methods and curriculum materials.

g. Develop a statewide recruitment and placement system for individuals interested in community service opportunities.

h. Prepare quarterly reports on progress for submission to the governor and the general assembly.

i. Administer the retired and senior volunteer program.

Sec. 3. NEW SECTION. 15H.3 VOLUNTEER SERVICE COMMISSION MEMBERSHIP.

1. The Iowa commission on volunteer service shall consist of the following members:

a. An individual with expertise in the educational training and developmental needs of youth.

b. An individual with experience in promoting the involvement of older adults in service and volunteerism.

c. A representative of community-based agencies within the state.

d. The director of the department of education, or the director's designee.

e. The executive secretary of the state board of regents, or the executive secretary's designee.

f. A representative of local government.

g. A representative of a local labor organization.

h. A representative of a for-profit business.

i. An individual between the ages of sixteen and twenty-five who is or has been a participant or supervisor in a volunteer or service program.

j. A representative of the corporation for national and community service who shall serve as a nonvoting, ex officio member.

2. No more than twenty-five percent of the commission members shall be employees of the

state, though additional state agency representatives may sit on the commission as nonvoting, ex officio members.

3. A commission member shall not vote on issues affecting organizations for which the member has served as a staff person or as a volunteer at any time during the preceding twelve-month period.

4. The membership of the commission shall comply with sections 69.16 and 69.16A. The membership of the commission shall also reflect the diversity of the state's population.

5. Members shall serve staggered terms of three years beginning and ending as provided by section 69.19.[1] Members of the commission shall serve no more than two three-year terms. Any vacancy shall be filled in the same manner as the original appointment.

6. The chairperson of the commission shall be selected by the governor and serve at the governor's discretion.

Sec. 4. NEW SECTION. 15H.4 ADMINISTRATION — FUNDING.

1. The governor's office shall serve as the lead agency for administration of the commission. The department of education, the state board of regents, the department of workforce development, and the department of economic development shall provide additional administrative support as necessary to fulfill the duties of the commission. All other state agencies shall provide assistance to the commission to ensure a fully coordinated state effort for promoting national and community service.

2. The commission may accept funds and in-kind services from other state, federal, and private entities.

Sec. 5. Section 231.23A, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 6. Section 231.55, Code 2005, is repealed.

Approved April 19, 2005

CHAPTER 43

IOWA EGG COUNCIL — MISCELLANEOUS CHANGES

H.F. 580

AN ACT relating to the administration of the Iowa egg council, including by providing for the use, promotion, and research of eggs and egg products, and providing for an assessment.

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

Section 1. Section 184.1, subsection 4, Code 2005, is amended to read as follows:

4. "Eggs" means eggs produced from a layer-type chicken. "Eggs" includes shell eggs or eggs broken for further processing~~, but does~~. However, "eggs" does not include ~~fertile~~ any of the following:

a. Fertile eggs that are incubated, hatched, or used for vaccines.

b. Organic eggs which are produced as part of a production operation which is certified by the department pursuant to chapter 190C.

Sec. 2. Section 184.3, Code 2005, is amended to read as follows:

184.3 ASSESSMENT.

1. a. ~~The council shall establish~~ Except as provided in paragraph "b", an assessment

[1] See chapter 175, §54 herein

~~amount for~~ of two and one-half cents is imposed on each thirty dozen eggs produced in this state. The assessment shall be imposed on a producer at the time of delivery to a purchaser who shall deduct the assessment from the price paid to a producer at the time of sale. The assessment shall not be refundable. The assessment is due to be paid to the council within thirty days following each calendar quarter, as provided by the council.

b. Upon request of the council, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the assessment to an amount that is more than two and one-half cents imposed on each thirty dozen eggs produced in this state. Notice shall be given and the special referendum shall be conducted in the manner provided in section 184.5. If a majority of the producers voting approves the increase, the council may increase the assessment for the amount approved. However, the assessment shall not exceed fifteen cents imposed on each thirty dozen eggs produced in this state.

2. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the ~~tax~~ assessment from the amount received from the sale and shall forward the amount deducted to the council within thirty days following each calendar quarter. If the producer and processor are the same person, then that person shall pay the assessment to the council within thirty days following each calendar quarter.

3. The council may charge interest on any amount of the assessment that is delinquent. The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue pursuant to section 421.7. The interest amount shall be computed from the date the assessment is delinquent, unless the council designates a later date. The interest amount shall accrue for each month in which there is delinquency calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount due shall become a part of the assessment due.

Sec. 3. Section 184.9, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

184.9 DUTIES OF THE COUNCIL — MARKETING.

The council shall develop new and expand existing markets for eggs and egg products, and may provide for any of the following:

1. Increasing the utilization of eggs or egg products.
2. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.
3. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

Sec. 4. NEW SECTION. 184.9A DUTIES OF THE COUNCIL — RESEARCH.

The council shall participate in research programs or projects, including by conducting or financing such programs or projects, relating to any of the following:

1. Increasing the utilization of eggs or egg products.
2. Improving the production or processing of eggs or egg products.
3. Preventing, modifying, or eliminating barriers to trade which obstruct the free flow of eggs or egg products in commerce.

Sec. 5. NEW SECTION. 184.9B DUTIES OF THE COUNCIL — EDUCATION.

The council shall participate in education programs or projects, including by conducting or financing such programs or projects, as follows:

1. The council's education programs or projects may provide for any of the following:
a. The utilization of eggs or egg products.
b. The production or processing of eggs or egg products.
c. The safe consumption of eggs or egg products.
d. The prevention, modification, or elimination of barriers to trade which obstruct the free flow of eggs or egg products in commerce.

e. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.

f. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

2. The council's education programs or projects may be designed to increase consumers' knowledge of the production or processing of eggs, the preparation of eggs or egg products, or the consumption of eggs or egg products.

3. As part of the council's education programs or projects it may provide for the dissemination of information of public interest, including but not limited to the development or publication of materials in a printed or electronic format.

Sec. 6. Section 184.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The council may perform any function ~~related~~ that it deems necessary to ~~the production and marketing of eggs or egg products~~ carry out its purposes and duties as provided in this chapter, including but not limited to doing any of the following:

Sec. 7. Section 184.10, subsection 6, Code 2005, is amended to read as follows:

6. Become a dues-paying member of an organization carrying out a purpose related to ~~the increased~~ any of the following:

a. The production or processing of eggs or egg products.

b. The consumption ~~and~~ or utilization of eggs or egg products.

Sec. 8. Section 184.10, subsection 7, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

7. Administer elections for members of the council and provide for the appointment of persons to fill vacancies occurring on the council, as provided in section 184.8. The department may assist the council in administering an election, upon request to the secretary by the council.

Sec. 9. Section 184.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Moneys collected, deposited in the fund, and transferred to the council as provided in this chapter are subject to audit by the auditor of state. The moneys transferred to the council shall be used by the council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third to perform the functions and carry out the duties of the council as provided in ~~section 184.9~~ this chapter. Moneys remaining after the council is abolished and the imposition of an assessment is terminated pursuant to a referendum conducted pursuant to section 184.5 shall continue to be expended in accordance with this chapter until exhausted.

Approved April 19, 2005

CHAPTER 44

CONSUMER CREDIT CODE — DEBT COLLECTION PRACTICES
— FINANCIAL INSTITUTION AFFILIATES

S.F. 260

AN ACT relating to debt collection disclosure requirements for certain financial institution affiliates.

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

Section 1. Section 537.1301, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Affiliate" as used in reference to a state bank means the same as defined in section 524.1101. "Affiliate" as used in reference to a national banking association means the same as defined in section 524.1101, except that the term "national banking association" shall be substituted for the term "state bank". "Affiliate" as used in reference to a savings and loan association shall mean the same as defined in 12 C.F.R. § 561.4.

NEW SUBSECTION. 17A. "Credit union service organization" means an organization, corporation, or association whose membership or ownership is primarily confined or restricted to credit unions or organizations of credit unions and whose purpose is primarily designed to provide services to credit unions, organizations of credit unions, or credit union members.

Sec. 2. Section 537.7103, subsection 4, paragraph b, subparagraph (2), Code 2005, is amended to read as follows:

(2) Communications issued directly by a state bank as defined in section 524.103 or its affiliate, a state bank chartered under the laws of any other state or its affiliate, a national banking association or its affiliate, a trust company, a federally chartered savings and loan association or savings bank or its affiliate, an out-of-state chartered savings and loan association or savings bank or its affiliate, a financial institution chartered by the federal home loan bank board, an association incorporated or authorized to do business under chapter 534, a state or federally chartered credit union, a credit union service organization, or a company or association organized or authorized to do business under chapter 515, 518, 518A, or 520, or an officer, employee, or agent of such company or association, provided the communication does not deceptively conceal its origin or its purpose.

Approved April 22, 2005

CHAPTER 45

ELDER SERVICES, CARE FACILITIES, AND PROGRAMS

S.F. 304

AN ACT relating to the provisions of the elder Iowans Act.

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

Section 1. Section 135C.37, Code 2005, is amended to read as follows:

135C.37 COMPLAINTS ALLEGING VIOLATIONS — CONFIDENTIALITY.

A person may request an inspection of a health care facility by filing with the department,

resident advocate committee of the facility, or the long-term care resident's advocate as ~~defined in~~ established pursuant to section ~~231.4, subsection 16~~ 231.42, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with the resident advocate committee or the long-term care resident's advocate shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of the inspection. The name of the person who files a complaint with the department, resident advocate committee, or the long-term care resident's advocate 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 employees involved in the investigation of the complaint.

Sec. 2. Section 231.3, subsection 4, Code 2005, is amended to read as follows:

4. Full restorative services for those who require institutional care, and a comprehensive array of home and 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. 3. Section 231.4, Code 2005, 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. "Department" means the department of elder affairs.

4. "Director" means the director of the department of elder affairs.

5. "Elder" means an individual who is sixty years of age or older. ~~"Elderly" means individuals sixty years of age or older.~~

6. "Equivalent support" means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the department as equivalent to a dollar amount.

7. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended.

8. "Home and community-based services" means a continua of services available in an individual's home or community which include but are not limited to case management, homemaker, home health aide, personal care, adult day, respite, home delivered meals, nutrition counseling, and other medical and social services which contribute to the health and well-being of individuals and their ability to reside in a home or community-based care setting.

~~8.~~ 9. "Long-term care facility" means a long-term care unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

~~9.~~ 10. "Resident's advocate program" means the state long-term care resident's advocate program operated by the department of elder affairs and administered by the long-term care resident's advocate.

~~10.~~ 11. "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. 4. Section 231.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commission shall adopt administrative rules pursuant to chapter 17A to ~~implement~~

administer the duties specified in this chapter and in all other chapters under the department's jurisdiction.

Sec. 5. Section 231.14, subsection 7, Code 2005, is amended to read as follows:

7. Adopt a formula for the distribution of federal Act, state ~~elderly~~ elder 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.

Sec. 6. Section 231.23, subsection 3, Code 2005, is amended to read as follows:

3. Pursuant to commission policy, coordinate state activities related to the purposes of this chapter and all other chapters under the department's jurisdiction.

Sec. 7. Section 231.23A, subsection 1, Code 2005, is amended to read as follows:

1. ~~Elderly~~ Elder 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, meals, and nutrition counseling.

Sec. 8. Section 231.33, subsections 4, 8, and 11, Code 2005, are amended to read as follows:

4. Provide technical assistance as needed, ~~prepare written monitoring reports at least~~ document quarterly monitoring, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.

8. Assure that elders in the planning and service area have reasonably convenient access to information and ~~referral~~ assistance services.

11. Contact outreach efforts, with special emphasis on ~~the~~ rural ~~elderly~~ elders, to identify elders with greatest economic or social needs and inform them of the availability of services under the area plan.

Sec. 9. Section 231.33, subsection 17, Code 2005, is amended by striking the subsection.

Sec. 10. Section 231.42, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The Iowa commission of elder affairs, in accordance with section ~~3027(a)(12)~~ 712 of the federal Act, as codified at 42 U.S.C. § 3058g, shall establish the office of long-term care resident's advocate within the department. The long-term care resident's advocate shall:

Sec. 11. Section 231.43, subsection 3, Code 2005, is amended to read as follows:

3. Procedures to enable the long-term care resident's advocate to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of ~~elderly~~ elders in long-term care facilities.

Sec. 12. Section 231.44, subsections 2 and 4, Code 2005, 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, mental retardation, developmental disabilities, and brain injury 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 other developmental disability, or brain injury.~~ The commission shall coordinate the development of appropriate rules with other state agencies.

4. The state, any resident advocate committee member, and 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 231.51, Code 2005, is amended to read as follows:

231.51 OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM~~, TITLE V OF THE OLDER AMERICANS ACT~~.

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development and the department of economic development.

2. The purpose of the program is to foster individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors while maintaining the community service focus of the program.

3. Funds appropriated to the department from the United States department of labor shall be distributed to local projects in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by area agencies on aging and local projects as may be necessary to fulfill the purposes of this section.

Sec. 14. Section 231.56, Code 2005, is amended to read as follows:

231.56 ~~ELDERLY~~ ELDER SERVICES PROGRAM.

The department shall ~~establish~~ administer an ~~elderly~~ elder services program to reduce institutionalization and encourage community involvement to help ~~the elderly~~ elders remain in their own homes. Funds appropriated for this purpose shall be instituted based on administrative rules adopted by the commission. The department shall require such records as needed to ~~implement~~ administer this section.

Sec. 15. Section 231.58, subsection 4, paragraphs b, d, f, and i, Code 2005, are amended to read as follows:

b. Develop common intake and release procedures for the purpose of determining eligibility at one point of intake and determining eligibility for programs administered by the departments of human services, public health, and elder affairs, such as the medical assistance program, federal food stamp program, ~~and~~ homemaker-home health aide programs, and the case management program for frail elders administered by the department of elder affairs.

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 administrative services shall give particular attention to this section when arranging for office space pursuant to section 8A.321 for these three departments.~~

f. Propose rules and procedures for the development of a comprehensive long-term care ~~and community-based services program~~ system.

i. Consult with the state universities and other institutions with expertise in the area of ~~senior~~ elder issues and the long-term care continua.

Approved April 22, 2005

CHAPTER 46

UNEMPLOYMENT COMPENSATION —
DEPENDENT ADULT ABUSE INFORMATION

S.F. 335

AN ACT relating to access to dependent adult abuse information and unemployment compensation claims.

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

Section 1. Section 235B.6, subsection 2, paragraph d, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) A court or administrative agency making a determination regarding an unemployment compensation claim pursuant to section 96.6.

Approved April 22, 2005

CHAPTER 47

SWIMMING POOLS AND SPAS —
HOT WATER HEATING BOILER REGULATION

H.F. 613

AN ACT relating to the regulation of hot water heating boilers for swimming pools and spas.

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

Section 1. Section 89.4, subsection 1, paragraph h, Code 2005, is amended to read as follows:

h. Hot water heating boilers used for heating pools or spas ~~where burner input is no greater than eighteen thousand seven hundred seventy-two British thermal units per hour~~ regulated by the department of public health pursuant to chapter 135I.

Approved April 22, 2005

CHAPTER 48

REGULATION OF EXCURSION GAMBLING BOATS — FEES

H.F. 641

AN ACT concerning the determination of state regulatory fees on excursion gambling boats relating to the number of gaming enforcement officers on larger excursion gambling boats.

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

Section 1. Section 99F.10, subsection 4, Code 2005, is amended to read as follows:

4. In determining the license fees and state regulatory fees to be charged as provided under section 99F.4 and this section, the commission shall use as the basis for determining the amount of revenue to be raised from the license fees and regulatory fees the amount appropriated to the commission plus the cost of salaries for no more than two special agents for each excursion gambling boat and no more than four gaming enforcement officers for each excursion gambling boat with a patron capacity of less than two thousand persons or no more than five gaming enforcement officers for each excursion gambling boat with a patron capacity of at least two thousand persons, plus any direct and indirect support costs for the agents and officers, for the division of criminal investigation's excursion gambling boat activities~~, as the basis for determining the amount of revenue to be raised from the license fees and regulatory fees~~.

Approved April 22, 2005

CHAPTER 49

OPERATING WHILE INTOXICATED — CHEMICAL TESTING OF PERSONS INCAPABLE OF CONSENT OR REFUSAL — CERTIFICATION

H.F. 726

AN ACT allowing a physician assistant and an advanced registered nurse practitioner to certify an alleged intoxicated driver's incapacitated state for purposes of chemical testing.

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

Section 1. Section 321J.7, Code 2005, is amended to read as follows:

321J.7 DEAD OR UNCONSCIOUS PERSONS.

A person who is dead, unconscious, or otherwise in a condition rendering the person incapable of consent or refusal is deemed not to have withdrawn the consent provided by section 321J.6, and the test may be given if a licensed physician, physician assistant, or advanced registered nurse practitioner certifies in advance of the test that the person is ~~dead,~~ unconscious~~,~~ or otherwise in a condition rendering that person incapable of consent or refusal. If the certification is oral, a written certification shall be completed by the physician, physician assistant, or advanced registered nurse practitioner within a reasonable time of the test.

Approved April 22, 2005

CHAPTER 50

DEPENDENT ADULTS AND DEPENDENT ADULT ABUSE — PROTECTIVE SERVICES

H.F. 760

AN ACT relating to dependent adults and the provision of protective services.

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

Section 1. Section 235B.18, subsections 1 and 4, Code 2005, are amended to read as follows:

1. If the department reasonably determines that a dependent adult is a victim of dependent adult abuse and lacks capacity to consent to the receipt of protective services, the department may petition the district court in the county in which the dependent adult resides for an order authorizing the provision of protective services. The petition shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of services.

4. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of protective services under this chapter shall not affect incompetency proceedings under sections 633.552 through 633.556 or any other proceedings, and incompetency proceedings under sections 633.552 through 633.556 shall not have a conclusive effect on the question of capacity to consent to the receipt of protective services under this chapter. A person previously adjudicated as incompetent under the relevant provisions of chapter 633 is entitled to the care, protection, and services under this chapter.

Sec. 2. Section 235B.19, subsection 1, Code 2005, is amended to read as follows:

1. If the department determines that a dependent adult is suffering from dependent adult abuse which presents an immediate danger to the health or safety of the dependent adult~~,~~ or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to receive protective services~~,~~ and that no consent can be obtained, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an emergency order authorizing protective services.

Sec. 3. Section 235B.19, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon finding that there is probable cause to believe that the dependent adult abuse presents an immediate threat to the health or safety of the dependent adult or which results in irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may do any of the following:

Sec. 4. Section 235B.19, subsection 5, Code 2005, is amended to read as follows:

5. If the department cannot obtain an emergency order under this section due to inaccessibility of the court, the department may contact law enforcement to remove the dependent adult to safer surroundings, authorize the provision of medical treatment, and order the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult or which are producing irreparable harm to the physical or financial resources or property of the dependent adult. The department shall obtain an emergency order under this section not later than four p.m. on the first succeeding business day after the date on which protective or other services are provided. If the department does not obtain an emergency order within the prescribed time period, the department shall cease providing protective services and, if necessary, make arrangements for the imme-

diate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place. A person, agency, or institution acting in good faith in removing a dependent adult or in providing services under this subsection, and an employer of or person under the direction of such a person, agency, or institution, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the removal or provision of services.

Sec. 5. Section 235B.19, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

~~The~~ Upon a finding of probable cause to believe that dependent adult abuse has occurred and is either ongoing or is likely to reoccur, the court may also enter orders as may be appropriate to third persons enjoining them from specific conduct. The orders may include temporary restraining orders which impose criminal sanctions if violated. The court may enjoin third persons from any of the following:

Approved April 22, 2005

CHAPTER 51

COMMUNITY PUBLIC WATER SUPPLY PERMITS
— NOTICE OF ISSUANCE OR MODIFICATION

H.F. 768

AN ACT relating to the publishing of notice of recommendations to grant permits for diversion, storage, and withdrawal of water.

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

Section 1. Section 455B.265, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Prior to the issuance of a new permit or modification of a permit under this section to a community public water supply, the department shall publish a notice of recommendation to grant a permit. The notice shall include a brief summary of the proposed permit and shall be published in a newspaper of general circulation within the county of the proposed water source as provided in section 618.3. If the newspaper of general circulation is not the newspaper of the nearest locality to the proposed water source that publishes a newspaper, the notice shall also be published in the newspaper of the nearest locality to the proposed water source that publishes a newspaper and the department may charge the applicant for the expenses associated with publishing the notice in the second newspaper.

Approved April 22, 2005

CHAPTER 52

ADMINISTRATION OF GOVERNMENTAL FINANCIAL AND INFORMATION TECHNOLOGY ACTIVITIES

H.F. 776

AN ACT relating to governmental financial and information technology activities, including membership in state insurance plans by former members of the general assembly, designation of a chief information officer for the state, cooperative procurement agreements, distribution of state employee salary information, setoff authority for capitol complex and state laboratory parking fines collection, sales of disposed personal property of the state by not-for-profit organizations, a local government setoff authority pilot project, and providing for a study concerning credit card payments accepted by government.

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

DIVISION I

Section 1. Section 2.40, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A member of the general assembly may elect to become a member of a state group insurance plan. A member of the general assembly may continue membership in a state group insurance plan without reapplication during the member's tenure as a member of consecutive general assemblies. For the purpose of electing to become a member of the state health or medical service group insurance plan, a member of the general assembly has the status of a "new hire", full-time state employee following each election of that member in a general or special election, or during the first subsequent annual open enrollment. In lieu of membership in a state health or medical group insurance plan, a member of the general assembly may elect to receive reimbursement for the costs paid by the member for a continuation of a group coverage (COBRA) health or medical insurance plan. The member shall apply for reimbursement by submitting evidence of payment for a COBRA health or medical insurance plan. The maximum reimbursement shall be no greater than the state's contribution for health or medical insurance family plan II. A member of the general assembly who elects to become a member of a state health or medical group insurance plan shall be exempted from preexisting medical condition waiting periods. A member of the general assembly may change programs or coverage under the state health or medical service group insurance plan during the month of January of odd-numbered years, but program and coverage change selections shall be subject to the enrollment rules established for full-time state employees excluded from collective bargaining as provided in chapter 20. A person who has been a member of the general assembly for two years and who has elected to be a member of a state health or medical group insurance plan may continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after leaving office. The continuing former member of the general assembly shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. In the event of the death of a former member of the general assembly who has elected to continue to be a member of a state health or medical group insurance plan, the surviving spouse of the former member whose insurance would otherwise terminate because of the death of the former member may elect to continue to be a member of such state health or medical group insurance plan by requesting continuation in writing to the finance officer within thirty-one days after the death of the former member. The surviving spouse of the former member shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees. <u>For purposes of this paragraph, health or medical programs or coverage and dental programs or coverage are to be treated separately and the rights to change programs or coverage apply only to the type of programs or coverage that the</u>

continuing former member has elected to continue. This paragraph shall not be construed to permit a former member to become a member of a state health or medical group insurance plan providing programs or coverage of a type that the former member did not elect to continue pursuant to this paragraph.

Sec. 2. Section 8A.104, subsection 12, Code 2005, is amended to read as follows:

12. Serve as the chief information officer for the state. However, the director may designate a person in the department to serve in this capacity at the discretion of the director. If the director designates a person to serve as chief information officer, the person designated shall be professionally qualified by education and have no less than five years' experience in the fields of information technology and financial management.

Sec. 3. Section 8A.311, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The director may enter into a cooperative procurement agreement with another governmental entity relating to the procurement of goods or services, whether the goods or services are 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 that purpose will be accomplished. Any power exercised under the agreement shall not exceed the power granted to any party to the agreement.

Sec. 4. Section 8A.323, subsection 4, Code 2005, is amended to read as follows:

4. ~~All~~ Except as provided in subsection 5, all fines collected by the department shall be forwarded to the treasurer of state and deposited in the general fund of the state.

Sec. 5. Section 8A.323, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Any fine that remains unpaid upon becoming delinquent may be collected by the department pursuant to the setoff procedures provided for in section 8A.504. For purposes of this subsection, a fine becomes delinquent if it has not been paid within thirty days of the date of the issuance of the parking citation, unless a written request for a hearing is filed as provided pursuant to the rules of the department. If an appeal is filed and the citation is upheld, the fine becomes delinquent ten days after the issuance of the final decision on the appeal or thirty-one days after the date of the issuance of the parking citation, whichever is later.

Sec. 6. Section 8A.324, subsection 2, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A not-for-profit organization or governmental agency that enters into an agreement with the director pursuant to this subsection may sell or otherwise transfer the personal property received from the department to any person that the department would be able to sell or otherwise transfer such property to under this chapter, including, but not limited to, the general public. The authority granted to sell or otherwise transfer personal property pursuant to this paragraph supersedes any other restrictions applicable to the not-for-profit organization or governmental entity, but only for purposes of the personal property received from the department.

Sec. 7. Section 8A.341, subsection 2, Code 2005, is amended to read as follows:

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 in an electronic medium to each caucus of the general assembly, the legislative 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~~ an 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.~~

Sec. 8. LOCAL GOVERNMENT SETOFF PILOT PROJECT. Notwithstanding any provision of section 8A.504 to the contrary, the department of administrative services may enter into agreements with no more than five political subdivisions of the state to allow the political subdivisions to be eligible to participate in the setoff procedures provided in section 8A.504.

DIVISION II

Sec. 9. DEPARTMENT OF ADMINISTRATIVE SERVICES — E-COMMERCE STUDY — REPORT. It is the intent of the general assembly to encourage the use of electronic transactions with regard to the state's dealings with the citizens of Iowa and other persons. The department of administrative services shall develop recommendations, including proposed legislation, to encourage the use of electronic commerce, including the acceptance of credit card payments, with regard to transactions involving the state. The department shall consult with the state treasurer, state entities currently accepting credit card payments, and any other state entities identified as considering the acceptance of credit card payments when developing the recommendations. The department shall deliver a report to the general assembly by January 20, 2006, including any recommendations, proposed legislation, and other related information, including cost information associated with credit card payments.

Approved April 22, 2005

CHAPTER 53

ADVANCED PRACTICE REGISTERED NURSE COMPACT

H.F. 784

AN ACT to establish an advanced practice registered nurse compact and including a future repeal.

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

Section 1. Section 147.2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3 shall be considered to have obtained a license to practice nursing from the department.

Sec. 2. Section 147.5, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

Sec. 3. Section 147.7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3. A person licensed in another state and recognized for licensure in this state pursuant to the compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

Sec. 4. Section 152.6, Code 2005, is amended to read as follows:

152.6 LICENSES — PROFESSIONAL ABBREVIATIONS.

The board may license a natural person to practice as a registered nurse or as a licensed practical nurse. However, only a person currently licensed as a registered nurse in this state may use that title and the abbreviation "RN" after the person's name and only a person currently licensed as a licensed practical nurse in this state may use that title and the abbreviation "LPN" after the person's name. For purposes of this section, "currently licensed" includes persons licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

Sec. 5. Section 152.7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

For purposes of licensure pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3, the compact administrator may refuse to accept a change in the qualifications for licensure as a registered nurse or as a licensed practical or vocational nurse by a licensing authority in another state which is a party to the compact which substantially modifies that state's qualifications for licensure in effect on July 1, 2000. A refusal to accept a change in a party state's qualifications for licensure may result in submitting the issue to an arbitration panel or in withdrawal from the compact, at the discretion of the compact administrator.

Sec. 6. Section 152.8, subsections 1 and 2, Code 2005, are amended to read as follows:

1. A license possessed by an applicant from a state which has not adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 shall be recognized by the board under conditions specified which indicate that the licensee meets all the qualifications required under section 152.7. If a foreign license is recognized, the board may issue a license by endorsement without an examination being required. Recognition shall be based on whether the foreign licensee is qualified to practice nursing. The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure by endorsement. The board shall determine the length of time a temporary license shall remain effective.

2. A license possessed by an applicant and issued by a state which has adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 shall be recognized pursuant to the provisions of that section.

Sec. 7. Section 152.10, subsection 2, paragraph d, subparagraph (2), Code 2005, is amended to read as follows:

(2) Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state which has adopted the nurse licensure compact contained in section 152E.1 or the

advanced practice registered nurse compact contained in section 152E.3 and which has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction which does not afford the procedural protections of chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of chapter 17A.

Sec. 8. Section 152E.2, unnumbered paragraph 1,[1] Code 2005, is amended to read as follows:

The executive director of the board of nursing, as provided for in section 152.2, shall serve as the compact administrator identified in article VIII, section a, of the nurse licensure compact contained in section 152E.1 and as the compact administrator identified in article VIII, section a, of the advanced practice registered nurse licensure compact contained in section 152E.3.

Sec. 9. NEW SECTION. 152E.3 FORM OF ADVANCED PRACTICE REGISTERED NURSE COMPACT.

The advanced practice registered nurse compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I — FINDINGS AND DECLARATION OF PURPOSE

a. The party states find all of the following:

1. The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse licensure and practice requirements and the effectiveness of enforcement activities related to state advanced practice registered nurse license or authority to practice laws.

2. Violations of advanced practice registered nurse licensure and practice and other laws regulating the practice of nursing may result in injury or harm to the public.

3. The expanded mobility of advanced practice registered nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of advanced practice registered nurse licensure and practice requirements.

4. New practice modalities and technology make compliance with individual state advanced practice registered nurse licensure and practice requirements difficult and complex.

5. The current system of duplicative advanced practice registered nurse licensure and practice requirements for advanced practice registered nurses practicing in multiple states is cumbersome and redundant to both advanced practice registered nurses and states.

6. Uniformity of advanced practice registered nurse requirements throughout the states promotes public safety and public health benefits.

7. Access to advanced practice registered nurse services increases the public's access to health care, particularly in rural and underserved areas.

b. The general purposes of this compact are to:

1. Facilitate the states' responsibilities to protect the public's health and safety.

2. Ensure and encourage the cooperation of party states in the areas of advanced practice registered nurse licensure and practice requirements including promotion of uniform licensure requirements.

3. Facilitate the exchange of information between party states in the areas of advanced practice registered nurse regulation, investigation, and adverse actions.

4. Promote compliance with the laws governing advanced practice registered nurse practice in each jurisdiction.

5. Invest all party states with the authority to hold an advanced practice registered nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

[1] Section 152E.2 has only one unnumbered paragraph in Code 2005

ARTICLE II — DEFINITIONS

As used in this compact:

a. "Advanced practice registered nurse" means a nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist to the extent a party state licenses or grants authority to practice in that advanced practice registered nurse role and title.

b. "Advanced practice registered nurse licensure and practice requirements" means the regulatory mechanism used by a party state to grant legal authority to practice as an advanced practice registered nurse.

c. "Advanced practice registered nurse uniform license or authority to practice requirements" means those minimum uniform licensure, education, and examination requirements as agreed to by the compact administrators and adopted by licensing boards for the recognized advanced practice registered nurse role and title.

d. "Adverse action" means a home or remote state action.

e. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

f. "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on advanced practice registered nurse licensure or authority to practice and enforcement activities related to an advanced practice registered nurse license or authority to practice laws, which is administered by a nonprofit organization composed of and controlled by state licensing boards.

g. "Current significant investigative information" means either of the following:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the advanced practice registered nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

2. Investigative information that indicates that the advanced practice registered nurse represents an immediate threat to public health and safety regardless of whether the advanced practice registered nurse has been notified and had an opportunity to respond.

h. "Home state" means the party state that is the advanced practice registered nurse's primary state of residence.

i. "Home state action" means any administrative, civil, equitable, criminal, or other action permitted by the home state's laws which is imposed on an advanced practice registered nurse by the home state's licensing board or other authority, including actions against an individual's license or authority to practice such as revocation, suspension, probation, or any other action which affects an advanced practice registered nurse's authorization to practice.

j. "Licensing board" means a party state's regulatory body responsible for issuing advanced practice registered nurse licensure or authority to practice.

k. "Multistate advanced practice privilege" means current authority from a remote state permitting an advanced practice registered nurse to practice in that state in the same role and title as the advanced practice registered nurse is licensed or authorized to practice in the home state to the extent that the remote state laws recognize such advanced practice registered nurse role and title. A party state has the authority, in accordance with existing state due process laws, to take action against the advanced practice registered nurse's privilege, including revocation, suspension, probation, or any other action that affects an advanced practice registered nurse's multistate privilege to practice.

l. "Party state" means any state that has adopted this compact.

m. "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.

n. "Remote state" means a party state, other than the home state, where either of the following applies:

1. Where the patient is located at the time advanced practice registered nurse care is provided.

2. In the case of advanced practice registered nurse practice not involving a patient, in such party state where the recipient of advanced practice registered nurse care is located.

o. "Remote state action" means either of the following:

1. Any administrative, civil, equitable, criminal, or other action permitted by a remote state's laws which is imposed on an advanced practice registered nurse by the remote state's licensing board or other authority, including actions against an individual's multistate advanced practice privilege in the remote state.

2. Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards of remote states.

p. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

q. "State practice laws" means a party state's laws and regulations that govern advanced practice registered nurse practice, define the scope of advanced nursing practice, including prescriptive authority, and create the methods and grounds for imposing discipline. "State practice laws" does not include the requirements necessary to obtain and retain advanced practice registered nurse licensure or authority to practice as an advanced practice registered nurse, except for qualifications or requirements of the home state.

r. "Unencumbered" means that a state has no current disciplinary action against an advanced practice registered nurse's license or authority to practice.

ARTICLE III — GENERAL PROVISIONS AND JURISDICTION

a. All party states shall participate in the nurse licensure compact for registered nurses and licensed practical or vocational nurses in order to enter into the advanced practice registered nurse compact.

b. A state shall not enter the advanced practice registered nurse compact until the state adopts, at a minimum, the advanced practice registered nurse uniform license or authority to practice requirements for each advanced practice registered nurse role and title recognized by the state seeking to enter the advanced practice registered nurse compact.

c. Advanced practice registered nurse license or authority to practice issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate advanced practice privilege to the extent that the role and title are recognized by each party state. To obtain or retain advanced practice registered nurse licensure and practice requirements as an advanced practice registered nurse, an applicant must meet the home state's qualifications for authority or renewal of authority as well as all other applicable state laws.

d. The advanced practice registered nurse multistate advanced practice privilege does not include prescriptive authority, and does not affect any requirements imposed by states to grant to an advanced practice registered nurse initial and continuing prescriptive authority according to state practice laws. However, a party state may grant prescriptive authority to an individual on the basis of a multistate advanced practice privilege to the extent permitted by state practice laws.

e. A party state may, in accordance with state due process laws, limit or revoke the multistate advanced practice privilege in the party state and may take any other necessary actions under the party state's applicable laws to protect the health and safety of the party state's citizens. If a party state takes action, the party state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

f. An advanced practice registered nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is provided. The advanced practice registered nurse practice includes patient care and all advanced nursing practice defined by the party state's practice laws. The advanced practice registered nurse practice subjects an advanced practice registered nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state.

g. Individuals not residing in a party state may apply for an advanced practice registered

nurse license or authority to practice as an advanced practice registered nurse under the laws of a party state. However, the authority to practice granted to these individuals shall not be recognized as granting the privilege to practice as an advanced practice registered nurse in any other party state unless explicitly agreed to by that party state.

ARTICLE IV — APPLICATIONS FOR ADVANCED PRACTICE REGISTERED NURSE LICENSURE OR AUTHORITY TO PRACTICE IN A PARTY STATE

a. Once an application for an advanced practice registered nurse license or authority to practice is submitted, a party state shall ascertain, through the coordinated licensure information system, whether the applicant has held, or is the holder of, a nursing license or authority to practice issued by another state, whether the applicant has had a history of previous disciplinary action by any state, whether an encumbrance exists on any license or authority to practice, and whether any other adverse action by any other state has been taken against a license or authority to practice.

This information may be used in approving or denying an application for an advanced practice registered nurse license or authority to practice.

b. An advanced practice registered nurse in a party state shall hold an advanced practice registered nurse license or authority to practice in only one party state at a time, issued by the home state.

c. An advanced practice registered nurse who intends to change the nurse's primary state of residence may apply for an advanced practice registered nurse license or authority to practice in the new home state in advance of such change. However, a new license or authority to practice shall not be issued by a party state until after an advanced practice registered nurse provides evidence of change in the nurse's primary state of residence satisfactory to the new home state's licensing board.

d. 1. If an advanced practice registered nurse changes the nurse's primary state of residence by moving between two party states, and obtains an advanced practice registered nurse license or authority to practice from the new home state, the advanced practice registered nurse license or authority to practice from the former home state is no longer valid.

2. If an advanced practice registered nurse changes the nurse's primary state of residence by moving from a nonparty state to a party state, and obtains an advanced practice registered nurse license or authority to practice from the new home state, the individual state license issued by the nonparty state is not affected and shall remain in full force if so provided by the laws of the nonparty state.

3. If an advanced practice registered nurse changes the nurse's primary state of residence by moving from a party state to a nonparty state, the advanced practice registered nurse license or authority to practice issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V — ADVERSE ACTIONS

In addition to the general provisions described in article III, the following provisions apply:

a. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

b. The licensing board of a party state shall have the authority to complete any pending investigations for an advanced practice registered nurse who changes the nurse's primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordi-

nated licensure information system shall promptly notify the new home state of any such actions.

c. A remote state may take adverse action affecting the multistate advanced practice privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the advanced practice registered nurse license or authority to practice issued by the home state.

d. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

e. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

f. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require advanced practice registered nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

g. All home state licensing board disciplinary orders, agreed to or otherwise, which limit the scope of the advanced practice registered nurse's practice or require monitoring of the advanced practice registered nurse as a condition of the order shall include the requirements that the advanced practice registered nurse will limit the nurse's practice to the home state during the pendency of the order. This requirement may allow the advanced practice registered nurse to practice in other party states with prior written authorization from both the home state and party state licensing boards.

ARTICLE VI — ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

Notwithstanding any other powers, party state licensing boards shall have the authority to do all of the following:

a. If otherwise permitted by state law, recover from the affected advanced practice registered nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that advanced practice registered nurse.

b. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located.

c. Issue cease and desist orders to limit or revoke an advanced practice registered nurse's privilege, license, or authority to practice in the state.

d. Promulgate uniform rules and regulations as provided for in article VIII, section c.

ARTICLE VII — COORDINATED LICENSURE INFORMATION SYSTEM

a. All party states shall participate in a cooperative effort to create a coordinated database of all advanced practice registered nurses. This system shall include information on the advanced practice registered nurse licensure and practice requirements and disciplinary history of each advanced practice registered nurse, as contributed by party states, to assist in the coordination of the advanced practice registered nurse licensure or authority to practice and enforcement efforts.

b. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate advanced practice privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

c. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

d. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that shall not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

e. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

f. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

g. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE VIII — COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

a. The head of the licensing board, or the head's designee, of each party state shall be the administrator of this compact for the head's state.

b. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

c. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under article VI, section d.

ARTICLE IX — IMMUNITY

A party state or the officers or employees or agents of a party state's licensing board who acts in accordance with the provisions of this compact shall not be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X — ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

a. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but such withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

b. Withdrawal shall not affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

c. This compact shall not be construed to invalidate or prevent any advanced practice regis-

tered nurse licensure or authority to practice agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

d. This compact may be amended by the party states. An amendment to this compact shall not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI — CONSTRUCTION AND SEVERABILITY

a. This compact shall be liberally construed so as to effectuate the purposes of the compact. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the compact to any government, agency, person, or circumstance shall not be affected by that action. If this compact shall be held contrary to the constitution of any state which is party to the compact, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

b. 1. In the event party states find a need for settling disputes arising under this compact, the party states may submit the issues in dispute to an arbitration panel which shall be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state or states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators shall be final and binding.

Sec. 10. Section 272C.6, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the coordinated licensure information system provided for in the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 272C.3, subsection 4, is a public record.

Sec. 11. REPEAL. This Act is repealed effective July 1, 2008.

Approved April 22, 2005

CHAPTER 54

REGULATION OF MOTOR VEHICLES AND OPERATING PRIVILEGES — FINES, FEES, AND PENALTIES

S.F. 340

AN ACT relating to motor vehicle registration and driver licensing services provided by county treasurers and providing for the collection of certain fees, fines, and penalties, and providing an effective date.

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

Section 1. Section 321.40, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county treasurer shall refuse to renew the registration of a vehicle registered to an applicant if the county treasurer knows that the applicant has one or more uncontested, delinquent parking tickets[1] issued pursuant to section 321.236, subsection 1, paragraph "a", owing to the county, or owing to a city with which the county has an agreement authorized under section 331.553. However, a county treasurer may renew the registration if the treasurer determines that an error was made by the county or city in identifying the vehicle involved in the parking violation or if the citation has been dismissed as against the owner of the vehicle pursuant to section 321.484. This paragraph does not apply to the transfer of a registration or the issuance of a new registration. Notwithstanding section 28E.10, a county treasurer may utilize the department's vehicle registration and titling system to facilitate the purposes of this paragraph.

Sec. 2. Section 321.218A, Code 2005, is amended to read as follows:

321.218A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's driver's license or nonresident operating privilege for a conviction under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The civil penalty does not apply to a suspension issued for a violation of section 321.180B. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the juvenile detention home fund created in section 232.142. A temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid. A person assessed a penalty under this section may remit the civil penalty along with a processing fee of five dollars to a county treasurer authorized to issue driver's licenses under chapter 321M, or the civil penalty may be paid directly to the department.

Sec. 3. Section 321.236, subsection 1, paragraph a, Code 2005, 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 for each violation charged under a simple notice of a fine shall be established by ordinance. The fine may be increased 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, except as provided by an agreement between a city and a county treasurer for the collection of fines pursuant to section 331.553, subsection 7.

[1] The phrase "delinquent parking fines" probably intended

Sec. 4. Section 321.236, subsection 1, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. If the local authority regulating the standing or parking of vehicles under this subsection is a county or is a city which has an agreement with a county treasurer by which the renewal of registration of a vehicle shall be refused for uncontested and unpaid parking fines under section 321.40, the simple notice of a fine under paragraph "a" shall contain the following statement:

"FAILURE TO PAY PARKING FINES OWED BY YOU CAN BE GROUNDS FOR REFUSING TO RENEW YOUR MOTOR VEHICLE'S REGISTRATION."

This paragraph "d" does not invalidate forms for notice of parking violations in existence prior to July 1, 2007. Existing forms may be used until supplies are exhausted.

NEW PARAGRAPH. e. Cities that enter into chapter 28E agreements for the collection of delinquent parking fines in conjunction with renewal of motor vehicle registrations pursuant to section 321.40 shall be responsible for computer programming costs incurred by the department to accommodate the collection and dissemination of delinquent parking ticket[2] information to county treasurers, with each such city paying a per capita share of the costs as provided in this paragraph. The department's programming costs shall be paid by the first city to enter into such an agreement. Thereafter, cities that enter into such agreements on or before June 30, 2010, shall pay a pro rata share of the department's programming costs on or before September 30, 2010, to the city which first paid the costs, based on the respective populations of each city as of the last decennial census.

Sec. 5. Section 321.484, unnumbered paragraph 2, Code 2005, 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 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. Upon receipt of such evidence, the appropriate authority shall dismiss as against the owner of the vehicle any citation issued for a violation within the meaning of this paragraph that occurred while the vehicle was in the custody of the identified person.

Sec. 6. Section 321A.32A, Code 2005, is amended to read as follows:

321A.32A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's driver's license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the juvenile detention home fund created in section 232.142. A temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid. A person assessed a penalty under this section may remit the civil penalty along with a processing fee of five dollars to a county treasurer authorized to issue driver's licenses under chapter 321M, or the civil penalty may be paid directly to the department.

Sec. 7. Section 321M.5, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. Responsibility for collection of, and accounting for, any fees and penalties associated with the licensing process.

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[2] The phrase "delinquent parking fine" probably intended

Sec. 8. Section 321M.9, subsection 1, Code 2005, 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~~ a county authorized to issue driver's licenses under this chapter shall retain for deposit in the county general fund seven dollars of fees received for each issuance or renewal of driver's licenses and nonoperator's identification cards, but shall not retain any moneys for the issuance of any persons with disabilities identification devices. The five dollar processing fee charged by a county treasurer for collection of a civil penalty under section 321.218A or 321A.32A shall be retained for deposit in the county general fund. The county treasurer shall remit the balance of fees and all civil penalties to the department.

Sec. 9. Section 331.553, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Pursuant to an agreement under chapter 28E, collect delinquent parking fines on behalf of a city in conjunction with renewal of motor vehicle registrations pursuant to section 321.40. If the agreement provides for a fee to be paid to or retained by the county treasurer from the collection of parking fines, such fees shall be credited to the county general fund. Fines collected pursuant to this subsection shall be remitted biannually to the city. Notwithstanding section 28E.10, a county treasurer may utilize the state department of transportation's vehicle registration and titling system to facilitate the purposes of this subsection.

Sec. 10. Section 331.557A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Accept payment of civil penalties pursuant to sections 321.218A and 321A.32A and remit the penalties to the state department of transportation.

Sec. 11. Section 364.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If provided by ordinance, a city may enter into a chapter 28E agreement for the collection of delinquent parking fines by a county treasurer pursuant to section 321.40 at the time a person applies for renewal of a motor vehicle registration, for violations that have not been appealed or for which appeal has been denied. The city may pay the treasurer a reasonable fee for the collection of such fines, or may allow the county treasurer to retain a portion of the fines collected, as provided in the agreement.

Sec. 12. EFFECTIVE DATE. This Act takes effect July 1, 2007.

Approved April 27, 2005

CHAPTER 55

CHILD ADVOCACY AND FOSTER CARE REVIEW —
TORT LIABILITY AND CONFIDENTIALITY

S.F. 352

AN ACT relating to confidentiality and liability provisions involving the child advocacy board and the programs associated with the board and making a penalty applicable.

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

Section 1. Section 232.13, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. A court appointed special advocate and the members of the child advocacy board created

in section 237.16 or a local citizen foster care review board created in accordance with section 237.19.

Sec. 2. Section 232.147, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. The child's parent, guardian or custodian, court appointed special advocate, and guardian ad litem, and the members of the child advocacy board created in section 237.16 or a local citizen foster care review board created in accordance with section 237.19 who are assigning or reviewing the child's case.

Sec. 3. Section 237.21, subsections 1 and 3, Code 2005, are amended to read as follows:

1. The information and records of or provided to a local board, ~~or the~~ state board, or court appointed special advocate regarding a child receiving foster care and the child's family when relating to the foster care placement are not public records pursuant to chapter 22. The state board and local boards, with respect to hearings involving specific children receiving foster care and the child's family, are not subject to chapter 21.

3. Members of the state board and local boards, court appointed special advocates, and the employees of the department and the department of inspections and appeals are subject to standards of confidentiality pursuant to sections 217.30, 228.6, subsection 1, sections 235A.15, 600.16, and 600.16A. Members of the state and local boards, court appointed special advocates, and employees of the department and the department of inspections and appeals who disclose information or records of the board or department, other than as provided in subsection 2, are guilty of a simple misdemeanor.

Approved April 27, 2005

CHAPTER 56

REGULATION OF BUSINESS OPPORTUNITY SOLICITATIONS

S.F. 363

AN ACT providing for the regulation of persons engaged in soliciting business opportunities, including franchises.

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

Section 1. Section 551A.3, subsection 3, paragraphs a and b, Code 2005, are amended to read as follows:

a. A uniform franchise offering circular prepared in accordance with the guidelines adopted by the North American securities administrators association, inc., ~~as amended through July 1, 2004.~~

b. A disclosure document prepared pursuant to the federal trade commission rule relating to disclosure requirements and prohibitions concerning franchising and business opportunity ventures in accordance with 16 C.F.R. § 436 or any successor regulation.

Sec. 2. Section 551A.4, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. An offer or sale of a business opportunity which is a franchise, provided that the seller

delivers to each purchaser at the earlier of the first personal meeting between the seller and the purchaser, or ~~ten business~~ fourteen days prior to the earlier of the execution by a purchaser of a contract imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity, one of the following disclosure documents:

(1) A uniform franchise-offering circular prepared in accordance with the guidelines adopted by the North American securities administrators association, inc.~~, as amended through September 21, 1983.~~

(2) A disclosure document prepared pursuant to the federal trade commission rule entitled "Disclosure requirements and prohibitions concerning franchising and business opportunity ventures", 16 C.F.R. § 436 ~~(1979)~~ or any successor regulation.

For the purposes of this paragraph "b", a personal meeting means a face-to-face meeting between the purchaser and the seller or their representatives, which is held for the purpose of discussing the offer or sale of a business opportunity.

Approved April 27, 2005

CHAPTER 57

ENTERPRISE ZONE CERTIFICATION — APPLICATION DEADLINE

S.F. 365

AN ACT relating to the application deadline for certification of enterprise zones.

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

Section 1. Section 15E.192, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. A county or city may apply to the department for an area to be certified as an enterprise zone at any time prior to ~~July 1, 2005~~ March 1, 2006. 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.

Approved April 27, 2005

CHAPTER 58

CRIMINAL LAW AND PROCEDURE —
DURATION OF NO-CONTACT ORDERS

S.F. 370

AN ACT relating to the duration of a no-contact order in a criminal case.

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

Section 1. Section 901.5, subsection 7A, paragraph b, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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 plus one additional year, whichever is greater. The court may order the no-contact order regardless of whether the defendant is placed on probation.

Approved April 27, 2005

CHAPTER 59

REGISTRATION OF POSTSECONDARY SCHOOLS —
IOWA COORDINATING COUNCIL FOR POST-HIGH SCHOOL
EDUCATION COMMENTS — OPEN MEETINGS

H.F. 276

AN ACT requiring that meetings relating to postsecondary school registration held by the Iowa coordinating council for post-high school education be open to the public.

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

Section 1. Section 261.2, subsection 7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The commission may require a school seeking registration under chapter 261B to provide copies of its application to the Iowa coordinating council for post-high school education. The commission may consider comments from the council that are received by the commission within ninety days of the filing of the application. However, if the council meets to consider comments for submission to the commission, the meeting shall be open to the public and subject to the provisions of chapter 21. The commission shall render a decision on an application for registration within one hundred eighty days of the filing of the application.

Approved April 27, 2005

CHAPTER 60

ASSISTED LIVING PROGRAMS

H.F. 585

AN ACT relating to assisted living programs, providing for a fee, providing penalties, and providing an effective date.

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

Section 1. Section 231C.1, subsection 1, Code 2005, is amended to read as follows:

1. The general assembly finds that assisted living is an important part of the long-term care ~~system~~ continua in this state. Assisted living emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.

Sec. 2. Section 231C.1, subsection 2, paragraphs b and c, Code 2005, are amended to read as follows:

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.

Sec. 3. Section 231C.2, subsections 2, 5, and 9, Code 2005, are amended to read as follows:

2. "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 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. "Assisted living" includes twenty-four-hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

5. "Health-related care" means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis~~, as defined by rule~~.

9. "Personal care" means assistance with the essential activities of daily living, which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping, that are essential to the health and welfare of the tenant~~, and supervising of self-administered medications, but does not include the administration of medications~~.[1]

Sec. 4. Section 231C.2, subsection 7, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Medication setup" means assistance with various steps of medication administration to support a tenant's autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

Sec. 5. Section 231C.2, subsection 13, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

13. "Tenant's legal representative" means a person appointed by the court to act on behalf of a tenant or a person acting pursuant to a power of attorney.

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[1] See chapter 179, §121 herein

Sec. 6. Section 231C.3, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department shall establish by rule in accordance with chapter 17A~~, a program~~ minimum standards 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:

Sec. 7. Section 231C.3, subsection 1, paragraph b, Code 2005, is amended to read as follows:

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. All information related to a provider application for an assisted living program submitted to either the department of elder affairs or the department of inspections and appeals shall be considered a public record pursuant to chapter 22.

Sec. 8. Section 231C.3, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 9. Section 231C.3, subsection 7, Code 2005, is amended to read as follows:

7. The department may also establish by rule in accordance with chapter 17A ~~a special classification~~ minimum standards for ~~affordable~~ subsidized and dementia-specific assisted living programs. The rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

Sec. 10. Section 231C.3, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of assisted living programs.

NEW SUBSECTION. 12. Certification of an assisted living program shall be for two years unless certification is revoked for good cause by the department of inspections and appeals.

Sec. 11. Section 231C.5, Code 2005, is amended to read as follows:

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 the tenant's legal 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 the tenant's legal 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 legal 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 legal 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.

i. The internal appeals process provided relative to an involuntary transfer.

~~i.~~ j. 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.~~ k. A statement of the prohibition against retaliation as prescribed in section 231C.13.

~~k.~~ l. The emergency response policy.

~~l.~~ m. 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.~~ n. 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.~~ o. The refund policy.

~~o.~~ p. A statement regarding billing and payment procedures.

3. Occupancy agreements and related documents executed by each tenant or the tenant's legal 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. 12. Section 231C.6, subsection 1, Code 2005, is amended to read as follows:

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 the tenant's legal representative contests the transfer, the following procedure shall apply:

a. The assisted living program shall notify the tenant or the tenant's legal 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 the tenant's legal 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 or the tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

Sec. 13. Section 231C.8, Code 2005, is amended to read as follows:

231C.8 INFORMAL REVIEW.

1. 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.

2. 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.

3. 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. 14. Section 231C.9, Code 2005, is amended to read as follows:

231C.9 PUBLIC DISCLOSURE OF FINDINGS.

~~Following~~ Upon completion of a monitoring evaluation or complaint investigation of an assisted living program by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, 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 be made available to the department of elder affairs upon request in order to facilitate policy decisions, but shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 15. Section 231C.10, subsection 1, Code 2005, is amended to read as follows:

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.~~ a. 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~~ representative.

~~c.~~ b. Permitting, aiding, or abetting the commission of any illegal act in the assisted living program.

~~d.~~ c. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.

~~e.~~ d. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the assisted living program.

~~f.~~ e. Securing the devise or bequest of the property of a tenant of an assisted living program by undue influence.

~~g.~~ f. Founded dependent adult abuse as defined in section 235B.2.

~~h.~~ g. 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~~ five percent equity interest in the program, who has or has had an ownership interest in an assisted living program, adult day services program, elder group home, 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.~~ h. 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.~~ i. For any other reason as provided by law or administrative rule.

Sec. 16. Section 231C.14, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Preventing or interfering with or attempting 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. 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. 17. Section 231C.15, Code 2005, is amended to read as follows:

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. 18. NEW SECTION. 231C.16A MEDICATION SETUP — ADMINISTRATION AND STORAGE OF MEDICATIONS.

1. An assisted living program may provide for medication setup if requested by a tenant or the tenant's legal representative. If medication setup is provided following such request, the program shall be responsible for the specific task requested and the tenant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an assisted living program, or if the assisted living program provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the program by the tenant or tenant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed or registered in Iowa or by the individual to whom such licensed or registered individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the tenant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a tenant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the program at the request of the tenant or tenant's legal representative, or if medication administration is delegated to the program by the tenant or tenant's legal representative, appropriate staff of the program may transfer the medications in the tenant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Program assistance with medication administration as specified in the occupancy agreement shall not require the program to provide assistance with the storage of medications.

Sec. 19. Section 231C.17, subsections 1 and 3, Code 2005, are amended to read as follows:

1. A hospital licensed pursuant to chapter 135B, ~~or~~ a health care facility licensed pursuant to chapter 135C, or an adult day services program certified pursuant to chapter 231D 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 the assisted living program is certified pursuant to this chapter.

3. A certified assisted living program that complies with the requirements of this chapter shall not be required to be licensed or certified as a ~~health care~~ different type of facility ~~pursuant to chapter 135C~~, unless the facility is represented to the public as ~~a licensed health care~~ another type of facility.

Sec. 20. Section 231C.18, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. For accreditation via a national body of accreditation, one hundred twenty-five dollars.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 2005

CHAPTER 61

REGULATION OF ADULT DAY SERVICES

H.F. 587

AN ACT relating to adult day services regulation, providing penalties, and providing an effective date.

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

Section 1. Section 231D.1, Code 2005, is amended to read as follows:

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~~ health-related care, social services, and other 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. "Contractual agreement" means a written agreement entered into between an adult day services program and a participant that clearly describes the rights and responsibilities of the adult day services program and the participant, and other information required by rule.

~~2.~~ 3. "Department" means the department of elder affairs created in chapter 231.

~~3.~~ 4. "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.~~ 5. "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.

6. "Health-related care" means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis.

7. "Medication setup" means assistance with various steps of medication administration to support a participant's autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the participant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

8. "Participant" means an individual who is the recipient of services provided by an adult day services program.

9. "Participant's legal representative" means a person appointed by the court to act on behalf of a participant, or a person acting pursuant to a power of attorney.

10. "Personal care" means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping that are essential to the health and welfare of a participant.

~~5.~~ 11. "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.~~ 12. "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.~~ 13. "Supervision" means direct oversight and inspection of the act of accomplishing a function or activity.

Sec. 2. Section 231D.2, Code 2005, is amended to read as follows:

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 minimum 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 shall include a requirement that sufficient staffing be available at all times to fully meet a participant's identified needs. The rules shall include a requirement that no fewer than two staff persons who monitor participants as indicated in each participant's service plan shall be awake and on duty during the hours of operation when two or more participants are present. The rules and minimum 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.~~ 4. 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.~~ in accordance with chapter 17A, specific rules related to minimum standards for dementia-specific adult day services programs. The rules shall be formulated in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

Sec. 3. Section 231D.3, subsections 2, 4, and 5, Code 2005, are amended to read as follows:

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~~ participants. 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.

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 prospective ~~recipient~~ participant, 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~~ persons who are not participants. The rules shall be developed in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

Sec. 4. Section 231D.3, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of adult day services programs.

NEW SUBSECTION. 7. Certification of an adult day services program shall be for two years unless revoked for good cause by the department of inspections and appeals.

Sec. 5. Section 231D.4, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) For certification via a national body of accreditation, one hundred twenty-five dollars.

Sec. 6. Section 231D.5, subsection 1, Code 2005, is amended to read as follows:

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.~~ a. Appropriation or conversion of the property of ~~an adult day services programs service recipient~~ a participant without the ~~recipient's~~ participant's written consent or the written consent of the ~~service recipient's~~ participant's legal ~~guardian~~ representative.

~~c.~~ b. Permitting, aiding, or abetting the commission of any illegal act in the adult day services program.

~~d.~~ c. Obtaining or attempting to obtain or retain certification by fraudulent means, misrepresentation, or by submitting false information.

~~e.~~ d. Habitual intoxication or addiction to the use of drugs by the applicant, owner, manager, or supervisor of the adult day services program.

~~f.~~ e. Securing the devise or bequest of the property of a ~~recipient of services of an adult day services program~~ participant by undue influence.

~~g.~~ f. Failure or neglect to maintain a required continuing education and training program for all personnel employed in the adult day services program.

~~h.~~ 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 five percent equity interest in the program, who has or has had an ownership interest in an adult day services program, assisted living program, elder group home, 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 participants 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.

~~i.~~ j. For any other reason as provided by law or administrative rule.

Sec. 7. Section 231D.6, subsection 3, Code 2005, is amended to read as follows:

3. When the department of inspections and appeals finds that an immediate danger to the health or safety of ~~recipients of services from~~ participants in 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~~ participants in the adult day services program and suspend the certificate prior to a hearing.

Sec. 8. Section 231D.9, subsection 1, Code 2005, is amended to read as follows:

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~~ participant 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.

Sec. 9. NEW SECTION. 231D.9A INFORMAL REVIEW.

1. If an adult day services program contests the findings of 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, to the department of inspections and appeals for review.

2. 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.

3. 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. 10. Section 231D.10, Code 2005, is amended to read as follows:

231D.10 PUBLIC DISCLOSURE OF FINDINGS.

~~Following~~ Upon completion of a monitoring evaluation or complaint investigation of an adult day services program by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, 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 be made available to the department upon request to facilitate policy decisions, but 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. Section 231D.11, Code 2005, is amended to read as follows:

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.~~ 2. 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~~ participant.

b. Program failure or refusal to comply with regulatory requirements within prescribed time frames.

c. Preventing or interfering with or attempting 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. As used in this paragraph, "lawful enforcement" includes but is not limited to:

(1) Contacting or interviewing any participant in an adult day services program in private at any reasonable hour and without advance notice.

(2) Examining any relevant records of an adult day services program.

(3) Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

Sec. 12. Section 231D.12, Code 2005, is amended to read as follows:

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~~ participant, ~~recipient's~~ participant'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~~ participant 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~~ participant 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.13A MEDICATION SETUP — ADMINISTRATION AND STORAGE OF MEDICATIONS.

1. An adult day services program may provide for medication setup if requested by a participant or the participant's legal representative. If medication setup is provided following such request, the program shall be responsible for the specific task requested and the participant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an adult day services program, or if the adult day services program provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the program by the participant or the participant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed or registered in Iowa or by the individual to whom such licensed or registered individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the participant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a participant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the program at the request of the participant or the participant's legal representative, or if medication administration is delegated to the program by the participant or the participant's legal representative, appropriate staff of the program may transfer the medications in the participant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Program assistance with medication administration as specified in the contractual agreement shall not require the program to provide assistance with the storage of medications.

Sec. 14. Section 231D.16, Code 2005, is amended to read as follows:

231D.16 TRANSITION ~~PROVISIONS~~ PROVISION.

~~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.~~ 1. 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.

2. A hospital licensed pursuant to chapter 135B, a health care facility licensed pursuant to chapter 135C, or an assisted living program certified pursuant to chapter 231C may operate an adult day services program if the adult day services program is certified pursuant to this chapter.

3. A certified adult day services program that complies with the requirements of this chapter shall not be required to be licensed or certified as another type of facility, unless the facility is represented to the public as another type of facility.

Sec. 15. NEW SECTION. 231D.17 WRITTEN CONTRACTUAL AGREEMENT REQUIRED.

1. An adult day services program shall not operate in this state unless a written contractual agreement is executed between the adult day services program and each participant or the participant's legal representative prior to the participant's admission to the program, and unless the adult day services program operates in accordance with the terms of the written contractual agreement. The adult day services program shall deliver to the participant or the participant's legal representative a complete copy of the written contractual agreement and all supporting documents and attachments, prior to the participant's admission to the program, and shall also deliver a written copy of changes to the written contractual agreement, if any changes to the copy originally delivered are subsequently made, at least thirty days prior to any changes, unless otherwise provided in this section.

2. An adult day services program written contractual agreement shall clearly describe the rights and responsibilities of the participant and the program. The written contractual 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 admission 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 adult day services program.

c. The procedure followed for nonpayment of fees.

d. Identification of the party responsible for payment of fees and identification of the participant's legal representative, if any.

e. The term of the written contractual agreement.

f. A statement that the adult day services program shall notify the participant or the participant's legal representative, as applicable, in writing at least thirty days prior to any change being made in the written contractual agreement, with the following exceptions:

(1) When the participant's health status or behavior constitutes a substantial threat to the health or safety of the participant, other participants, or others, including when the participant refuses to consent to discharge.

(2) When an emergency or a significant change in the participant's condition results in the need for the provision of services that exceed the type or level of services included in the written contractual agreement and the necessary services cannot be safely provided by the adult day services program.

g. A statement that all participant information shall be maintained in a confidential manner to the extent required under state and federal law.

h. Discharge, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer.

i. The internal appeals process provided relative to an involuntary transfer.

j. The program's policies and procedures for addressing grievances between the adult day services program and the participants, including grievances relating to transfer and occupancy.

k. A statement of the prohibition against retaliation as prescribed in section 231D.12.

l. The emergency response policy.

m. The staffing policy which specifies staff is available during all times of program operation, if nurse delegation will be used, and how staffing will be adapted to meet changing participant needs.

n. In dementia-specific adult day services programs, a description of the services and programming provided to meet the life skills and social activities of participants.

o. The refund policy.

p. A statement regarding billing and payment procedures.

3. Written contractual agreements and related documents executed by each participant or participant's legal representative shall be maintained by the adult day services program in program files from the date of execution until three years from the date the written contractual

agreement is terminated. A copy of the most current written contractual agreement shall be provided to members of the general public, upon request. Written contractual 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. 16. NEW SECTION. 231D.18 INVOLUNTARY TRANSFER.

1. If an adult day services program initiates the involuntary transfer of a participant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the participant or participant's legal representative contests the transfer, the following procedure shall apply:

a. The adult day services program shall notify the participant or participant's legal representative, in accordance with the written contractual agreement, of the need to transfer and the reason for the transfer.

b. If, following the internal appeals process, the adult day services program upholds the transfer decision, the participant or participant's legal representative 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 participant results from a monitoring evaluation or complaint investigation conducted by the department of inspections and appeals.

Sec. 17. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 2005

CHAPTER 62

REGULATION OF ELDER GROUP HOMES

H.F. 710

AN ACT relating to the regulation of elder group homes and providing penalties.

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

Section 1. Section 231B.1, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

231B.1 DEFINITIONS.

1. "Department" means the department of elder affairs or the department's designee.

2. "Elder" means a person sixty years of age or older.

3. "Elder group home" means a single-family residence that is operated by a person who is providing room, board, and personal care and may provide health-related services to three through five elders who are not related to the person providing the service within the third degree of consanguinity or affinity, and which is staffed by an on-site manager twenty-four hours per day, seven days per week.

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. "Health-related care" means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis.

6. "Medication setup" means assistance with various steps of medication administration to support a tenant's autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

7. "Occupancy agreement" means a written agreement entered into between an elder group home and a tenant that clearly describes the rights and responsibilities of the elder group home and the tenant, and other information required by rule. "Occupancy agreement" may include a separate signed lease and signed service agreement.

8. "Personal care" means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping that are essential to the health and welfare of a tenant.

9. "Tenant" means an individual who receives elder group home services through a certified elder group home.

10. "Tenant advocate" means the office of the long-term care resident's advocate established in section 231.42.

11. "Tenant's legal representative" means a person appointed by the court to act on behalf of a tenant, or a person acting pursuant to a power of attorney.

Sec. 2. NEW SECTION. 231B.1A FINDINGS, PURPOSE, AND INTENT.

1. The general assembly finds that elder group homes are an important part of the long-term care continua in this state. Elder group homes emphasize the independence and dignity of the individual while providing housing in a cost-effective manner.

2. The purposes of establishing and regulating elder group homes 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 with personal care to live independently but who require health-related care only on a part-time or intermittent basis.

b. To establish standards for elder group homes that allow flexibility in design, which promotes a model of service delivery by focusing on individual independence, needs and desires, and consumer-driven quality of service.

c. To encourage public participation in the development of elder group home 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 elder group homes and that the department of inspections and appeals enforce this chapter.

Sec. 3. Section 231B.2, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

231B.2 CERTIFICATION OF ELDER GROUP HOMES — RULES.

1. The department shall establish by rule, in accordance with chapter 17A, minimum standards for certification and monitoring of elder group homes. The department may adopt by reference, with or without amendment, nationally recognized standards and rules for elder group homes. 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 not be limited to rules relating to all of the following:

a. Provisions to ensure, to the greatest extent possible, the health, safety, well-being, and appropriate treatment of tenants.

b. Requirements that elder group homes furnish the department of elder affairs and the department of inspections and appeals with specified information necessary to administer this chapter. All information related to the provider application for an elder group home presented

to either the department of inspections and appeals or the department of elder affairs shall be considered a public record pursuant to chapter 22.

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. Each elder group home operating in this state shall be certified by the department of inspections and appeals.

3. The owner or manager of a certified elder group home shall comply with the rules adopted by the department for an elder group home. A person, including a governmental unit, shall not represent an elder group home to the public as an elder group home or as a certified elder group home unless and until the program is certified pursuant to this chapter.

4. a. Services provided by a certified elder group home may be provided directly by staff of the elder group home, by individuals contracting with the elder group home 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 elder group home and the Medicare-certified hospice program shall enter into a written agreement under which the hospice program retains professional management responsibility for those services.

5. The department of inspections and appeals may enter into contracts to provide certification and monitoring of elder group homes. 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.

6. 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 elder group home 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.

7. 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 elder group home is operated, if the business or activity serves persons who are not tenants. The rules shall be developed in consultation with the department of inspections and appeals and affected industry, professional, and consumer groups.

8. An elder group home shall comply with section 135C.33.

9. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of elder group homes.

10. Certification shall be for two years unless revoked for good cause by the department of inspections and appeals.

Sec. 4. Section 231B.4, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

231B.4 ZONING — FIRE AND SAFETY STANDARDS.

An elder group home shall be located in an area zoned for single-family or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and the rules adopted for the special classification by the state fire marshal. In the absence of local building codes, the facility shall comply with the state plumbing code established pursuant to section 135.11 and the state building code established pursuant to section 103A.7 and the rules adopted for the special classification by the state fire marshal. The rules adopted for the special classification by the state fire marshal regarding second floor occupancy shall be adopted in consultation with the department of elder affairs and shall take into consideration the mobility of the tenants.

Sec. 5. NEW SECTION. 231B.5 WRITTEN OCCUPANCY AGREEMENT REQUIRED.

1. An elder group home shall not operate in this state unless a written occupancy agreement, as prescribed in subsection 2, is executed between the elder group home and each tenant or the tenant's legal representative prior to the tenant's occupancy, and unless the elder group home operates in accordance with the terms of the occupancy agreement. The elder group home shall deliver to the tenant or the tenant's legal 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, unless otherwise provided in this section.

2. An elder group home occupancy agreement shall clearly describe the rights and responsibilities of the tenant and the elder group home. 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 elder group home.

c. The procedure followed for nonpayment of fees.

d. Identification of the party responsible for payment of fees and identification of the tenant's legal representative, if any.

e. The term of the occupancy agreement.

f. A statement that the elder group home shall notify the tenant or the tenant's legal 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 elder group home.

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.

i. The internal appeals process provided relative to an involuntary transfer.

j. The program's policies and procedures for addressing grievances between the elder group home and the tenants, including grievances relating to transfer and occupancy.

k. A statement of the prohibition against retaliation as prescribed in section 231B.13.

l. The emergency response policy.

m. The staffing policy which specifies if nurse delegation will be used, and how staffing will be adapted to meet changing tenant needs.

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 legal representative shall be maintained by the elder group home 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. 6. NEW SECTION. 231B.6 INVOLUNTARY TRANSFER.

1. If an elder group home 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 legal representative contests the transfer, the following procedure shall apply:

a. The elder group home shall notify the tenant or tenant's legal 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 elder group home 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 legal 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 elder group home upholds the transfer decision, the tenant or the tenant's legal representative 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. 7. NEW SECTION. 231B.7 COMPLAINTS.

1. Any person with concerns regarding the operations or service delivery of an elder group home 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. 8. NEW SECTION. 231B.8 INFORMAL REVIEW.

1. If an elder group home contests the findings of 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 of the regulatory insufficiencies, to the department of inspections and appeals for review.

2. 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.

3. 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. 9. NEW SECTION. 231B.9 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an elder group home by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, the department of inspections and appeals' final findings with respect to compliance by the elder group home with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an elder group home 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 elder group home shall be made

available to the department of elder affairs upon request to facilitate policy decisions, but shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 10. NEW SECTION. 231B.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 elder group home to comply with this chapter or minimum standards adopted under this chapter or for any of the following reasons:

a. Appropriation or conversion of the property of an elder group home tenant without the tenant's written consent or the written consent of the tenant's legal representative.

b. Permitting, aiding, or abetting the commission of any illegal act in the elder group home.

c. Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.

d. Habitual intoxication or addiction to the use of drugs by the applicant, administrator, executive director, manager, or supervisor of the elder group home.

e. Securing the devise or bequest of the property of a tenant of an elder group home by undue influence.

f. Founded dependent adult abuse as defined in section 235B.2.

g. In the case of any officer, member of the board of directors, trustee, or designated manager of the elder group home or any stockholder, partner, or individual who has greater than a five percent equity interest in the elder group home, who has or has had an ownership interest in an elder group home, assisted living or adult day services program, home health agency, residential care facility, or licensed nursing facility in this or 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.

h. 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.

i. 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 elder group home 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 elder group home pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the elder group home 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, deny, suspend, or revoke the certificate. An elder group home shall not be operated on a conditional certificate for more than one year.

Sec. 11. NEW SECTION. 231B.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 a tenant of an elder group home exists which requires action on an emer-

gency basis, the department of inspections and appeals may direct removal of all tenants of the elder group home and suspend the certificate prior to a hearing.

Sec. 12. NEW SECTION. 231B.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 to a tenant, and any substantial fire or natural or other disaster occurring at or near an elder group home.

Sec. 13. NEW SECTION. 231B.13 RETALIATION BY ELDER GROUP HOME PROHIBITED.

An elder group home shall not discriminate or retaliate in any way against a tenant, a tenant's family, or an employee of the elder group home who has initiated or participated in any proceeding authorized by this chapter. An elder group home 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. 14. NEW SECTION. 231B.14 CIVIL PENALTIES.

The department may establish by rule, in accordance with chapter 17A, civil penalties for the following violations by an elder group home:

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 elder group home tenants.

3. Preventing or interfering with or attempting 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. As used in this subsection, "lawful enforcement" includes but is not limited to:

a. Contacting or interviewing any tenant of an elder group home in private at any reasonable hour and without advance notice.

b. Examining any relevant records of an elder group home.

c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

Sec. 15. NEW SECTION. 231B.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

A person establishing, conducting, managing, or operating an elder group home 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. A person establishing, conducting, managing, or operating an elder group home 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.

Sec. 16. NEW SECTION. 231B.16 COORDINATION OF THE LONG-TERM CARE SYSTEM — TRANSITIONAL PROVISIONS.

1. A hospital licensed pursuant to chapter 135B, a health care facility licensed pursuant to chapter 135C, an assisted living program certified pursuant to chapter 231C, or an adult day services program certified pursuant to chapter 231D may operate an elder group home, if the elder group home is 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 an elder group home.

3. A certified elder group home that complies with the requirements of this chapter shall not

be required to be licensed or certified as a different type of facility, unless the elder group home is represented to the public as another type of facility.

Sec. 17. NEW SECTION. 231B.17 IOWA ELDER GROUP HOME FEES.

1. The department of inspections and appeals shall collect elder group home certification and related fees. 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 elder group homes:

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. 18. NEW SECTION. 231B.18 APPLICATION OF LANDLORD AND TENANT ACT.

Chapter 562A, the uniform residential landlord and tenant Act, shall apply to elder group homes under this chapter.

Sec. 19. NEW SECTION. 231B.19 RESIDENT ADVOCATE COMMITTEES.

The commission of elder affairs shall adopt by rule procedures for appointing members of resident advocate committees for elder group homes.

Sec. 20. NEW SECTION. 231B.20 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 elder group home as credit toward sustaining the nursing assistant's or medication aide's certification.

Sec. 21. NEW SECTION. 231B.21 MEDICATION SETUP — ADMINISTRATION AND STORAGE OF MEDICATIONS.

1. An elder group home may provide for medication setup if requested by a tenant or the tenant's legal representative. If medication setup is provided following such request, the elder group home shall be responsible for the specific task requested and the tenant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an elder group home, or if the elder group home provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the elder group home by the tenant or tenant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed or registered in Iowa or by the individual to whom such licensed or registered individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the tenant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a tenant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the elder group home at the request of the tenant or tenant's legal representative, or if medication administration is delegated to the elder group home by the tenant or tenant's legal representative, appropriate staff of the elder group home may transfer the medications in the tenant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Elder group home assistance with medication administration as specified in the occupancy agreement shall not require the elder group home to provide assistance with the storage of medications.

Sec. 22. Section 335.33, Code 2005, is amended to read as follows:

335.33 ELDER GROUP HOMES.

A county board of supervisors or county zoning commission shall consider an elder group home a family home, as defined in section 335.25, for purposes of zoning, in accordance with section ~~231B.2~~ 231B.4, and may establish limitations regarding the proximity of one proposed elder group home to another.

Sec. 23. Section 414.31, Code 2005, is amended to read as follows:

414.31 ELDER GROUP HOMES.

A city council or city zoning commission shall consider an elder ~~family~~ group home a family home, as defined in section 414.22, for purposes of zoning, in accordance with section ~~231B.2~~ 231B.4, and may establish limitations regarding the proximity of one proposed elder group home to another.

Approved April 27, 2005

CHAPTER 63

REGULATION OF TRAFFIC SIGNAL PREEMPTION DEVICES

H.F. 717

AN ACT prohibiting the unauthorized sale, ownership, possession, or use of traffic signal preemption devices and providing a penalty.

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

Section 1. Section 321.260, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. A person shall not sell, own, possess, or use a traffic signal preemption device except as permitted in connection with the lawful operation of an authorized emergency vehicle as defined in section 321.1 or as otherwise authorized by the jurisdiction owning and operating an official traffic control signal. A person who is convicted of the unauthorized sale, ownership, possession, or use of a traffic signal preemption device is guilty of a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation under this subsection shall include assessment of a fine of not less than two hundred fifty dollars, and if the violation involves the unauthorized use of a traffic signal preemption device, the person may also be required to complete community service.

b. For purposes of this subsection, "traffic signal preemption device" means a device that, when activated, is capable of changing an official traffic control signal to green out of sequence.

Approved April 27, 2005

CHAPTER 64

ABANDONED VEHICLES —
REMOVAL AND DISPOSITION PROCEDURES

H.F. 757

AN ACT relating to the disposition of abandoned vehicles.

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

Section 1. Section 321.89, Code 2005, is amended to read as follows:

321.89 ABANDONED VEHICLES.

1. DEFINITIONS. As used in this section and sections 321.90 and 321.91 unless the context otherwise requires:

a. "Abandoned vehicle" means any of the following:

(1) A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

(2) A vehicle that has remained illegally on public property for more than twenty-four hours.

(3) A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours.

(4) A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process in subsection 3.

(5) Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

(6) A vehicle that has been impounded pursuant to section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

b. "Demolisher" means ~~any city or public agency organized for the disposal of solid waste, or any~~ a person licensed under chapter 321H whose business it is to convert a vehicle to junk, processed scrap, or scrap metal, or otherwise to wreck or dismantle vehicles.

c. "Police authority" means the Iowa state patrol, any law enforcement agency of a county or city, or any special security officer employed by the state board of regents under section 262.13.

2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody an abandoned vehicle on private property. ~~A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway.~~ The police authority may employ its own personnel, equipment, and facilities, or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle. The owners, lienholders, or other claimants of the abandoned vehicle shall not have a cause of action against a private entity for action taken under this section, if the private entity provides notice as required by subsection 3, paragraph "a", to those persons whose names were provided by the police authority.

3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER CLAIMANTS.

a. A police authority or private entity ~~which~~ that takes into custody an abandoned vehicle

shall notify, within twenty days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to ~~their~~ the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and ~~serial~~ vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this subsection. The notice shall also state that the failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants, after the expiration of the ten-day reclaiming period.

b. If ~~the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if~~ it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in paragraph "a".

~~c. The owner, lienholders, or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten-day reclaiming period, obtain an additional five days within which the vehicle or personal property may be reclaimed.~~

4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority or private entity shall make a determination as to whether or not the vehicle shall be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority or private entity shall sell the vehicle at public auction. Notwithstanding any other provision of this section, a police authority or private entity~~, which has taken into possession any abandoned vehicle which lacks an engine, two or more wheels, another part which renders the vehicle totally inoperable, or which has a fair market value of less than five hundred dollars as determined by the police authority or private entity,~~ may dispose of the vehicle to a demolisher for junk without public auction after complying with the notification procedures in subsection 3. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority or private entity, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a junking certificate to the county treasurer within thirty days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

From the proceeds of the sale of an abandoned vehicle the police authority, if the police authority did not hire a private entity, shall reimburse itself for the expenses of the auction, the

costs of towing, preserving, and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred pursuant to subsection 3, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage, and all notice and publication costs, and all other costs which result from placing abandoned vehicles in custody, whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund and are the obligation of the last owner or owners, jointly and severally.

The director of transportation shall establish by rule a claims procedure to be followed by police authorities in obtaining expenses and costs from the fund and procedures for reimbursement of expenses and costs to a private entity hired to take custody of an abandoned vehicle. If a private entity has been hired, the police authority ~~may~~ shall file a claim with the department for reimbursement of towing fees which shall be paid from the road use tax fund.

Approved April 27, 2005

CHAPTER 65

MENTAL COMPETENCY HEARINGS — CRIMINAL DEFENDANTS

H.F. 771

AN ACT relating to the timing of a mental competency hearing for a person accused of a criminal offense.

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

Section 1. Section 812.4, subsection 1, Code 2005, is amended to read as follows:

1. A hearing shall be held within fourteen days of the ~~filing of the order for an evaluation~~ arrival of the person at a psychiatric facility for the performance of the evaluation, or within five days of the court's motion or the filing of an application, if the defendant has had a psychiatric evaluation within thirty days of the probable cause finding, and upon which the court decides to rely. Pending the hearing, no further proceedings shall be taken under the complaint or indictment and the defendant's right to a speedy indictment and speedy trial shall be tolled until the court finds the defendant competent to stand trial.

Approved April 27, 2005

CHAPTER 66

CITY ZONING BOARDS OF ADJUSTMENT — MEMBERSHIP

S.F. 57

AN ACT authorizing the appointment of a nine-member city zoning board of adjustment.

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

Section 1. Section 414.8, Code 2005, is amended to read as follows:

414.8 MEMBERSHIP.

The board of adjustment shall consist of five, ~~or~~ seven, or nine members as determined by the council. Members of a five-member board shall be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members of a seven-member board shall be appointed for a term of five years, except when the board shall first be created two members shall be appointed for a term of five years, two members for a term of four years, one for a term of three years, one for a term of two years, and one for a one-year term. Members of a nine-member board shall be appointed for a term of five years, except when the board shall first be created three members shall be appointed for a term of five years, two members for a term of four years, two for a term of three years, one for a term of two years, and one for a one-year term. A five-member board shall not carry out its business without having three members present, ~~and~~ a seven-member board shall not carry out its business without having four members present, and a nine-member board shall not carry out its business without having five members present. A majority of the members of the board of adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Sec. 2. Section 414.14, Code 2005, is amended to read as follows:

414.14 VOTE REQUIRED.

The concurring vote of three members of the board in the case of a five-member board, and four members in the case of a seven-member board, and five members in the case of a nine-member board, shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

Sec. 3. Section 414.25, Code 2005, is amended to read as follows:

414.25 TRANSITIONAL PROVISIONS.

Of the two additional members which may be appointed to increase a five-member board of adjustment to a seven-member board after January 1, 1980, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after January 1, 1980, shall expire according to their original appointments.

Sec. 4. Section 414.25, Code 2005, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Of the four additional members which may be appointed to increase a five-member board of adjustment to a nine-member board on or after July 1, 2005, one member shall be appointed to an initial term of five years, one member to an initial term of four years, one to an initial term of three years, and one to an initial term of two years.

The terms of office of members of a board of adjustment serving unexpired terms of office on or after July 1, 2005, shall expire according to their original appointments.

NEW UNNUMBERED PARAGRAPH. Of the two additional members which may be appointed to increase a seven-member board of adjustment to a nine-member board on or after July 1, 2005, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four years. The terms of office of members of a board of adjustment serving unexpired terms of office on or after July 1, 2005, shall expire according to their original appointments.

Approved April 28, 2005

CHAPTER 67

INMATE LABOR FUND — USE OF MONEYS

S.F. 321

AN ACT relating to the use of moneys deposited into the inmate labor fund.

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

Section 1. Section 904.703, subsection 3, Code 2005, is amended to read as follows:

3. An inmate labor fund is established under the control of the department. All fees, grants, appropriations, or reimbursed costs received by the department and related to inmate labor shall be deposited into the fund, and the moneys shall be used by the department to offset staff and transportation costs related to providing inmate labor to public entities and to initiate or supplement other inmate labor activities within correctional institutions or throughout the state. 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.

Approved April 28, 2005

CHAPTER 68

UNIFORM MEDIATION ACT

S.F. 323

AN ACT establishing a uniform mediation Act.

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

Section 1. Section 13.14, subsection 2, Code 2005, is amended to read as follows:

2. Confidentiality is also protected as provided in section ~~679C.2~~ 679C.108.

Sec. 2. Section 22.7, subsection 37, Code 2005, is amended to read as follows:

37. Mediation ~~documents~~ communications as defined in section ~~679C.1~~ 679C.102, except written mediation agreements that resulted from a mediation which are signed on behalf of a governing body. However, confidentiality of mediation ~~documents~~ communications resulting from mediation conducted pursuant to chapter 216 shall be governed by chapter 216.

Sec. 3. Section 216.15B, subsection 2, Code 2005, is amended to read as follows:

2. If formal mediation is conducted by a mediator pursuant to this section, the confidentiality of all mediation communications ~~and mediation documents~~ is protected as provided in section ~~679C.2~~ 679C.108.

Sec. 4. Section 654A.13, Code 2005, is amended to read as follows:

654A.13 CONFIDENTIALITY.

If mediation is conducted pursuant to this chapter, the confidentiality of all mediation communications ~~and mediation documents~~ is protected as provided in section ~~679C.2~~ 679C.108.

Sec. 5. Section 679.12, Code 2005, is amended to read as follows:

679.12 CONFIDENTIALITY.

If mediation is conducted pursuant to this chapter, the confidentiality of all mediation communications ~~and mediation documents~~ is protected as provided in section ~~679C.2~~ 679C.108.

Sec. 6. NEW SECTION. 679C.101 SHORT TITLE.

This chapter shall be known as the "Uniform Mediation Act".

Sec. 7. NEW SECTION. 679C.102 DEFINITIONS.

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

1. "Mediation" means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

2. "Mediation communication" means a statement, whether oral or in a record, verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

3. "Mediation party" means an individual who participates in a mediation and whose agreement is necessary to resolve the dispute.

4. "Mediator" means an individual who conducts a mediation.

5. "Nonparty participant" means a person, other than a mediation party or mediator, that participates in a mediation.

6. "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.

7. "Proceeding" means any of the following:

a. A judicial, administrative, arbitral, or other adjudicative process, including related prehearing and posthearing motions, conferences, and discovery.

b. A legislative hearing or similar process.

8. "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.

9. "Sign" means any of the following:

a. To execute or adopt a tangible symbol with the present intent to authenticate a record.

b. To attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

Sec. 8. NEW SECTION. 679C.103 SCOPE.

1. Except as otherwise provided for in subsections 2 and 3, this chapter applies to a mediation that occurs under any of the following circumstances:

a. The mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator.

b. The mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure.

c. The mediation parties use as a mediator a person who holds oneself out as a mediator or the mediation is provided by a person who holds oneself out as providing mediation.

2. This chapter shall not apply to a mediation relating to or conducted by any of the following circumstances:

a. Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship.

b. Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that this chapter applies to a mediation arising out of a dispute that has been filed with an administrative agency or court.

c. Conducted by a judge who might make a ruling on the case.

d. Conducted at any of the following:

(1) A primary or secondary school if all the parties are students.

(2) A correctional institution for youths if all the parties are residents of that institution.

3. If the mediation parties agree in advance in a signed record, or a record of proceeding reflects agreement by the mediation parties, that all or part of a mediation is not privileged, the privileges under sections 679C.104 through 679C.106 do not apply to the mediation or part agreed upon. However, sections 679C.104 through 679C.106 apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

Sec. 9. NEW SECTION. 679C.104 PRIVILEGE AGAINST DISCLOSURE — ADMISSIBILITY — DISCOVERY.

1. Except as otherwise provided in section 679C.106, a mediation communication is privileged as provided in subsection 2 and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by section 679C.105.

2. In a proceeding, the following privileges shall apply:

a. A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.

b. A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.

c. A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

3. Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

Sec. 10. NEW SECTION. 679C.105 WAIVER AND PRECLUSION OF PRIVILEGE.

1. A privilege under section 679C.104 may be waived in a record or orally during a proceeding if it is expressly waived by all mediation parties and if all of the following apply:

a. In the case of the privilege of a mediator, the privilege is expressly waived by the mediator.

b. In the case of the privilege of a nonparty participant, the privilege is expressly waived by the nonparty participant.

2. A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under section 679C.104, but only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

3. A person that intentionally uses a mediation to plan, to attempt to commit, or to commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege pursuant to section 679C.104.

Sec. 11. NEW SECTION. 679C.106 EXCEPTIONS TO PRIVILEGE.

1. No privilege exists under section 679C.104 for a mediation communication that involves any of the following:

a. An agreement evidenced by a record signed by all mediation parties to the agreement.

b. A communication that is available to the public under chapter 22 or made during a session of a mediation which is open, or is required by law to be open, to the public.

c. A threat or statement of a plan to inflict bodily injury or commit a crime of violence.

d. A plan to commit or attempt to commit a crime, the commission of a crime, or activity to conceal an ongoing crime or ongoing criminal activity.

e. A communication that is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator.

f. Except as otherwise provided in subsection 3, a communication that is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a mediation party based on conduct occurring during a mediation.

g. A communication that is sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the child or adult protection case is referred by a court to mediation and a public agency participates.

2. There is no privilege under section 679C.104 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in any of the following situations:

a. A court proceeding involving a felony or misdemeanor.

b. Except as otherwise provided in subsection 3, a proceeding to prove a claim to rescind or reform a contract or a defense to avoid liability on a contract arising out of the mediation.

3. A mediator shall not be compelled to provide evidence of a mediation communication referred to in subsection 1, paragraph "f", or subsection 2, paragraph "b".

4. If a mediation communication is not privileged under subsection 1 or 2, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection 1 or 2 does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

Sec. 12. NEW SECTION. 679C.107 PROHIBITED MEDIATOR REPORTS.

1. Except as required in subsection 2, a mediator shall not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.

2. A mediator may disclose any of the following:

a. Whether the mediation occurred or has terminated, whether a settlement was reached, and attendance.

b. A mediation communication as permitted under section 679C.106.

c. A mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.

3. A communication made in violation of subsection 1 shall not be considered by a court, administrative agency, or arbitrator.

Sec. 13. NEW SECTION. 679C.108 CONFIDENTIALITY.

Unless subject to chapter 21 or 22, mediation communications are confidential to the extent agreed to by the parties or provided by other law or rule of this state.

Sec. 14. NEW SECTION. 679C.109 MEDIATOR'S DISCLOSURE OF CONFLICTS OF INTEREST — BACKGROUND.

1. Before accepting a mediation, an individual who is requested to serve as a mediator shall do all of the following:

a. Make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation.

b. Disclose any such known fact to the mediation parties as soon as is practical before accepting a mediation.

2. If a mediator learns any fact described in subsection 1 after accepting a mediation, the mediator shall disclose it as soon as is practicable.

3. At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

4. A person that violates subsection 1, 2, or 7 is precluded by the violation from asserting a privilege under section 679C.104.

5. Subsections 1, 2, 3, and 7 do not apply to an individual acting as a judge.

6. This chapter does not require that a mediator have a special qualification by background or profession.

7. A mediator must be impartial, unless after disclosure of the facts required in subsections 1, 2, and 3 to be disclosed, the parties agree otherwise.

Sec. 15. NEW SECTION. 679C.110 PARTICIPATION IN MEDIATION.

An attorney or other individual designated by a mediation party may accompany the mediation party to and participate in a mediation. A waiver of participation given before the mediation may be rescinded.

Sec. 16. NEW SECTION. 679C.111 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

The provisions of this chapter modify or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but this chapter does not modify, limit, or supersede section 101c of that Act or authorize electronic delivery of any of the notices described in section 103b of that Act.

Sec. 17. NEW SECTION. 679C.112 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration should be given to the need to promote uniformity of the law among states that enact the uniform mediation Act.

Sec. 18. NEW SECTION. 679C.113 SEVERABILITY CLAUSE.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

Sec. 19. NEW SECTION. 679C.114 APPLICATION TO EXISTING AGREEMENTS OR REFERRALS.

1. This chapter governs a mediation pursuant to a referral or an agreement to mediate made on or after July 1, 2005.

2. On or after July 1, 2005, this chapter governs an agreement to mediate whenever made.

Sec. 20. NEW SECTION. 679C.115 MEDIATOR IMMUNITY.

A mediator or a mediation program shall not be liable for civil damages for a statement, deci-

sion, or omission made in the process of mediation unless the act or omission by the mediator or mediation program is made in bad faith, with malicious purpose, or in a manner exhibiting willful or wanton disregard of human rights, safety, or property. This section shall apply to mediation conducted before the workers' compensation commissioner and mediation conducted pursuant to chapter 216.

Sec. 21. Chapter 679C, Code 2005, is repealed.

Approved April 28, 2005

CHAPTER 69

DOMESTIC RELATIONS, RIGHTS, AND SUPPORT OBLIGATIONS

S.F. 330

AN ACT relating to family law provisions including dissolution of marriage and domestic relations and termination of parental rights provisions.

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

Section 1. Section 234.39, subsections 1 and 2, Code 2005, are amended to read as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department. The amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing shall be established in accordance with the child support guidelines prescribed under section ~~598.21, subsection 4~~ 598.21B. However, the court, or the department of human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section ~~598.21, subsection 8~~ 598.21C, or under chapter 252H.

2. For an individual who is served by the department of human services under section 234.35, and is not subject to a dispositional order of the juvenile court requiring the provision of foster care, the department shall determine the obligation of the individual's parent or guardian pursuant to chapter 252C and in accordance with the child support guidelines pre-

scribed under section ~~598.21, subsection 4~~ 598.21B. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section ~~598.21, subsection 8~~ 598.21C, or under chapter 252H.

Sec. 2. Section 252A.3, subsections 1 and 2, Code 2005, are amended to read as follows:

1. A spouse is liable for the support of the other spouse and any child or children under eighteen years of age and any other dependent. The court shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21~~ 598.21A or 598.21B, as applicable.

2. A parent is liable for the support of the parent's child or children under eighteen years of age, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting the child or children, and, if the liable parent is possessed of sufficient means or able to earn the means. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B. The support obligation shall include support of a parent's child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.

Sec. 3. Section 252A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. If paternity of a child born out of wedlock is established as provided in subsection 8, the court shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age.

Sec. 4. Section 252A.6, subsection 4, Code 2005, is amended to read as follows:

4. If the respondent appears at the hearing and fails to answer the petition or admits the allegations of the petition, or if, after a hearing, the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the dependent is in need of and entitled to support from a party, the court shall make and enter an order directing a party to furnish support for the dependent and to pay a sum as the court determines pursuant to section ~~598.21~~ 598.21A or 598.21B, as applicable. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require a party to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the party's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 5. Section 252A.6A, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. If the respondent, after being served with notice as required under section 252A.6, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the respondent in default, and shall enter an order establishing paternity and establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 6. Section 252A.6A, subsection 2, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section 600B.41A, and that the party has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 7. Section 252A.6A, subsection 3, Code 2005, is amended to read as follows:

3. If the expert analyzing the blood or genetic test concludes that the test results demonstrate that the putative father is not excluded and that the probability of the putative father's paternity is ninety-nine percent or higher and if the test results have not been challenged, the court, upon motion by a party, shall enter a temporary order for child support to be paid pursuant to section ~~598.21, subsection 4~~ 598.21B. The court shall require temporary support to be paid to the clerk of court or to the collection services center. If the court subsequently determines the putative father is not the father, the court shall terminate the temporary support order. All support obligations which came due prior to the order terminating temporary support are unaffected by this action and remain a judgment subject to enforcement.

Sec. 8. Section 252B.5, subsection 4, Code 2005, 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,~~ 598.21C 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 administrative services in the implementation of the child support setoff as established under section 8A.504.

Sec. 9. Section 252B.5, subsection 7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

At the request of either parent who is subject to the order of support or upon its own initiation, review the amount of the support award in accordance with the guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and Title IV-D of the federal Social Security Act, as amended, and take action to initiate modification proceedings if the criteria established pursuant to this section are met. However, a review of a support award is not required if the child support recovery unit determines that such a review would not be in the best interest of the child and neither parent has requested such review.

Sec. 10. Section 252B.6, subsection 3, Code 2005, is amended to read as follows:

3. Appear on behalf of the state for the purpose of facilitating the modification of support awards consistent with guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and Title IV-D of the federal Social Security Act. The unit shall not otherwise participate in the proceeding.

Sec. 11. Section 252B.9, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Parents of a child on whose behalf support enforcement services are provided shall provide information regarding income, resources, financial circumstances, and property holdings to the department for the purpose of establishment, modification, or enforcement of a support

obligation. The department may provide the information to parents of a child as needed to implement the requirements of section ~~598.21, subsection 4~~ 598.21B, notwithstanding any provisions of law making this information confidential.

Sec. 12. Section 252C.2, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt as to amounts accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B. However, when establishing a support obligation against a responsible person, no debt shall be created for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker, if any of the following conditions exist:

Sec. 13. Section 252C.2, subsection 3, Code 2005, is amended to read as follows:

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. The administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, both as to amounts accrued and accruing, pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 14. Section 252C.3, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and the criteria established pursuant to section 252B.7A, and that the responsible person is required to provide medical support in accordance with chapter 252E.

Sec. 15. Section 252C.4, subsection 4, Code 2005, is amended to read as follows:

4. The court shall establish the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 16. Section 252C.4, subsection 7, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) If the court determines that the prior determination of paternity should not be overcome pursuant to section 600B.41A, and that the responsible person has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 17. Section 252F.3, subsection 1, paragraphs c and e, Code 2005, are amended to read as follows:

c. A statement that if paternity is established, the amount of the putative father's monthly support obligation and the amount of the support debt accrued and accruing will be established in accordance with the guidelines established in section ~~598.21, subsection 4~~ 598.21B, and the criteria established pursuant to section 252B.7A.

e. A written explanation of the procedures for determining the child support obligation and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 18. Section 252F.4, subsections 1 through 4, Code 2005, are amended to read as follows:

1. If the putative father fails to respond to the initial notice within twenty days after the date of service of the notice or fails to appear at a conference pursuant to section 252F.3 on the scheduled date of the conference, and paternity has not been contested and the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father, declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E, against the father.

2. If paternity is contested pursuant to section 252F.3, subsection 6, and the party contesting paternity fails to appear for a paternity test and fails to request a rescheduling pursuant to section 252F.3, or fails to appear for both the initial and the rescheduled paternity tests and the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E, against the father.

3. If the putative father appears at a conference pursuant to section 252F.3, and paternity is not contested, and the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father after the second notice has been sent declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E against the father.

4. If paternity was contested and paternity testing was performed and the putative father was not excluded, if the test results indicate that the probability of the putative father's paternity is ninety-five percent or greater, if the test results are not timely challenged, and if the putative father fails to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and medical support pursuant to chapter 252E, against the father.

Sec. 19. Section 252F.5, subsection 6, Code 2005, is amended to read as follows:

6. If the court determines that the putative father is the legal father, the court shall establish the amount of the accrued and accruing child support pursuant to the guidelines established under section ~~598.21, subsection 4~~ 598.21B, and shall establish medical support pursuant to chapter 252E.

Sec. 20. Section 252H.2, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A change in the amount of child support based upon an application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 21. Section 252H.6, Code 2005, is amended to read as follows:

252H.6 COLLECTION OF INFORMATION.

The unit may request, obtain, and validate information concerning the financial circumstances of the parents of a child as necessary to determine the appropriate amount of support pursuant to the guidelines established in section ~~598.21, subsection 4~~ 598.21B, including but not limited to those sources and procedures described in sections 252B.7A and 252B.9. The collection of information does not constitute a review conducted pursuant to section 252H.16.

Sec. 22. Section 252H.8, subsection 4, paragraph g, Code 2005, is amended to read as follows:

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section ~~598.21, subsection 4~~ 598.21B, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.

Sec. 23. Section 252H.8, subsection 10, Code 2005, is amended to read as follows:

10. The court shall establish the amount of child support pursuant to section ~~598.21, subsection 4~~ 598.21B, or medical support pursuant to chapter 252E, or both.

Sec. 24. Section 252H.9, subsection 2, Code 2005, is amended to read as follows:

2. For orders to which subchapter II or III is applicable, the unit shall determine the appropriate amount of the child support obligation using the current child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and the criteria established pursuant to section 252B.7A and shall determine the provisions for medical support pursuant to chapter 252E.

Sec. 25. Section 252H.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Pursuant to section ~~598.21, subsection 8~~ 598.21C, any administrative or court order resulting from an action initiated under this chapter may be made retroactive only to the date that all parties were successfully served the notice required under section 252H.15 or section 252H.19, as applicable.

Sec. 26. Section 252H.15, subsection 3, paragraphs c and e, Code 2005, are amended to read as follows:

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

e. Criteria for determining appropriateness of an adjustment and a statement that the unit will use the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, and the provisions for medical support pursuant to chapter 252E to adjust the order.

Sec. 27. Section 252H.18A, subsection 3, Code 2005, is amended to read as follows:

3. Notwithstanding section ~~598.21, subsections 8 and 9~~ 598.21C, for purposes of this section, a substantial change in circumstances means there has been a change of fifty percent or more in the income of a parent, and the change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

Sec. 28. Section 252H.19, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B.

Sec. 29. Section 252H.21, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. To the extent permitted under 42 U.S.C. § 666(a)(10)(A)(i)(II), the cost-of-living alteration shall be an exception to any requirement under law for the application of the child support guidelines established pursuant to section ~~598.21, subsection 4~~ 598.21B, including but not limited to any requirement in this chapter or chapter 234, 252A, 252B, 252C, 252F, 598, or 600B.

Sec. 30. Section 598.5, Code 2005, is amended to read as follows:

598.5 CONTENTS OF PETITION — VERIFICATION — EVIDENCE.

1. The petition for dissolution of marriage shall:

~~1.~~ a. State the name, birth date, address and county of residence of the petitioner and the name and address of the petitioner's attorney.

~~2.~~ b. State the place and date of marriage of the parties.

~~3.~~ c. State the name, birth date, address and county of residence, if known, of the respondent.

~~4.~~ d. State the name and age of each minor child by date of birth whose welfare may be affected by the controversy.

~~5.~~ e. State whether or not a separate action for dissolution of marriage or child support has been commenced and whether such action is pending in any court in this state or elsewhere. State whether the entry of an order would violate 28 U.S.C. § 1738B. If there is an existing child support order, the party shall disclose identifying information regarding the order.

~~6.~~ f. Allege that the petition has been filed in good faith and for the purposes set forth therein.

~~7.~~ g. Allege that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

~~8.~~ h. Set forth any application for temporary support of the petitioner and any children without enumerating the amounts thereof.

~~9.~~ i. Set forth any application for permanent alimony or support, child custody, or disposition of property, as well as attorneys' fees and suit money, without enumerating the amounts thereof.

~~10.~~ j. State whether the appointment of a conciliator pursuant to section 598.16 may preserve the marriage.

k. Except where the respondent is a resident of this state and is served by personal service, state that the petitioner has been for the last year a resident of the state, specifying the county in which the petitioner has resided and the length of such residence in the state after deducting all absences from the state, and that the maintenance of the residence has been in good faith and not for the purpose of obtaining a dissolution of marriage only.

2. The petition shall be verified by the petitioner.

3. The allegations of the petition shall be established by competent evidence.

Sec. 31. Section 598.7, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.7 MEDIATION.

1. The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any dissolution of marriage action or other domestic relations action. Mediation performed under this section shall comply with the provisions of chapter 679C. The provisions of this section shall not apply if the action involves a child support or medical support obligation enforced by the child support recovery unit. The provisions of this section shall not apply to actions which involve domestic abuse pursuant to chapter 236. The provisions of this section shall not affect a judicial district's or court's authority to order settlement conferences pursuant to rules of civil procedure. The court shall, on application of a party, grant a waiver from any court-ordered mediation under this section if the party demonstrates that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "j".

2. The supreme court shall establish a dispute resolution program in family law cases that includes the opportunities for mediation and settlement conferences. Any judicial district may implement such a dispute resolution program, subject to the rules prescribed by the supreme court.

3. The supreme court shall prescribe rules for the mediation program, including the circumstances under which the district court may order participation in mediation.

4. Any dispute resolution program shall comply with all of the following standards:

a. Participation in mediation shall include attendance at a mediation session with the mediator and the parties to the action, listening to the mediator's explanation of the mediation process, presentation of one party's view of the case, and listening to the response of the other party. Participation in mediation does not require that the parties reach an agreement.

b. The parties may choose the mediator, or the court shall appoint a mediator. A court-appointed mediator shall meet the qualifications established by the supreme court.

c. Parties to the mediation have the right to advice and presence of counsel at all times.

d. The parties to the mediation shall present any agreement reached through the mediation to their attorneys, if any. A mediation agreement reached by the parties shall not be enforceable until approved by the court.

e. The costs of mediation shall be borne by the parties, as agreed to by the parties, or as ordered by the court, and may be taxed as court costs. Mediation shall be provided on a sliding fee scale for parties who are determined to be indigent pursuant to section 815.9.

5. The supreme court shall prescribe qualifications for mediators under this section. 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. 32. NEW SECTION. 598.10 TEMPORARY ORDERS.

1. a. The court may order either party to pay the clerk a sum of money for the separate support and maintenance of the other party and the children and to enable such party to prosecute or defend the action. The court may on its own motion and shall upon application of either party or an attorney or guardian ad litem appointed under section 598.12 determine the temporary custody of any minor child whose welfare may be affected by the filing of the petition for dissolution.

b. In order to encourage compliance with a visitation order, a temporary order for custody shall provide for a minimum visitation schedule with the noncustodial parent, unless the court determines that such visitation is not in the best interest of the child.

2. The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be entered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. An order entered pursuant to this section shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 33. Section 598.11, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.11 HOW TEMPORARY ORDER MADE — CHANGES — RETROACTIVE MODIFICATION.

1. In making temporary orders, the court shall take into consideration the age of the applicant, the physical and pecuniary condition of the parties, and other matters as are pertinent, which may be shown by affidavits, as the court may direct. The hearing on the application shall be limited to matters set forth in the application, the affidavits of the parties, and the required statements of income. The court shall not hear any other matter relating to the petition, respondent's answer, or any pleadings connected with the petition or answer.

2. Subject to 28 U.S.C. § 1738B, after notice and hearing subsequent changes in temporary orders may be made by the court on application of either party demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order. If the order is not so modified it shall continue in force and effect until the action is dismissed or a decree is entered dissolving the marriage.

3. An order for temporary support may be retroactively modified only from three months after notice of hearing for temporary support pursuant to section 598.10 or from three months after notice of hearing for modification of a temporary order for support pursuant to this sec-

tion. The three-month limitation applies to modification actions pending on or after July 1, 1997.

Sec. 34. Section 598.12, Code 2005, is amended to read as follows:

598.12 ATTORNEY OR GUARDIAN AD LITEM FOR MINOR CHILD — INVESTIGATIONS.

1. The court may appoint an attorney to represent the legal interests of the minor child or children of the parties. The attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify before the court on matters pertinent to the legal interests of the children.

2. The court may appoint a guardian ad litem to represent the best interests of the minor child or children of the parties.

a. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include all of the following:

(1) Conducting general in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by the person's legal counsel.

(2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including visiting the home or residence or prospective home or residence each time placement is changed.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, prior to any court-ordered hearing.

(5) Obtaining firsthand knowledge, if possible, of facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any hearings in the matter in which the person is appointed guardian ad litem.

b. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child; may attend any meeting with the medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem; and may inspect and copy any records relevant to the proceedings.

3. The same person may serve both as the child's legal counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interests of the child as guardian ad litem, or a separate guardian ad litem is required to fulfill the requirements of subsection 2.

~~2.~~ 4. The court may require that an appropriate agency make an investigation of both parties regarding the home conditions, parenting capabilities, and other matters pertinent to the best interests of the child or children in a dispute concerning custody of the child or children. The investigation report completed by the appropriate agency shall be submitted to the court and available to both parties. The investigation report completed by the appropriate agency shall be a part of the record unless otherwise ordered by the court.

~~3.~~ 5. The court shall enter an order in favor of the attorney, the guardian ad litem, or an appropriate agency for fees and disbursements, and the amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent, in which event the fees shall be borne by the county.

Sec. 35. Section 598.14, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.14 ATTACHMENT.

The petition may be presented to the court for the allowance of an order of attachment,

which, by endorsement thereon, may direct such attachment and fix the amount for which it may issue, and the amount of the bond, if any, that shall be given. Any property taken by virtue thereof shall be held to satisfy the judgment or decree of the court, but may be discharged or released as in other cases.

Sec. 36. Section 598.15, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.15 MANDATORY COURSE — PARTIES TO CERTAIN PROCEEDINGS.

1. The court shall order the parties to any action which involves the issues of child custody or visitation to participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action or within forty-five days of the service of notice and application for modification of an order. Participation in the course may be waived or delayed by the court for good cause including, but not limited to, a default by any of the parties or a showing that the parties have previously participated in a court-approved course or its equivalent. Participation in the course is not required if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be granted or a final order shall not be entered until the parties have complied with this section, unless participation in the course is waived or delayed for good cause or is otherwise not required under this subsection.

2. Each party shall be responsible for arranging for participation in the course and for payment of the costs of participation in the course.

3. Each party shall submit certification of completion of the course to the court prior to the granting of a final decree or the entry of an order, unless participation in the course is waived or delayed for good cause or is otherwise not required under subsection 1.

4. If participation in the court-approved course is waived or delayed for good cause or is otherwise not required under this section, the court may order that the parties receive the information described in subsection 5 through an alternative format.

5. Each judicial district shall certify approved courses for parties required to participate in a course under this section. Approved courses may include those provided by a public or private entity. At a minimum and as appropriate, an approved course shall include information relating to the parents regarding divorce and its impact on the children and family relationship, parenting skills for divorcing parents, children's needs and coping techniques, and the financial responsibilities of parents following divorce.

6. In addition to the provisions of this section relating to the required participation in a court-approved course by the parties to an action as described in subsection 1, the court may require age-appropriate counseling for children who are involved in a dissolution of marriage action. The counseling may be provided by a public or private entity approved by the court. The costs of the counseling shall be taxed as court costs.

7. The supreme court may prescribe rules to implement this section.

Sec. 37. Section 598.20, Code 2005, is amended to read as follows:

598.20 FORFEITURE OF MARITAL RIGHTS.

When a dissolution of marriage is decreed the parties shall forfeit all rights acquired by marriage which are not specifically preserved in the decree. This provision shall not obviate any of the provisions of section ~~598.21~~ 598.21, 598.21A, 598.21B, 598.21C, 598.21D, 598.21E, or 598.21F.

Sec. 38. Section 598.21, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.21 ORDERS FOR DISPOSITION OF PROPERTY.

1. GENERAL PRINCIPLES. Upon every judgment of annulment, dissolution, or separate maintenance, the court shall divide the property of the parties and transfer the title of the property accordingly, including ordering the parties to execute a quitclaim deed or ordering a change of title for tax purposes and delivery of the deed or change of title to the county recorder of the county in which each parcel of real estate is located.

2. DUTIES OF COUNTY RECORDER. The county recorder shall record each quitclaim deed or change of title and shall collect the fee specified in section 331.507, subsection 2, paragraph "a", and the fee specified in section 331.604, subsection 1.

3. DUTIES OF CLERK OF COURT. If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder of the county in which the real estate is located. Any fees assessed shall be included as part of the court costs. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58, subsection 1.

4. PROPERTY FOR CHILDREN. The court may protect and promote the best interests of children of the parties by setting aside a portion of the property of the parties in a separate fund or conservatorship for the support, maintenance, education, and general welfare of the minor children.

5. DIVISION OF PROPERTY. The court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering all of the following:

a. The length of the marriage.

b. The property brought to the marriage by each party.

c. The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.

d. The age and physical and emotional health of the parties.

e. The contribution by one party to the education, training, or increased earning power of the other.

f. The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children, and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.

g. The desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having custody of the children, or if the parties have joint legal custody, to the party having physical care of the children.

h. The amount and duration of an order granting support payments to either party pursuant to section 598.21A and whether the property division should be in lieu of such payments.

i. Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.

j. The tax consequences to each party.

k. Any written agreement made by the parties concerning property distribution.

l. The provisions of an antenuptial agreement.

m. Other factors the court may determine to be relevant in an individual case.

6. INHERITED AND GIFTED PROPERTY. Property inherited by either party or gifts received by either party prior to or during the course of the marriage is the property of that party and is not subject to a property division under this section except upon a finding that refusal to divide the property is inequitable to the other party or to the children of the marriage.

7. NOT SUBJECT TO MODIFICATION. Property divisions made under this chapter are not subject to modification.

8. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 39. Section 598.21A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

598.21A ORDERS FOR SPOUSAL SUPPORT.

1. CRITERIA FOR DETERMINING SUPPORT. Upon every judgment of annulment, dissolution, or separate maintenance, the court may grant an order requiring support pay-

ments to either party for a limited or indefinite length of time after considering all of the following:

a. The length of the marriage.

b. The age and physical and emotional health of the parties.

c. The distribution of property made pursuant to section 598.21.

d. The educational level of each party at the time of marriage and at the time the action is commenced.

e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

f. The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.

g. The tax consequences to each party.

h. Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.

i. The provisions of an antenuptial agreement.

j. Other factors the court may determine to be relevant in an individual case.

2. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 40. NEW SECTION. 598.21B ORDERS FOR CHILD SUPPORT AND MEDICAL SUPPORT.

1. CHILD SUPPORT GUIDELINES.

a. The supreme court shall maintain uniform child support guidelines and criteria and review the guidelines and criteria at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485. The initial review shall be performed within four years of October 12, 1989, and subsequently within the four-year period of the most recent review.

b. The guidelines prescribed by the supreme court shall incorporate provisions for medical support as defined in chapter 252E to be effective on or before January 1, 1991.

c. It is the intent of the general assembly that, to the extent possible within the requirements of federal law, the court and the child support recovery unit consider the individual facts of each judgment or case in the application of the guidelines and determine the support obligation accordingly. It is also the intent of the general assembly that in the supreme court's review of the guidelines, the supreme court shall do both of the following:

(1) Emphasize the ability of a court to apply the guidelines in a just and appropriate manner based upon the individual facts of a judgment or case.

(2) In determining monthly child support payments, consider other children for whom either parent is legally responsible for support and other child support obligations actually paid by either party pursuant to a court or administrative order.

d. The guidelines prescribed by the supreme court shall be used by the department of human services in determining child support payments under sections 252C.2 and 252C.4. A variation from the guidelines shall not be considered by the department without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under criteria prescribed by the supreme court.

2. CHILD SUPPORT ORDERS.

a. COURT'S AUTHORITY. Unless prohibited pursuant to 28 U.S.C. § 1738B, upon every judgment of annulment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child.

b. CALCULATING AMOUNT OF SUPPORT.

(1) In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents.

(2) For purposes of calculating a support obligation under this section, the income of the parent from whom support is sought shall be used as the noncustodial parent income for purposes of application of the guidelines, regardless of the legal custody of the child.

(3) For the purposes of including a child's dependent benefit in calculating a support obligation under this section for a child whose parent has been awarded disability benefits under the federal Social Security Act, the provisions of section 598.22C shall apply.

c. REBUTTABLE PRESUMPTION IN FAVOR OF GUIDELINES. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded.

d. VARIATION FROM GUIDELINES. A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

e. SPECIAL CIRCUMSTANCES JUSTIFYING VARIATION FROM GUIDELINES. Unless the special circumstances of the case justify a deviation, the court or the child support recovery unit shall establish a monthly child support payment of twenty-five dollars for a parent who is nineteen years of age or younger, who has not received a high school or high school equivalency diploma, and to whom each of the following apply:

(1) The parent is attending a school or program described as follows or has been identified as one of the following:

(a) The parent is in full-time attendance at an accredited school and is pursuing a course of study leading to a high school diploma.

(b) The parent is attending an instructional program leading to a high school equivalency diploma.

(c) The parent is attending a vocational education program approved pursuant to chapter 258.

(d) The parent has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2.

(2) The parent provides proof of compliance with the requirements of subparagraph (l) to the child support recovery unit, if the unit is providing services under chapter 252B, or if the unit is not providing services pursuant to chapter 252B, to the court as the court may direct. Failure to provide proof of compliance under this subparagraph or proof of compliance under section 598.21G is grounds for modification of the support order using the uniform child support guidelines and imputing an income to the parent equal to a forty-hour work week at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

3. MEDICAL SUPPORT. The court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.

4. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 41. NEW SECTION. 598.21C MODIFICATION OF CHILD, SPOUSAL, OR MEDICAL SUPPORT ORDERS.

1. CRITERIA FOR MODIFICATION. Subject to 28 U.S.C. § 1738B, the court may subse-

quently modify child, spousal, or medical support orders when there is a substantial change in circumstances. In determining whether there is a substantial change in circumstances, the court shall consider the following:

a. Changes in the employment, earning capacity, income, or resources of a party.

b. Receipt by a party of an inheritance, pension, or other gift.

c. Changes in the medical expenses of a party.

d. Changes in the number or needs of dependents of a party.

e. Changes in the physical, mental, or emotional health of a party.

f. Changes in the residence of a party.

g. Remarriage of a party.

h. Possible support of a party by another person.

i. Changes in the physical, emotional, or educational needs of a child whose support is governed by the order.

j. Contempt by a party of existing orders of court.

k. Entry of a dispositional order in juvenile court pursuant to chapter 232 placing custody or physical care of a child with a party who is obligated to pay support for a child.

l. Other factors the court determines to be relevant in an individual case.

2. ADDITIONAL CRITERIA FOR MODIFICATION OF CHILD SUPPORT ORDERS.

a. Subject to 28 U.S.C. § 1738B, but notwithstanding subsection 1, a substantial change of circumstances exists when the court order for child support varies by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to section 598.21B or the obligor has access to a health benefit plan, the current order for support does not contain provisions for medical support, and the dependents are not covered by a health benefit plan provided by the obligee, excluding coverage pursuant to chapter 249A or a comparable statute of a foreign jurisdiction.

b. This basis for modification is applicable to petitions filed on or after July 1, 1992, notwithstanding whether the guidelines prescribed by section 598.21B were used in establishing the current amount of support. Upon application for a modification of an order for child support for which services are being received pursuant to chapter 252B, the court shall set the amount of child support based upon the most current child support guidelines established pursuant to section 598.21B, including provisions for medical support pursuant to chapter 252E. The child support recovery unit shall, in submitting an application for modification, adjustment, or alteration of an order for support, employ additional criteria and procedures as provided in chapter 252H and as established by rule.

3. APPLICABLE LAW. Unless otherwise provided pursuant to 28 U.S.C. § 1738B, a modification of a support order entered under chapter 234, 252A, 252C, 600B, this chapter, or any other support chapter or proceeding between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 234.39, 239B.6, or 252E.11, or if services are being provided pursuant to chapter 252B, the department is a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598B. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

4. RETROACTIVITY OF MODIFICATION. Judgments for child support or child support awards entered pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code which are subject to a modification proceeding may be retroactively modified only from three months after the date the notice of the pending petition for modification is served on the opposing party. The three-month limitation applies to a modification action pending on or after July 1, 1997. The prohibition of retroactive modification does not bar the child support recovery unit from obtaining orders for accrued support for previous time periods. Any retroactive modification which increases the amount of child support or any order for accrued support under this paragraph shall include a periodic payment plan. A retroactive

modification shall not be regarded as a delinquency unless there are subsequent failures to make payments in accordance with the periodic payment plan.

5. MODIFICATION OF PERIODIC DUE DATE. The periodic due date established under a prior order for payment of child support shall not be changed in any modified order under this section, unless the court determines that good cause exists to change the periodic due date. If the court determines that good cause exists, the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.

6. MODIFICATION BY CHILD SUPPORT RECOVERY UNIT. Notwithstanding any other provision of law to the contrary, when an application for modification or adjustment of support is submitted by the child support recovery unit, the sole issues which may be considered by the court in that action are the application of the guidelines in establishing the amount of support pursuant to section 598.21B, and provision for medical support under chapter 252E. When an application for a cost-of-living alteration of support is submitted by the child support recovery unit pursuant to section 252H.24, the sole issue which may be considered by the court in the action is the application of the cost-of-living alteration in establishing the amount of child support. Issues related to custody, visitation, or other provisions unrelated to support shall be considered only under a separate application for modification.

7. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

8. DUTY OF CLERK OF COURT. 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. 42. NEW SECTION. 598.21D RELOCATION OF PARENT AS GROUNDS TO MODIFY ORDER OF CHILD CUSTODY.

If a parent awarded joint legal custody and physical care or sole legal custody is relocating the residence of the minor child to a location which is one hundred fifty miles or more from the residence of the minor child at the time that custody was awarded, the court may consider the relocation a substantial change in circumstances. If the court determines that the relocation is a substantial change in circumstances, the court shall modify the custody order to, at a minimum, preserve, as nearly as possible, the existing relationship between the minor child and the nonrelocating parent. If modified, the order may include a provision for extended visitation during summer vacations and school breaks and scheduled telephone contact between the nonrelocating parent and the minor child. The modification may include a provision assigning the responsibility for transportation of the minor child for visitation purposes to either or both parents. If the court makes a finding of past interference by the parent awarded joint legal custody and physical care or sole legal custody with the minor child's access to the other parent, the court may order the posting of a cash bond to assure future compliance with the visitation provisions of the decree. The supreme court shall prescribe guidelines for the forfeiting of the bond and restoration of the bond following forfeiting of the bond.

Sec. 43. NEW SECTION. 598.21E CONTESTING PATERNITY TO CHALLENGE CHILD SUPPORT ORDER.

1. If, during an action initiated under this chapter or any other chapter in which a child or medical support obligation may be established based upon a prior determination of paternity, a party wishes to contest the paternity of the child or children involved, all of the following apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or a court or administrative order entered in this state, or by opera-

tion of law when the mother and established father are or were married to each other, the provisions of section 600B.41A apply.

(2) If following the proceedings under section 600B.41A the court determines that the prior determination of paternity should not be overcome, and that the established father has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21B, or the medical support obligation pursuant to chapter 252E, or both.

b. If a determination of paternity is based on an administrative or court order or other means pursuant to the laws of a foreign jurisdiction, any action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless a stay of the action initiated in this state to establish child or medical support is requested and granted by the court, pending a resolution of the contested paternity issue by the foreign jurisdiction, the action shall proceed.

c. Notwithstanding paragraph "a", in a pending dissolution action under this chapter, a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the established father and mother of the child file a written statement with the court that both parties agree that the established father is not the biological father of the child.

2. If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 4. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under this paragraph does not bar subsequent actions to establish paternity. A subsequent action to establish paternity against the previously established father is not barred if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

3. If an action to overcome paternity is brought pursuant to subsection 1, paragraph "c", the court shall appoint a guardian ad litem for the child for the pendency of the proceedings.

Sec. 44. NEW SECTION. 598.21F POSTSECONDARY EDUCATION SUBSIDY.

1. ORDER OF SUBSIDY. The court may order a postsecondary education subsidy if good cause is shown.

2. CRITERIA FOR GOOD CAUSE. In determining whether good cause exists for ordering a postsecondary education subsidy, the court shall consider the age of the child, the ability of the child relative to postsecondary education, the child's financial resources, whether the child is self-sustaining, and the financial condition of each parent. If the court determines that good cause is shown for ordering a postsecondary education subsidy, the court shall determine the amount of subsidy as follows:

a. The court shall determine the cost of postsecondary education based upon the cost of attending an in-state public institution for a course of instruction leading to an undergraduate degree and shall include the reasonable costs for only necessary postsecondary education expenses.

b. The court shall then determine the amount, if any, which the child may reasonably be expected to contribute, considering the child's financial resources, including but not limited to the availability of financial aid whether in the form of scholarships, grants, or student loans, and the ability of the child to earn income while attending school.

c. The child's expected contribution shall be deducted from the cost of postsecondary education and the court shall apportion responsibility for the remaining cost of postsecondary education to each parent. The amount paid by each parent shall not exceed thirty-three and one-third percent of the total cost of postsecondary education.

3. SUBSIDY PAYABLE. A postsecondary education subsidy shall be payable to the child, to the educational institution, or to both, but shall not be payable to the custodial parent.

4. REPUDIATION BY CHILD. A postsecondary education subsidy shall not be awarded if

the child has repudiated the parent by publicly disowning the parent, refusing to acknowledge the parent, or by acting in a similar manner.

5. OBLIGATIONS OF CHILD. The child shall forward, to each parent, reports of grades awarded at the completion of each academic session within ten days of receipt of the reports. Unless otherwise specified by the parties, a postsecondary education subsidy awarded by the court shall be terminated upon the child's completion of the first calendar year of course instruction if the child fails to maintain a cumulative grade point average in the median range or above during that first calendar year.

6. APPLICATION. A support order, decree, or judgment entered or pending before July 1, 1997, that provides for support of a child for college, university, or community college expenses may be modified in accordance with this subsection.

7. NECESSARY CONTENT OF ORDER. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 45. NEW SECTION. 598.21G MINOR PARENT — PARENTING CLASSES.

In any order or judgment entered under chapter 234, 252A, 252C, 252F, 598, or 600B, or under any other chapter which provides for temporary or permanent support payments, if the parent ordered to pay support is less than eighteen years of age, one of the following shall apply:

1. If the child support recovery unit is providing services pursuant to chapter 252B, the court, or the administrator as defined in section 252C.1, shall order the parent ordered to pay support to attend parenting classes which are approved by the department of human services.

2. If the child support recovery unit is not providing services pursuant to chapter 252B, the court may order the parent ordered to pay support to attend parenting classes which are approved by the court.

Sec. 46. Section 598.22, Code 2005, is amended to read as follows:

598.22 SUPPORT PAYMENTS — CLERK OF COURT — COLLECTION SERVICES CENTER — DEFAULTS — SECURITY.

1. Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Beginning October 1, 1999, all income withholding payments shall be directed to the collection services center. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act. For dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor under the federal Social Security Act, the provisions of section 598.22C shall apply.

2. An income withholding order or notice of the order for income withholding shall be entered under the terms and conditions of chapter 252D. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor shall transmit the payments to the alternate payee in accordance with the federal Act.

3. An order or judgment entered by the court for temporary or permanent support or for income withholding shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. Unless otherwise provided by federal law, if it is possible to identify the support order to which a payment is to be applied, and if sufficient information identifying the obligee is provided, the clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in records kept by the clerk, or the collection services center, as appropriate, which shall be available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

4. If the sums ordered to be paid in a support payment order are not paid to the clerk or the collection services center, as appropriate, at the time provided in the order or judgment, the clerk or the collection services center, as appropriate, shall certify a default to the court which may, on its own motion, proceed as provided in section 598.23.

5. Prompt payment of sums required to be paid under sections ~~598.11 and 598.21~~ 598.10, 598.21A, 598.21B, 598.21C, 598.21E, and 598.21F is the essence of such orders or judgments and the court may act pursuant to section 598.23 regardless of whether the amounts in default are paid prior to the contempt hearing.

6. Upon entry of an order for support or upon the failure of a person to make payments pursuant to an order for support, the court may require the person to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the person's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

7. For the purpose of enforcement, medical support is additional support which, upon being reduced to a dollar amount, may be collected through the same remedies available for the collection and enforcement of child support.

8. The clerk of the district court in the county in which the order for support is filed and to whom support payments are made pursuant to the order may require the person obligated to pay support to submit payments by bank draft or money order if the obligor submits an insufficient funds support payment to the clerk of the district court.

Sec. 47. Section 598.22C, subsection 2, Code 2005, is amended to read as follows:

2. For the purposes of calculating a support obligation under section ~~598.21, subsection 4~~ 598.21B, the dependent benefits paid for any child shall be included as income to the disabled parent.

Sec. 48. Section 598.22C, subsection 3, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) The dollar amount of the child support obligation as calculated by application of the guidelines under section ~~598.21, subsection 4~~ 598.21B, and a statement that the social security dependent benefits are included as income to the obligor in that calculation.

Sec. 49. Section 598.22C, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The amount of the child support obligation stated in the order, and the amount the obligor shall pay after application of the social security disability dependent benefit credit or satisfaction stated in the order, shall continue until modified, as provided in section ~~598.21~~ 598.21C.

Sec. 50. NEW SECTION. 598.22D SEPARATE FUND OR CONSERVATORSHIP FOR SUPPORT.

The court may protect and promote the best interests of a minor child by setting aside a por-

tion of the child support which either party is ordered to pay in a separate fund or conservatorship for the support, education, and welfare of the child.

Sec. 51. Section 598.41, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The court may provide for joint custody of the child by the parties. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent.

Sec. 52. Section 598.41, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. If joint legal custody is awarded to both parents, the court may award joint physical care to both joint custodial parents upon the request of either parent. Prior to ruling on the request for the award of joint physical care, the court may require the parents to submit, either individually or jointly, a proposed joint physical care parenting plan. A proposed joint physical care parenting plan shall address how the parents will make decisions affecting the child, how the parents will provide a home for the child, how the child's time will be divided between the parents and how each parent will facilitate the child's time with the other parent, arrangements in addition to court-ordered child support for the child's expenses, how the parents will resolve major changes or disagreements affecting the child including changes that arise due to the child's age and developmental needs, and any other issues the court may require. If the court denies the request for joint physical care, the determination shall be accompanied by specific findings of fact and conclusions of law that the awarding of joint physical care is not in the best interest of the child.

Sec. 53. Section 598.41, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. All orders relating to custody of a child are subject to chapter 598B.

Sec. 54. Section 600.11, subsection 2, paragraph f, Code 2005, is amended to read as follows:

f. A person who is ordered to pay support or a postsecondary education subsidy pursuant to section ~~598.21, subsection 5A~~ 598.21F, or chapter 234, 252A, 252C, 252F, 598, 600B, or any other chapter of the Code, for a person eighteen years of age or older who is being adopted by a stepparent, and the support order or order requires payment of support or postsecondary education subsidy for any period of time after the child reaches eighteen years of age.

Sec. 55. Section 600A.8, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The parent has been imprisoned for a crime against the child, the child's sibling, or another child in the household, or the parent has been imprisoned and it is unlikely that the parent will be released from prison for a period of five or more years.

Sec. 56. Section 600B.25, subsection 1, Code 2005, is amended to read as follows:

1. Upon a finding of paternity pursuant to section 600B.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section ~~598.21, subsection 4, until the child reaches majority or until the child finishes high school, if after majority~~ 598.21B. The support obligation shall include support of the child between the ages of eighteen and nineteen years if the child is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age. The court may order the father to pay amounts the court deems appropriate for the past

support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother, and other medical support as defined in section 252E.1. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

Sec. 57. Section 600B.41A, subsection 6, paragraph b, Code 2005, is amended to read as follows:

b. If the court dismisses the action to overcome paternity and preserves the paternity determination under this subsection, the court shall enter an order establishing that the parent-child relationship exists between the established father and the child, and including establishment of a support obligation pursuant to section ~~598.21~~ 598.21B and provision of custody and visitation pursuant to section 598.41.

Sec. 58. Sections 598.6, 598.7A, 598.14A, 598.14B, and 598.19A, Code 2005, are repealed.

Approved April 28, 2005

CHAPTER 70

ENTITIES AND TRANSACTIONS SUBJECT TO
INSURANCE DIVISION REGULATION — MISCELLANEOUS REVISIONS

S.F. 360

AN ACT relating to various provisions administered by the insurance division of the department of commerce concerning premium tax refunds, the interstate insurance compact, insurer insolvency proceedings, individual health insurance, the small employer carrier reinsurance program, insurance applications, the Iowa comprehensive health association, fire insurance policies, the Iowa insurance guaranty association, the FAIR plan, motor vehicle service contracts, investments by county and state mutual associations, reciprocal or interinsurance contract premium rates, unauthorized activity of insurance producers, and annuity contracts for cemetery and funeral merchandise and funeral services, and making fees and penalties applicable and providing effective and retroactive applicability dates.

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

Section 1. Section 322.19, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A ~~motor vehicle~~ service contract as defined in section 516E.1.

Sec. 2. Section 432.1, subsection 6, paragraph d, Code 2005, is amended to read as follows:

d. The sums prepaid by a company or 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 shall authorize the department of revenue to make a cash refund to an insurer, in lieu of a credit against subsequent prepayment or tax liabilities, if the insurer demonstrates the inability to recoup the funds paid via a credit. The commissioner shall adopt

rules establishing eligibility criteria for such a refund and a refund process. The commissioner may suspend or revoke the license of a company or association that fails to make a prepayment on or before the due date.

Sec. 3. Section 505A.1, Article II, section 8, Code 2005, is amended to read as follows:

8. "Member" means the person chosen by a compacting state as its representative to the commission, or the person's designee. The commissioner of insurance shall be the representative member of the compact for the state of Iowa.

Sec. 4. Section 507C.2, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 01. "Affiliate" of or "affiliated" with a specific person, means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

NEW SUBSECTION. 2A. "Commodity contract" means any of the following:

a. A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the federal Commodity Exchange Act, 7 U.S.C. § 1 et seq., or a board of trade outside the United States.

b. An agreement that is subject to regulation under section 19 of the federal Commodity Exchange Act, 7 U.S.C. § 1 et seq., and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract.

c. An agreement or transaction that is subject to regulation under section 4c(b) of the federal Commodity Exchange Act, 7 U.S.C. § 1 et seq., and that is commonly known to the commodities trade as a commodity option.

NEW SUBSECTION. 2B. "Control" means the same as defined in section 521A.1, subsection 3.

NEW SUBSECTION. 8A. "Forward contract" means a contract for the purchase, sale, or transfer of a commodity, as defined in section 1 of the federal Commodity Exchange Act, 7 U.S.C. § 1 et seq., or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or a combination of them or option on any of them. "Forward contract" does not include a commodity contract.

NEW SUBSECTION. 12A. "Netting agreement" means an agreement, including terms and conditions incorporated by reference therein, including a master agreement, which master agreement, together with all schedules, confirmations, definitions, and addenda thereto and transactions under any thereof, shall be treated as one netting agreement, that documents one or more transactions between parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting or liquidation of qualified financial contracts or present or future payment obligations or payment entitlements thereunder, including liquidation or closeout values relating to such obligations or entitlements among the parties to the netting agreement.

NEW SUBSECTION. 13A. "Qualified financial contract" means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the commissioner determines by regulation, resolution, or order to be a qualified financial contract for the purposes of this chapter.

NEW SUBSECTION. 15A. "Repurchase agreement" means an agreement, including related terms, that provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or an agency of the United States against the transfer of funds by the transferee of the certificates of deposit, eligible bankers' acceptances or securities, with a simultaneous agreement by the transferee to transfer to the transferor certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not

later than one year after the transfers or on demand against the transfer of funds. For the purposes of this definition, the items that may be subject to a repurchase agreement include, but are not limited to, mortgage-related securities, a mortgage loan, and an interest in a mortgage loan, but shall not include any participation in a commercial mortgage loan, unless the commissioner determines by rule, resolution, or order to include the participation within the meaning of the term. Repurchase agreement also applies to a reverse repurchase agreement.

NEW SUBSECTION. 16A. "Securities contract" means a contract for the purchase, sale, or loan of a security, including an option for the repurchase or sale of a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof, or an option entered into on a national securities exchange relating to foreign currencies, or the guarantee of a settlement of cash or securities by or to a securities clearing agency. For the purposes of this definition, the term "security" includes a mortgage loan, mortgage-related securities, and an interest in any mortgage loan or mortgage-related security.

NEW SUBSECTION. 18A. "Swap agreement" means an agreement, including the terms and conditions incorporated by reference in an agreement, that is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option, forward foreign exchange agreement, spot foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, or currency option or any other similar agreement, and includes any combination of agreements and an option to enter into an agreement.

Sec. 5. NEW SECTION. 507C.28A QUALIFIED FINANCIAL CONTRACTS.

1. Notwithstanding any other provision of this chapter to the contrary, including any other provision of this chapter permitting the modification of contracts, or other law of a state, a person shall not be stayed or prohibited from exercising any of the following:

a. A contractual right to terminate, liquidate, or close out any netting agreement or qualified financial contract with an insurer because of any of the following:

(1) The insolvency, financial condition, or default of the insurer at any time, provided that the right is enforceable under applicable law other than this chapter.

(2) The commencement of a formal delinquency proceeding under this chapter.

b. Any right under a pledge, security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract.

c. Subject to any provision of section 507C.30, subsection 2, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the securities valuation office or the national association of insurance commissioners as eligible for netting.

2. Upon termination of a netting agreement, the net or settlement amount, if any, owed by a nondefaulting party to an insurer against which an application or petition has been filed under this chapter shall be transferred to or on the order of the receiver for the insurer, even if the insurer is the defaulting party, notwithstanding any provision in the netting agreement that may provide that the nondefaulting party is not required to pay any net or settlement amount due to the defaulting party upon termination. Any limited two-way payment provision in a netting agreement with an insurer that has defaulted shall be deemed to be a full two-way payment provision as against the defaulting insurer. Any such amount shall, except to the extent it is subject to one or more secondary liens or encumbrances, be a general asset of the insurer.

3. In making any transfer of a netting agreement or qualified financial contract of an insurer subject to a proceeding under this chapter, the receiver shall do either of the following:

a. Transfer to one party, other than an insurer subject to a proceeding under this chapter, all netting agreements and qualified financial contracts between a counterparty or any affiliate of the counterparty and the insurer that is the subject of the proceeding, including all of the following:

(1) All rights and obligations of each party under each such netting agreement and qualified financial contract.

(2) All property, including any guarantees or credit support documents, securing any claims of each party under each such netting agreement and qualified financial contract.

b. Transfer none of the netting agreements, qualified financial contracts, rights, obligations, or property referred to in paragraph "a" with respect to the counterparty and any affiliate of the counterparty.

4. If a receiver for an insurer makes a transfer of one or more netting agreements or qualified financial contracts, the receiver shall use the receiver's best efforts to notify any person who is a party to the netting agreements or qualified financial contracts of the transfer by noon of the receiver's local time on the business day following the transfer. For purposes of this subsection, "business day" means a day other than a Saturday, Sunday, or any day on which either the New York stock exchange or the federal reserve bank of New York is closed.

5. Notwithstanding any other provision of this chapter to the contrary, a receiver shall not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a formal delinquency proceeding under this chapter. However, a transfer may be avoided under section 507C.28 if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

6. In exercising any of its powers under this chapter to disaffirm or repudiate a netting agreement or qualified financial contract, the receiver must take action with respect to each netting agreement or qualified financial contract and all transactions entered into in connection therewith, in its entirety. Notwithstanding any other provision of this chapter to the contrary, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or in the immediately preceding rehabilitation case shall be determined and shall be allowed or disallowed as if the claim had arisen before the date of the filing of the petition for liquidation or, if a rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of filing the petition for rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract. The term "actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives market for the contract and agreement claims.

7. The term "contractual right" as used in this section includes any right, whether or not evidenced in writing, arising under statutory or common law, a rule or bylaw of a national securities exchange, national securities clearing organization or securities clearing agency, a rule or bylaw, or a resolution of the governing body of a contract market or its clearing organization, or under law merchant.

8. This section shall not apply to persons who are affiliates of the insurer that is the subject of the proceeding.

9. All rights of a counterparty under this chapter shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts, provided that the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

Sec. 6. Section 507C.30, subsection 2, paragraph a, subparagraphs (4) and (5), Code 2005, are amended to read as follows:

(4) The obligation of the person is owed to the affiliate of the insurer, or any other entity or association other than the insurer.

~~(4)~~ (5) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution.

~~(5)~~ (6) The obligation of the person is to pay earned premiums to the insurer.

Sec. 7. Section 509.3, subsection 1, Code 2005, is amended to read as follows:

1. The policy shall have a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued or shall be furnished to the policyholder within thirty days after the policy is issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person.

Sec. 8. Section 513B.12, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. During the period of time that the operation of the small employer carrier reinsurance program is suspended pursuant to section 513B.13, subsection 14, a small employer carrier is not required to make an application to become a risk-assuming carrier pursuant to this section.

Sec. 9. Section 513B.13, subsection 3, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. During the period of time that the program is suspended pursuant to subsection 14, the size of the board may be reduced with the approval of the commissioner.

Sec. 10. Section 513B.17, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 11. Section 513C.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. An individual who has coverage as a dependent under a basic or standard health benefit plan may, when that individual is no longer a dependent under such coverage, elect to continue coverage under the basic or standard health benefit plan if the individual so elects immediately upon termination of the coverage under which the individual was covered as a dependent.

Sec. 12. Section 514A.5, subsection 1, Code 2005, is amended to read as follows:

1. The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is ~~attached to or~~ endorsed on the policy when issued as a part thereof or is furnished to the policyholder within thirty days after the policy is issued. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within fifteen days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

Sec. 13. Section 514B.13, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Health maintenance organizations providing services exclusively on a group contract basis may limit the open enrollment provided for in this section to all members of the group covered by the contract, including those members of the group who previously waived coverage.

Sec. 14. Section 514E.2, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. All carriers and all organized delivery systems licensed by the director of public health

providing health insurance or health care services in Iowa, whether on an individual or group basis, and all other insurers designated by the association's board of directors and approved by the commissioner shall be members of the association.

Sec. 15. Section 514E.2, subsection 5, paragraph l, Code 2005, is amended to read as follows:

l. Develop a method of advising applicants of the availability of other coverages outside the association, and shall promulgate a list of health conditions the existence of which would make an applicant eligible without demonstrating a rejection of coverage by one carrier.

Sec. 16. Section 514E.2, subsection 7, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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. 17. Section 514E.7, subsection 1, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. That the individual has a health condition that is established by the association's board of directors, with the approval of the commissioner, to be eligible for plan coverage.

NEW PARAGRAPH. e. That the individual has coverage under a basic or standard health benefit plan under chapter 513C.

Sec. 18. Section 514E.8, subsection 1, Code 2005, is amended to read as follows:

1. An association policy shall contain provisions under which the association is obligated to renew the coverage for an individual until the day the individual becomes eligible for Medicare coverage based on age, provided that any individual who is covered by an association policy and is eligible for Medicare coverage based on age prior to January 1, 2005, may continue to renew the coverage under the association policy.

Sec. 19. Section 515.138, sixth subsection, paragraph entitled concealment — fraud, Code 2005, is amended to read as follows:

CONCEALMENT — FRAUD. This entire policy shall be void if, whether before or after a loss, ~~the~~ an insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of ~~the~~ an insured therein, or in case of any fraud or false swearing by ~~the~~ an insured relating thereto.

Sec. 20. Section 515.138, sixth subsection, paragraph entitled perils not included, Code 2005, is amended to read as follows:

PERILS NOT INCLUDED. This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) Enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not

originate from any of the perils excluded by this policy; (i) neglect of ~~the~~ an insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this company be liable for loss by theft.

Sec. 21. Section 515.138, sixth subsection, paragraph entitled conditions suspending or restricting insurance, Code 2005, is amended to read as follows:

CONDITIONS SUSPENDING OR RESTRICTING INSURANCE. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring under any of the following circumstances:

a. While the hazard is created or increased by any means within the control or knowledge of ~~the~~ an insured~~; or.~~

b. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days~~; or.~~

c. As a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Sec. 22. Section 515B.2, subsection 4, paragraph b, subparagraph (7), Code 2005, is amended to read as follows:

(7) That would otherwise be a covered claim, but is an obligation to or on behalf of a person who has a net worth~~, on the date of the occurrence giving rise to the claim,~~ greater than that allowed by the guarantee fund law of the state of residence of the claimant, and which state has denied coverage to that claimant on that basis.

Sec. 23. Section 515B.17, Code 2005, is amended to read as follows:

515B.17 TIMELY FILING OF CLAIMS.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after twenty-four months from the date of the order of liquidation or after the final date set by the court for the filing of claims against the insolvent insurer or its receiver, whichever occurs first.

Sec. 24. Section 515F.36, subsection 2, Code 2005, is amended to read as follows:

2. The committee shall consist of seven members~~, one of whom.~~

a. Five of the members shall be elected ~~by~~ to the committee, with one member from each of the following:

~~a.~~ (1) American insurance association.

~~b.~~ (2) ~~Alliance of American insurers~~ Property casualty insurers association of America.

~~c. National association of independent insurers.~~

~~d.~~ (3) Iowa insurance institute.

~~e.~~ (4) Mutual insurance association of Iowa.

~~f.~~ (5) Independent insurance agents of Iowa.

~~g.~~ b. ~~All other insurers~~ Two of the members shall be elected to the committee by other insurer members of the plan.

Sec. 25. Section 516E.1, Code 2005, is amended to read as follows:

516E.1 DEFINITIONS.

For the purposes of this chapter:

1. "Administrator" means the deputy administrator appointed pursuant to section 502.601.

~~1.~~ 2. "Commissioner" means the commissioner of insurance as provided in section 505.1 ~~or the deputy administrator appointed under section 502.601~~.

3. "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

~~2.~~ 4. "Mechanical breakdown insurance" means a policy, contract, or agreement that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or

skill of work or normal wear and tear, and that is issued by an insurance company authorized to do business in this state.

~~3.~~ 5. "Motor vehicle" means any self-propelled vehicle subject to registration under chapter 321.

~~4. "Motor vehicle service contract" or "service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a new or used motor vehicle having a gross vehicle weight rating of less than sixteen thousand pounds that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance or maintenance agreements providing scheduled repair and maintenance services for leased vehicles.~~

~~5.~~ 6. ~~"Motor vehicle service contract provider" or "provider"~~ "Provider" means a person who ~~issues, makes, provides,~~ sells~~,~~ or offers to sell a ~~motor vehicle~~ service contract.

~~6. "Motor vehicle service contract reimbursement insurance policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by a motor vehicle service contract provider under the terms of motor vehicle service contracts issued by the provider.~~

7. "Record" means information stored or preserved in any medium, including in an electronic or paper format. A record includes but is not limited to documents, books, publications, accounts, correspondence, memoranda, agreements, computer files, film, microfilm, photographs, and audio or visual tapes.

8. "Reimbursement insurance policy" means a policy of insurance issued to a service company and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the service company under the terms of service contracts issued by the service company in the event of nonperformance by the service company. For the purposes of this definition, "all obligations and liabilities" include, but are not limited to, failure of the service company to perform under the service contract and the return of the unearned service company fee in the event of the service company's unwillingness or inability to reimburse the unearned service company fee in the event of termination of a service contract.

9. "Service company" means a person who issues and is obligated to perform, or arrange for the performance of, services pursuant to a service contract.

10. "Service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a new or used motor vehicle having a gross vehicle weight rating of less than sixteen thousand pounds, that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operation or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance or maintenance agreements.

~~8.~~ 11. "Service contract holder" means a person who purchases a ~~motor vehicle~~ service contract.

12. "Third-party administrator" means a person who contracts with a service company to be responsible for the administration of the service company's service contracts, including processing and adjudicating claims pursuant to a service contract.

Sec. 26. Section 516E.2, Code 2005, is amended to read as follows:

516E.2 ~~INSURANCE REQUIRED~~ REQUIREMENTS FOR DOING BUSINESS.

1. A ~~motor vehicle~~ service contract shall not be issued, sold, or offered for sale in this state unless the ~~provider of the service contract is insured under a motor vehicle service contract reimbursement insurance policy issued by an insurer authorized to do business in this state.~~ service company does all of the following:

a. Provides a receipt for the purchase of the service contract to the service contract holder.

b. Provides a copy of the service contract to the service contract holder within a reasonable period of time after the date of purchase of the service contract.

2. ~~The issuer of a reimbursement insurance policy shall not cancel a reimbursement insur-~~

~~ance policy unless a written notice has been received by the commissioner and by each applicable provider, including automobile dealers and third-party administrators. The notice shall fix the date of cancellation at a date no earlier than ten days after receipt of the notice by the commissioner and by the applicable provider. The notice may be made in person or by mail and a post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice.~~ A service company shall not issue a service contract or arrange to perform services pursuant to a service contract unless the service company is registered with the commissioner. A service company shall file a registration with the commissioner annually, on a form prescribed by the commissioner, accompanied by a registration fee in the amount of five hundred dollars.

3. In order to assure the faithful performance of a service company's obligations to its service contract holders, the administrator may by rule require financial responsibility standards.

4. The commissioner may issue an order denying, suspending, or revoking any registration if the commissioner finds that the order is in the public interest and finds any of the following:

a. The registration is incomplete in any material respect or contains any statement which, in light of the circumstances under which the registration was made, is determined by the commissioner to be false or misleading with respect to any material fact.

b. A provision of this chapter or a rule, order, or condition lawfully imposed under this chapter, has been willfully violated in connection with the sale of service contracts by any of the following persons:

(1) The person filing the registration, but only if the person filing the registration is directly or indirectly controlled by or acting for the service company.

(2) The service company, any partner, officer, or director of the service company or any person occupying a similar status or performing similar functions for the service company, or any person directly or indirectly controlling or controlled by the service company.

c. The service company has not filed a document or information required under this chapter.

d. The service company's literature or advertising is misleading, incorrect, incomplete, or deceptive.

e. The service company has failed to pay the proper filing fee. However, the commissioner shall vacate an order issued pursuant to this paragraph when the proper fee has been paid.

f. The service company does not have the minimum net worth, as determined in accordance with generally accepted accounting principles, required under this chapter.

The commissioner may vacate or modify an order issued under this subsection if the commissioner finds that the conditions which prompted the entry of the order have changed or that it is otherwise in the public interest to do so.

Sec. 27. Section 516E.3, Code 2005, is amended to read as follows:

516E.3 FILING AND FEE REQUIREMENTS.

1. SERVICE COMPANIES.

a. A ~~motor vehicle~~ service contract shall not be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract, and the ~~provider's~~ service company's reimbursement insurance policy have been filed with the commissioner by the service company.

~~2.~~ b. ~~In addition to any other required filings, an accurate copy of the service contract and the provider's reimbursement insurance policy, the~~ A service company shall file a consent to service of process on the commissioner, and such other information as the commissioner requires ~~shall be filed~~ annually with the commissioner no later than the first day of August. If the first day of August falls on a weekend or a holiday, the date for filing shall be the next business day. In addition to the annual filing, the ~~provider~~ service company shall promptly file copies of any amended documents if material amendments have been made in the materials on file with the commissioner. If an annual filing is made after the first of August and sales have occurred during the period when the ~~provider~~ service company was in noncompliance with

this section, the commissioner shall assess an additional filing fee that is two times the amount normally required for an annual filing. A fee shall not be charged for interim filings made to keep the materials filed with the division current and accurate. The annual filing shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

~~3. a.~~ c. A ~~motor vehicle service contract provider~~ service company shall promptly file the following information with the ~~insurance~~ commissioner:

(1) A change in the name or ownership of the ~~provider~~ service company.

(2) The termination of the ~~provider's~~ service company's business.

~~b.~~ (3) The ~~provider~~ service company is not required to submit a fee as part of this filing.

2. PROVIDERS.

a. A service contract shall not be sold or offered for sale in this state unless a true and correct copy of the service contract has been filed with the commissioner by the provider.

b. A provider shall file a consent to service of process on the commissioner and such other information as the commissioner requires annually with the commissioner no later than August 1. If August 1 falls on a weekend or a holiday, the date for filing shall be the next business day. In addition to the annual filing, the provider shall promptly file copies of any amended documents if material amendments have been made in the materials on file with the commissioner. If an annual filing is made after August 1 and sales have occurred during the period when the provider was in noncompliance with this section, the commissioner shall assess an additional filing fee that is two times the amount normally required for an annual filing. A fee shall not be charged for interim filings made to keep the materials filed with the division current and accurate. The annual filing shall be accompanied by a filing fee in the amount of one hundred dollars.

c. A provider shall promptly file the following information with the commissioner:

(1) A change in the name or ownership of the provider.

(2) The termination of the provider's business.

(3) A provider is not required to submit a fee as part of this filing.

Sec. 28. Section 516E.4, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

516E.4 REIMBURSEMENT INSURANCE POLICY REQUIREMENTS.

1. REQUIRED DISCLOSURES. A reimbursement insurance policy insuring a service contract issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the service company to perform under the contract, including but not limited to a failure to return the unearned consideration paid for a service contract in excess of the premium, the insurer that issued the policy shall pay on behalf of the service company any amount that is owed to the service contract holder by the service company to satisfy the service company's obligations under a service contract issued or sold by the service company.

2. TERMINATION. As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy unless a written notice has been received by the commissioner and by each applicable provider, service company, or third-party administrator. The notice shall fix the date of termination at a date no earlier than ten days after receipt of the notice by the commissioner and by the applicable provider, service company, or third-party administrator. The notice may be delivered in person or sent by mail, and a restricted certified mail return receipt shall be deemed proof of receipt of notice. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for a service contract issued by a service company prior to the date of termination.

3. INDEMNIFICATION OR SUBROGATION. This section does not prevent or limit the right of an insurer that issued a reimbursement insurance policy to seek indemnification from or subrogation against a service company if the insurer pays or is obligated to pay a service contract holder sums that the service company was obligated to pay pursuant to the provisions of a service contract or pursuant to a contractual agreement.

Sec. 29. Section 516E.5, Code 2005, is amended to read as follows:

516E.5 DISCLOSURE TO SERVICE CONTRACT HOLDERS — CONTRACT PROVISIONS.

1. A ~~motor vehicle~~ service contract shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the ~~provider~~ service company to the service contract holder are guaranteed under ~~the service contract~~ a reimbursement insurance policy, ~~and unless the~~ including a statement in substantially the following form: "Obligations of the service company under this service contract are guaranteed under a reimbursement insurance policy. If the service company fails to pay or provide service on a claim within sixty days after proof of loss has been filed with the service company, the service contract holder is entitled to make a claim directly against the reimbursement insurance policy." A claim against a reimbursement insurance policy shall also include a claim for return of the unearned consideration paid for the service contract in excess of the premium paid. A service contract shall conspicuously ~~states~~ state the name and address of the issuer of the reimbursement insurance policy for that service contract.

2. A ~~motor vehicle~~ service contract shall be written in clear, understandable language and the entire contract shall be printed or typed in easy-to-read type, size, and style, and shall not be issued, sold, or offered for sale in this state unless the contract does all of the following:

a. Clearly and conspicuously states the name and address of the service company, describes the service company's obligations to perform services or to arrange for the performance of services under the service contract, and states that the obligations of the ~~provider~~ service company to the service contract holder are guaranteed under a ~~service contract~~ reimbursement insurance policy.

b. Clearly and conspicuously states the name and address of the issuer of the reimbursement insurance policy.

c. Identifies the ~~motor vehicle~~ service ~~contract provider, the seller of the motor vehicle~~ company obligated to perform the service under the service contract, any third-party administrator, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

d. Sets forth the total purchase price of the service contract and the terms under which the purchase price of the service contract is to be paid.

e. Sets forth the procedure for making a claim, including a telephone number.

f. Clearly and conspicuously states the dates that coverage starts and ends and the existence, terms, and conditions of a deductible amount, if any.

g. Specifies the merchandise or services, or both, to be provided and clearly states any and all limitations, exceptions, or exclusions.

h. Sets forth the conditions on which substitution of services will be allowed.

i. Sets forth all of the obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage to the motor vehicle, and the obligation to notify the ~~provider~~ service company in advance of any repair, if any.

j. Sets forth any and all terms, restrictions, or conditions governing transferability of the service contract, if any.

k. Describes or references any and all applicable provisions of the Iowa consumer credit code, chapter 537.

l. States the name and address of the commissioner.

m. Sets forth any and all conditions on which the service contract may be canceled, the terms and conditions for the refund of any portion of the purchase price, the identity of the person primarily liable to provide any refund, and the identity of any other person liable to provide any portion of the refund. If the service contract holder cancels the service contract, the service company shall mail a written notice of termination to the service contract holder within fifteen days of the date of the termination.

n. Permits the service contract holder to cancel and return the service contract within at least twenty days of the date of mailing the service contract to the service contract holder or within at least ten days after delivery of the service contract if the service contract is delivered at the time of sale of the service contract, or within a longer period of time as permitted under

the service contract. If no claim has been made under the service contract prior to its return, the service contract is void and the full purchase price of the service contract shall be refunded to the service contract holder. A ten percent penalty shall be added each month to a refund that is not paid to a service contract holder within thirty days of the return of the service contract to the service company. The applicable time period for cancellation of a service contract shall apply only to the original service contract holder that purchased the service contract.

3. A complete copy of the terms of the ~~motor vehicle~~ service contract shall be delivered to the prospective service contract holder at or before the time that the prospective service contract holder makes application for the service contract. If there is no separate application procedure, then a complete copy of the ~~motor vehicle~~ service contract shall be delivered to the service contract holder at or before the time the service contract holder becomes bound under the contract.

Sec. 30. Section 516E.6, Code 2005, is amended to read as follows:

516E.6 COMMISSIONER MAY PROHIBIT CERTAIN SALES — INJUNCTION.

The commissioner shall issue an order instructing ~~the~~ a provider, service company, or third-party administrator to cease and desist from selling or offering for sale ~~motor vehicle~~ service contracts if the commissioner determines that the provider, service company, or third-party administrator has failed to comply with a provision of this chapter. Upon the failure of a ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator to obey a cease and desist order issued by the commissioner, the commissioner may give notice in writing of the failure to the attorney general, who shall immediately commence an action against the provider, service company, or third-party administrator to enjoin the provider, service company, or third-party administrator from selling or offering for sale ~~motor vehicle~~ service contracts until the provider, service company, or third-party administrator complies with the provisions of this chapter and the district court may issue the injunction.

Sec. 31. Section 516E.7, Code 2005, is amended to read as follows:

516E.7 RULES.

The commissioner may adopt rules as provided in chapter 17A to administer and enforce the provisions of this chapter and to establish minimum standards for disclosure of ~~motor vehicle~~ service contract coverage limitations and exclusions.

Sec. 32. Section 516E.8, Code 2005, is amended to read as follows:

516E.8 EXEMPTION.

This chapter does not apply to a ~~motor vehicle~~ service contract issued by the manufacturer or importer of the motor vehicle covered by the service contract or to any third party acting in an administrative capacity on the manufacturer's behalf in connection with that service contract.

Sec. 33. Section 516E.9, Code 2005, is amended to read as follows:

516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

A ~~motor vehicle~~ service ~~contract provider~~ company shall not represent or imply in any manner that the ~~provider~~ service company has been sponsored, recommended, or approved or that the ~~provider's~~ service company's abilities or qualifications have in any respect been passed upon by the state of Iowa, including the commissioner, the insurance division, or the division's securities bureau.

Sec. 34. Section 516E.10, Code 2005, is amended to read as follows:

516E.10 PROHIBITED ACTS — UNFAIR OR DECEPTIVE TRADE PRACTICES.

1. MISREPRESENTATIONS, FALSE ADVERTISING, AND UNFAIR PRACTICES.

a. Unless licensed as an insurance company, a ~~motor vehicle~~ service ~~contract provider~~ company shall not use in its name, contracts, or literature, the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or

deceptively similar to the name or description of any insurance or surety corporation, or any other ~~motor vehicle~~ service ~~contract provider~~ company.

b. A ~~motor vehicle~~ service ~~contract provider~~ company shall not, without the written consent of the purchaser, knowingly charge a purchaser for duplication of coverage or duties required by state or federal law, a warranty expressly issued by a manufacturer or seller of a product, or an implied warranty enforceable against the lessor, seller, or manufacturer of a product.

c. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not make, permit, or cause a false or misleading statement, either oral or written, in connection with the sale, offer to sell, or advertisement of a ~~motor vehicle~~ service contract.

d. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not permit or cause the omission of a material statement in connection with the sale, offer to sell, or advertisement of a ~~motor vehicle~~ service contract, which under the circumstances should have been made in order to make the statement not misleading.

e. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not make, permit, or cause to be made a false or misleading statement, either oral or written, about the benefits or services available under the ~~motor vehicle~~ service contract.

f. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not make, permit, or cause to be made a statement of practice which has the effect of creating or maintaining a fraud.

g. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the ~~motor vehicle~~ service contract industry or with respect to a ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator which is untrue, deceptive, or misleading. It is deceptive or misleading to use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a manufacturer or of such a nature that the use would tend to mislead a person into believing that the solicitation is in some manner connected with the manufacturer, unless actually authorized or issued by the manufacturer.

h. A bank, savings and loan association, credit union, insurance company, or other lending institution shall not require the purchase of a ~~motor vehicle~~ service contract as a condition of a loan.

2. DEFAMATION. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not make, publish, disseminate, or circulate, directly or indirectly, or aid, abet, or encourage the making, publishing, disseminating, or circulating of an oral or written statement or a pamphlet, circular, article, or literature which is false or maliciously critical of or derogatory to the financial condition of a person, and which is calculated to injure the person.

3. BOYCOTT, COERCION, AND INTIMIDATION. A ~~motor vehicle~~ provider, service ~~contract provider shall not enter into an~~ company, or third-party administrator agreement to commit, or by a concerted action commit, an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the service contract industry.

4. FALSE STATEMENTS. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not knowingly file with a supervisory or other public official, or knowingly make, publish, disseminate, circulate, or deliver to a person, or place before the public, or knowingly cause directly or indirectly to be made, published, disseminated, circulated, delivered to a person, or placed before the public, a false material statement of fact as to the financial condition of a person.

5. FALSE ENTRIES. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall not knowingly make a false entry of a material fact in a book, report,

or statement of a person or knowingly fail to make a true entry of a material fact pertaining to the business of the person in a book, report, or statement of the person.

6. USED OR REBUILT PARTS. A ~~motor vehicle~~ service ~~contract provider~~ company shall not repair a motor vehicle covered by a ~~motor vehicle~~ service contract with any of the following:

a. Used parts, unless the ~~provider~~ service company receives prior written authorization by the vehicle owner.

b. Rebuilt parts, unless the parts are rebuilt according to national standards recognized by the insurance division.

7. MARKETING. A provider, service company, or third-party administrator shall not market, advertise, offer to sell, or sell a service contract by using personal information obtained in violation of the federal Driver's Privacy Protection Act, 18 U.S.C. § 2721 et seq.

~~7.~~ 8. VIOLATIONS OF SECTION 714.16.

a. A violation of this chapter or rules adopted by the commissioner pursuant to this chapter is an unfair practice as defined in section 714.16.

b. An enforcement agreement between the commissioner and a ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator does not bar the attorney general from bringing an action against the provider, service company, or third-party administrator under section 714.16 as to allegations that a violation of this chapter constitutes a violation of section 714.16.

Sec. 35. Section 516E.11, Code 2005, is amended to read as follows:

516E.11 RECORDS — EXPLANATION OF REASONS FOR DENIAL OF CLAIMS.

1. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall keep accurate records concerning transactions regulated under this chapter.

a. ~~A motor vehicle service contract provider's records~~ Records of a provider, service company, or third-party administrator shall include all of the following:

(1) Copies of ~~all service contracts~~ each type of service contract issued or sold.

(2) The name and address of each service contract holder.

(3) ~~The~~ Claim files which shall contain, at a minimum, the dates, amounts, and descriptions of all receipts, claims, and expenditures related to service contracts.

(4) Copies of all materials relating to claims which have been denied.

b. A ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator shall retain all required records pertaining to a service contract holder for at least two years after the specified period of coverage has expired. A provider, service company, or third-party administrator discontinuing business in this state shall maintain its records until the provider, service company, or third-party administrator furnishes the commissioner satisfactory proof that the provider, service company, or third-party administrator has discharged all obligations to contract holders in this state.

c. ~~Motor vehicle service contract providers~~ Providers, service companies, or third-party administrators shall make all records concerning transactions regulated under the chapter available to the commissioner for the purpose of examination.

d. A provider, service company, or third-party administrator may keep all records required under this chapter in an electronic form. If an administrator maintains records in a form other than a printed copy, the records shall be accessible from a computer terminal available to the commissioner and shall be capable of duplication to a legible printed copy.

2. A ~~motor vehicle service contract~~ provider, service company, or third-party administrator shall promptly deliver a written explanation to the service contract holder, describing the reasons for denying a claim or for the offer of a compromise settlement, based on all relevant facts or legal requirements and referring to applicable provisions of the service contract.

3. A provider, service company, or third-party administrator shall keep accurate records concerning transactions regulated under this chapter, including a list of the locations where service contracts are marketed, sold, offered for sale, or performed.

Sec. 36. Section 516E.12, Code 2005, is amended to read as follows:

516E.12 SERVICE OF PROCESS.

The commissioner shall be the agent for service of process upon a ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator and an issuer of a reimbursement insurance policy.

Sec. 37. Section 516E.13, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon the commissioner's determination that a provider, service company, or third-party administrator has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted pursuant to this chapter, the commissioner may issue a summary order directing the person to cease and desist from engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

Sec. 38. Section 516E.14, Code 2005, is amended to read as follows:

516E.14 AUDITS.

The commissioner may examine or cause to be examined the records of a ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator for the purpose of verifying compliance with this chapter. The commissioner may require, by a subpoena, the attendance of the provider, service company, or third-party administrator, or ~~the provider's~~ a representative thereof, and any other witness whom the commissioner deems necessary or expedient, and the production of records relating in any manner to compliance with this chapter if a provider, service company, third-party administrator, or witness fails or refuses to produce the documents for examination when requested by the commissioner.

Sec. 39. Section 516E.15, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. A ~~motor vehicle~~ provider, service ~~contract provider who~~ company, or third-party administrator that fails to file documents and information with the commissioner as required pursuant to section 516E.3 may be subject to a civil penalty. The amount of the civil penalty shall not be more than four hundred dollars plus two dollars for each ~~motor vehicle~~ service contract that the person executed prior to satisfying the filing requirement. However, a person who fails to file information regarding a change in the ~~provider's~~ name or the termination of the ~~provider's~~ business of a provider, service company, or third-party administrator as required pursuant to section 516E.3 is subject to a civil penalty of not more than five hundred dollars.

Sec. 40. Section 516E.15, subsection 2, Code 2005, is amended to read as follows:

2. If the commissioner believes that grounds exist for the criminal prosecution of a ~~motor vehicle~~ provider, service ~~contract provider~~ company, or third-party administrator for violating this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession for action deemed appropriate by the attorney general or county attorney. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county served by the county attorney.

Sec. 41. NEW SECTION. 516E.16 COURT ACTION FOR FAILURE TO COOPERATE.

1. If a person fails or refuses to file a statement or report or to produce any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records, or to obey a subpoena issued by the commissioner, the commissioner may refer the matter to the attorney general, who may apply to a district court to enforce compliance. The court may order any of the following:

a. Injunctive relief restricting or prohibiting the offer or sale of service contracts.

b. Production of documents or records including but not limited to books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records.

c. Such other relief as may be appropriate.

2. A court order issued pursuant to subsection 1 is effective until the person who is subject to the order files the statement or report, produces the documents requested, or obeys the subpoena.

Sec. 42. NEW SECTION. 516E.17 NET WORTH REQUIREMENT.

A service company that has issued or renewed in the aggregate one thousand or fewer service contracts during the preceding calendar year shall maintain a minimum net worth of forty thousand dollars. The minimum net worth to be maintained shall be increased by an additional twenty thousand dollars for each additional five hundred contracts or fraction thereof issued or renewed, up to a maximum required net worth of four hundred thousand dollars. At least twenty thousand dollars of net worth shall consist of paid-in capital.

Sec. 43. NEW SECTION. 516E.18 PUBLIC ACCESS TO RECORDS.

1. The administrator shall keep a register of all filings and orders which have been entered. The register shall be open for public inspection.

2. Upon request and for a reasonable fee, the administrator shall furnish to any person copies of any register entry or any document which is a matter of public record and not confidential. Copies shall be available during normal business hours and may be certified upon request. In any administrative, civil, or criminal proceeding, a certified copy is prima facie evidence of the contents of the document certified.

3. Pursuant to chapter 22, the administrator may maintain the confidentiality of information obtained during an investigation or audit.

Sec. 44. NEW SECTION. 516E.19 ADMINISTRATION.

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section 502.601 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administrative staff. In the absence of the commissioner, 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 commissioner. The commissioner may from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner in this chapter. The deputy administrator shall employ officers, attorneys, accountants, auditors, investigators, and other employees as shall be needed for the administration of this chapter.

2. Upon request, the commissioner may honor requests from interested persons for interpretive opinions.

Sec. 45. Section 518.14, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. UNITED STATES GOVERNMENT OBLIGATIONS. ~~Obligations~~ Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by ~~an~~ any agency or instrumentality of the United States of America, include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States obligations described in this paragraph, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation – full faith and credit list.

Sec. 46. Section 518A.12, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. UNITED STATES GOVERNMENT OBLIGATIONS. ~~Obligations~~ Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or ~~an~~ by any agency or instrumentality of the United States of America, include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States obligations described in this paragraph, and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation – full faith and credit list.

Sec. 47. Section 520.19, Code 2005, is amended to read as follows:

520.19 ANNUAL TAX — FEES.

In lieu of all other taxes, licenses, charges, and fees whatsoever, such attorney shall annually pay to the commissioner the same fees as are paid by mutual companies transacting the same kind of business, and an annual tax ~~of two percent, if a domestic reciprocal organization, and two percent, if a foreign reciprocal organization,~~ based upon the applicable percentage stated in section 432.1, subsection 4, calculated upon the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, after deducting therefrom returns, or cancellations, and all amounts returned to subscribers or credited to their accounts as savings, and the amount returned upon canceled policies and rejected applications covering property situated or on business done within this state.

Sec. 48. Section 522B.17, Code 2005, is amended to read as follows:

522B.17 PENALTY.

An insurer or insurance producer who, after hearing, is found to have violated this chapter may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.

A person ~~found~~ who, after hearing, is found to have ~~acted~~ violated this chapter by acting as an agent of an insurer or otherwise selling, soliciting, or negotiating insurance in this state, or offering to the public advice, counsel, or services with regard to insurance, who is not properly licensed ~~is subject to~~ may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty according to the provisions of chapter 507A.

If a person does not comply with an order issued pursuant to this section, the commissioner may petition a court of competent jurisdiction to enforce the order. The court shall not require the commissioner to post a bond in an action or proceeding under this section. If the court finds, after notice and opportunity for hearing, that the person is not in compliance with an order, the court may adjudge the person to be in civil contempt of the order. The court may impose a civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief that the court determines is just and proper in the circumstances.

Sec. 49. NEW SECTION. 522B.17A INJUNCTIVE RELIEF.

1. An association with at least twenty-five insurance producer members may bring an action in district court to enjoin a person from selling, soliciting, or negotiating insurance in violation of section 522B.2. However, before bringing an action in district court to enjoin a person pursuant to this section, an association shall file a complaint with the insurance division alleging that the person is selling, soliciting, or negotiating insurance in violation of section 522B.2.

2. If the division makes a determination to proceed administratively against the person for a violation of section 522B.2, the complainant shall not bring an action in district court against the person pursuant to this section based upon the allegations contained in the complaint filed with the division.

3. If the division does not make a determination to proceed administratively against the person for a violation of section 522B.2, the division shall issue, on or before ninety days from the date of filing of the complaint, a release to the complainant that permits the complainant to bring an action in district court pursuant to this section.

4. The filing of a complaint with the division pursuant to this section tolls the statute of limitations pursuant to section 614.1 as to the alleged violation for a period of one hundred twenty days from the date of filing the complaint.

5. Any action brought in district court by a complainant against a person pursuant to this section, based upon the allegations contained in the complaint filed with the division, shall be brought within one year after the ninety-day period following the filing of the complaint with the division, or the date of the issuance of a release by the division, whichever is earlier.

6. If the court finds that the person is in violation of section 522B.2 and enjoins the person from selling, soliciting, or negotiating insurance in violation of that section, the court's findings of fact and law, and the judgment and decree, when final, shall be admissible in any proceeding initiated pursuant to section 522B.17 by the commissioner against the person enjoined and the person enjoined shall be precluded from contesting in that proceeding the court's determination that the person sold, solicited, or negotiated insurance in violation of section 522B.2.

Sec. 50. Section 523A.402, subsection 6, paragraph c, Code 2005, is amended to read as follows:

c. The annuity shall not be contestable, or limit death benefits in the case of suicide, with respect to that portion of the face amount of the annuity which is required by paragraph "b". The annuity shall <u>not</u> refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

Sec. 51. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This section and the sections of this Act amending sections 513C.6 and 514E.2, and amending section 514E.7, subsection 1, by enacting paragraph "e", being deemed of immediate importance, take effect upon enactment. The section of the Act amending section 513C.6 is retroactively applicable to January 1, 2005, and is applicable on and after that date. The sections of the Act amending section 514E.2 are retroactively applicable to July 1, 1986, and are applicable on and after that date. The portion of the section of the Act amending section 514E.7, subsection 1, by enacting paragraph "e" is retroactively applicable to January 1, 2005, and is applicable on and after that date.

Approved April 28, 2005

CHAPTER 71

SALES AND USE TAX — TOY SALES TO NONPROFIT ORGANIZATIONS

H.F. 310

AN ACT exempting the sale of toys to certain nonprofit organizations from state sales and use taxes.

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

Section 1. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 85. The sales price from the sales of toys to a nonprofit organization exempt from federal income tax under section 501 of the Internal Revenue Code that purchases the toys from donations collected by the nonprofit organization and distributes the toys to children at no cost.

Approved April 28, 2005

CHAPTER 72

REGULATION OF ELECTIONS AND POLITICAL CAMPAIGNS

H.F. 312

AN ACT relating to campaign finance committee reporting, use of committee funds or property, independent expenditures, and placement of campaign signs.

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

Section 1. Section 53.10, unnumbered paragraph 3, Code 2005, is amended to read as follows:

During the hours when absentee ballots are available in the office of the commissioner, the posting of political signs is prohibited within ~~thirty~~ three hundred feet of the absentee voting site. No electioneering shall be allowed within the sight or hearing of voters at the absentee voting site.

Sec. 2. Section 53.11, subsection 4, Code 2005, is amended to read as follows:

4. During the hours when absentee ballots are available at a satellite absentee voting station, the posting of political signs is prohibited within ~~thirty~~ three hundred feet of the satellite absentee voting station. Electioneering shall not be allowed within the sight or hearing of voters at the satellite absentee voting station.

Sec. 3. Section 68A.102, subsection 9, Code 2005, is amended to read as follows:

9. "Consultant" means a person who provides or procures services ~~for or on behalf of a candidate~~ including but not limited to consulting, public relations, advertising, fundraising, polling, managing or organizing services.

Sec. 4. Section 68A.102, subsection 12, Code 2005, is amended to read as follows:

12. "County statutory political committee" means a committee as ~~defined~~ described in section 43.100 that accepts contributions in excess of seven hundred fifty dollars in the aggregate,

makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office.

Sec. 5. Section 68A.203, subsection 2, Code 2005, is amended to read as follows:

2. An individual who receives contributions for a committee without the prior authorization of the chairperson of the committee or the candidate shall be responsible for either rendering the contributions to the treasurer within fifteen days of the date of receipt of the contributions, or depositing the contributions in the account maintained by the committee within seven days of the date of receipt of the contributions. A person who receives contributions for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer the contributions and an account of the total of all contributions, including the name and address of each person making a contribution in excess of ten dollars, the amount of the contributions, and the date on which the contributions were received. The treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee. All funds of a committee shall be segregated from any other funds held by officers, members, or associates of the committee or the committee's candidate. However, if a candidate's committee receives contributions only from the candidate, or if a permanent organization temporarily engages in activity which qualifies it as a political committee and all expenditures of the organization are made from existing general operating funds and funds are not solicited or received for this purpose from sources other than operating funds, then that committee is not required to maintain a separate account in a financial institution. Committee funds or committee property shall not be used for the personal benefit of an officer, member, or associate of the committee. The funds of a committee are not attachable for the personal debt of the committee's candidate or an officer, member, or associate of the committee.

Sec. 6. Section 68A.304, subsection 1, paragraph d, Code 2005, is amended to read as follows:

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~~ campaign signs, and other campaign materials that have been permanently imprinted to be specific to a candidate or election.

Sec. 7. Section 68A.304, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Consumable campaign property may be disposed of in any manner by the candidate's committee. A candidate's committee shall not transfer consumable campaign property to another candidate without receiving fair market value compensation unless the candidate in both campaigns is the same person.

Sec. 8. Section 68A.402, subsection 6, paragraphs a and b, Code 2005, are amended to read as follows:

a. A state statutory political committee shall file a report on the same dates as a candidate's committee is required to file reports under subsection 2, ~~paragraph~~ paragraphs "a"~~,~~ and ~~subsection 5, paragraph "b"~~ "c".

b. A county statutory political committee shall file a report on the same dates as a candidate's committee is required to file reports under subsection 2, ~~paragraph~~ paragraphs "a"~~,~~ and ~~subsection 5, paragraph "b"~~ "c".

Sec. 9. Section 68A.402, subsection 7, paragraphs a and b, Code 2005, are amended to read as follows:

a. STATEWIDE OFFICE AND GENERAL ASSEMBLY ELECTIONS.

ELECTION YEAR. A political committee expressly advocating the nomination, election, or defeat of candidates for statewide office or the general assembly shall file a report on the same dates as a candidate's committee is required to file reports under subsection 2, paragraph "a".

NONELECTION YEAR. A political committee expressly advocating the nomination, election, or defeat of candidates for statewide office or the general assembly shall file a report as follows:

Report due:	Covering period:
~~January 19 (next~~ July 19 ~~calendar year)~~	January 1 through June 30
~~July 19~~ January 19 (next calendar year)	July 1 through December 31

b. COUNTY ELECTIONS. A political committee expressly advocating the nomination, election, or defeat of candidates for county office shall file reports on the same dates as a candidate's committee is required to file reports under subsection 2, ~~paragraph~~ paragraphs "a"~~,~~ and ~~subsection 5, paragraph "b"~~ "c".

Sec. 10. Section 68A.402, subsection 8, Code 2005, is amended to read as follows:

8. POLITICAL COMMITTEES — BALLOT ISSUES. A political committee expressly advocating the passage or defeat of a ballot issue shall file reports ~~on the same dates as candidates for city office are required to file reports under subsection 3.~~ as follows:

a. ELECTION YEAR. Five days before the election covering the period of the date of initial activity through ten days before election.

b. NONELECTION YEAR. On January 19 of the next calendar year that covers the time period of nine days before the election through December 31.

Sec. 11. Section 68A.402, subsection 10, Code 2005, is amended to read as follows:

10. ELECTION YEAR DEFINED. As used in this section, "election year" means a year in which the name of the candidate or ballot issue that is expressly advocated for or against appears on any ballot to be voted on by the electors of the state of Iowa. For state and county statutory political committees, and all other political committees except for political committees that advocate for or against ballot issues, "election year" means a year in which primary and general elections are held.

Sec. 12. Section 68A.402B, subsection 2, paragraph b, Code 2005, is amended by striking the paragraph.

Sec. 13. Section 68A.404, subsection 1, Code 2005, is amended to read as follows:

1. As used in this section, "independent expenditure" means ~~an expenditure~~ one or more expenditures in excess of seven hundred fifty dollars in the aggregate for a communication that expressly advocates the nomination, 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.

Sec. 14. Section 68A.404, subsection 2, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

2. A person, other than a committee registered under this chapter, that makes one or more independent expenditures shall file an independent expenditure statement.

a. The filing of an independent expenditure statement under this section does not alone require the person filing the independent expenditure statement to register and file reports under sections 68A.201 and 68A.402.

b. This section does not apply to a candidate, candidate's committee, state statutory political committee, county statutory political committee, or a political committee.

Sec. 15. Section 68A.404, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 16. Section 68A.405, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Small items upon which the inclusion of the statement is impracticable including, but not

limited to, ~~yard~~ campaign signs, bumper stickers, pins, buttons, pens, political business cards, and matchbooks.

Sec. 17. Section 68A.406, subsection 1, paragraph f, Code 2005, is amended to read as follows:

f. Property leased by a candidate, committee, or an organization established to advocate the nomination, election, or defeat of a candidate or the passage or defeat of a ballot issue that has not yet registered pursuant to section 68A.201, when the property is used as campaign headquarters or a campaign office and the placement of the sign is limited to the space that is actually leased.

Sec. 18. Section 68A.406, subsection 2, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Within three hundred feet of an absentee voting site during the hours when absentee ballots are available in the office of the county commissioner of elections as provided in section 53.10.

NEW PARAGRAPH. f. Within three hundred feet of a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station as provided in section 53.11.

Sec. 19. Section 68A.406, subsection 3, Code 2005, is amended to read as follows:

3. ~~Yard~~ Campaign signs with dimensions of thirty-two square feet or less are exempt from the attribution statement requirement in section 68A.405. Campaign signs in excess of thirty-two square feet, or signs that are affixed to buildings or vehicles regardless of size except for bumper stickers, are required to include the attribution statement required by section 68A.405. The placement or erection of ~~yard~~ campaign signs shall be exempt from the requirements of chapter 480 relating to underground facilities ~~organization~~ information.

Sec. 20. Section 68A.503, subsection 4, paragraph c, Code 2005, is amended to read as follows:

c. The placement of ~~yard~~ campaign signs under section 68A.406.

Approved April 28, 2005

CHAPTER 73

SALE AND PURCHASE OF AMMONIUM NITRATE

H.F. 476

AN ACT regulating the sale of ammonium nitrate by fertilizer dealers, and providing penalties.

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

Section 1. Section 200.3, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Ammonium nitrate" means a compound that is chiefly composed of ammonium salt of nitric acid which contains not less than thirty-three percent nitrogen, one-half of which is in the ammonium form and one-half in the nitrate form.

NEW SUBSECTION. 12A. "Licensee" means a person licensed under section 200.4.

Sec. 2. NEW SECTION. 200.17A AMMONIUM NITRATE SECURITY.

A licensee who sells ammonium nitrate on a retail basis shall comply with all of the following:

1. The licensee shall store the ammonium nitrate in a location which secures it from unauthorized access, and which prevents and provides for the detection of its theft.

2. A licensee shall only sell ammonium nitrate to a purchaser who presents a current official identification issued by the federal government or a state government which includes the purchaser's photograph and identifying information including the person's legal name and home address.

3. The licensee shall maintain a record of each sale of ammonium nitrate as follows:

a. The record shall be on a form promulgated or approved by the department. The form shall include at least all of the following:

(1) The date of sale.

(2) The quantity of ammonium nitrate purchased.

(3) The information contained in the purchaser's official identification as provided in this section. If the official identification is a driver's license, the information shall include the driver's license number. A photocopy of the purchaser's current official identification on file with the licensee shall comply with the requirements of this subparagraph.

(4) The purchaser's telephone number.

(5) The purchaser's signature.

b. The licensee shall maintain the record for at least two years after the date of the sale.

4. The department, a law enforcement officer as defined in section 80B.3, or an agent of the United States department of justice may examine and photocopy the record during regular business hours.

Sec. 3. Section 200.18, subsection 2, Code 2005, is amended to read as follows:

2. a. ~~A~~ Except as otherwise provided in this subsection, a person violating this chapter or rules adopted by the secretary pursuant to this chapter ~~shall be~~ is guilty of a simple misdemeanor. ~~However, a~~

b. A person who tampers with, possesses, or transports anhydrous ammonia or anhydrous ammonia equipment ~~commits~~ is guilty of a serious misdemeanor under section 124.401F.

c. A person who intentionally presents false identification or other information required in section 200.17A in order to purchase ammonium nitrate commits a serious misdemeanor. A person who purchases ammonium nitrate from a person required to be licensed under section 200.4 with the intention of manufacturing an explosive or incendiary device or material is guilty of a class "D" felony.

2A. A person who is licensed pursuant to section 200.4 who fails to comply with the requirements of section 200.17A shall be subject to disciplinary action by the department. For a first violation, the department may suspend the person's license for up to ninety days. For a subsequent violation, the department may suspend the person's license for a longer period or revoke the person's license.

Approved April 28, 2005

CHAPTER 74

EMERGENCY FIRE AND MEDICAL SERVICES — TOWNSHIPS

H.F. 607

AN ACT relating to emergency services provided to residents of certain townships and including effective date and retroactive applicability date provisions.

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

Section 1. Section 331.385, subsection 5, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

5. a. Notwithstanding subsection 1, if as of July 1, 2006, a township has in force an agreement entered into pursuant to chapter 28E for a city or another township to provide fire protection service or fire protection service and emergency medical service for the township, or if a township is otherwise contracting with a city or another township for provision to the township of fire protection service or fire protection service and emergency medical service, the county board of supervisors shall, for the fiscal year beginning July 1, 2007, and subsequent fiscal years, negotiate for and enter into an agreement pursuant to chapter 28E providing for continued fire protection service, or fire protection service and emergency medical service, to the township, and shall certify taxes for levy in the township, pursuant to section 331.424C, in amounts sufficient to meet the financial obligations pertaining to the agreement.

b. This subsection applies to a county with a population in excess of three hundred thousand. This subsection does not prohibit a county with a population in excess of three hundred thousand from also assuming the powers and duties of township trustees in accordance with the provisions of subsections 1 through 4, for those townships in the county that are not subject to paragraph "a".

Sec. 2. Section 331.424C, Code 2005, 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 for levy in the township not to exceed ~~sixty and three-fourths cents per one thousand dollars of the assessed value of taxable property located in the township~~ the amounts authorized in section 359.43. 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 4.

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

Sec. 4. RETROACTIVE APPLICABILITY. The section of this Act that strikes section 331.385, subsection 5, Code 2005, applies retroactively to January 1, 2005, and section 331.385, subsection 5, Code 2005, is void and of no effect with regard to township fire protection service or emergency medical service agreements or contracts entered into on or after that date.

Approved April 28, 2005

CHAPTER 75

STATE PAYROLL DEDUCTIONS — TUITION

H.F. 748

AN ACT providing for state employee payroll deductions for qualified tuition program contributions.

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

Section 1. NEW SECTION. 70A.17B PAYROLL DEDUCTION FOR ELIGIBLE QUALIFIED TUITION PROGRAM CONTRIBUTIONS.

1. The state officer in charge of any of the state payroll systems shall deduct from the wages or salaries of a state officer or employee an amount specified by the officer or employee for payment to an eligible qualified tuition program in a method consistent with current discretionary payroll deductions and on forms prescribed by the payroll administrator. For purposes of this section, an "eligible qualified tuition program" is a program that meets the requirements of a qualified tuition program under section 529 of the Internal Revenue Code and is a program in which at least five hundred state officers or employees request a payroll deduction and the request for the payroll deduction is made by the state officer or employee in writing to the officer in charge of the program.

2. The moneys deducted under this section shall be paid to the eligible qualified tuition program for the benefit of the officer's or employee's account no later than thirty days following the payroll deduction from the wages of the officer or employee. The deduction may be made even though the compensation paid to an officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full discharge of claims and demands for services rendered by the officer or employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the state officer in charge of any of the state payroll systems.

Approved April 28, 2005

CHAPTER 76

REGULATION OF GOVERNMENT ETHICS AND LOBBYING

H.F. 253

AN ACT relating to governmental ethics and the duties of the Iowa ethics and campaign disclosure board.

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

Section 1. Section 68B.1, Code 2005, is amended to read as follows:

68B.1 TITLE OF ACT.

This chapter shall be known as the ~~"Iowa Public Officials~~ "Government Ethics and Lobbying Act".

Sec. 2. Section 68B.2, subsections 1 and 2, Code 2005, are amended to read as follows:

1. "Agency" means a department, division, board, commission, bureau, authority, or office

of the executive or legislative branch of state government, the office of attorney general, the state board of regents, community colleges, and the office of the governor, including a regulatory agency, or any department, division, board, commission, bureau, or office of a political subdivision of the state, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

2. "Agency of state government" or "state agency" means a department, division, board, commission, bureau, authority, or office of the executive or legislative branch of state government, the office of attorney general, the state board of regents, community colleges, and the office of the governor, including a regulatory agency, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

Sec. 3. Section 68B.4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The board shall adopt rules specifying the method by which employees may obtain agency consent under this section. ~~Each regulatory agency~~ The board shall adopt rules specifying the method by which officials may obtain agency consent under this section. A regulatory agency granting consent under this section shall file a copy of the consent with the board within twenty days of the consent being granted.

Sec. 4. Section 68B.4B, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A permanent full-time member of the office of the governor shall not sell, either directly or indirectly, any goods or services to ~~individuals, associations, or corporations which employ persons who are registered lobbyists~~ a registered lobbyist before the general assembly or the executive branch or to an individual, association, or corporation which employs a person who is a registered lobbyist before the general assembly or the executive branch, except when the member of the office of the governor has met all of the following conditions:

Sec. 5. Section 68B.22, subsection 4, paragraph r, Code 2005, is amended to read as follows:

r. Gifts of food, beverage, and entertainment received by public officials or public employees at a ~~reception~~ function where every member of the general assembly has been invited to attend, when the ~~reception~~ function takes place during a regular session of the general assembly. A sponsor of a ~~reception~~ function under this paragraph shall file a report disclosing the total amount expended, including in-kind expenditures, on food, beverage, and entertainment for the ~~reception~~ function. The report shall be filed with the person or persons designated by the secretary of the senate~~,~~ and the chief clerk of the house~~, and the board~~ within five business days following the date of the ~~reception~~ function. The person or persons designated by the secretary of the senate and the chief clerk of the house shall forward a copy of each report to the board.

Sec. 6. Section 68B.32A, subsections 3, 5, 11, and 12, Code 2005, are amended to read as follows:

3. Review the contents of all campaign finance disclosure reports and statements filed with the board and promptly advise each person or committee of errors found. The board may verify information contained in the reports with other parties to assure accurate disclosure. The board may also verify information by requesting that a candidate or committee produce copies of receipts, bills, logbooks, or other memoranda of reimbursements of expenses to a candidate for expenses incurred during a campaign. The board, upon its own motion, may initiate action and conduct a hearing relating to requirements under chapter 68A. ~~The board may require a county commissioner of elections to periodically file summary reports with the board.~~

5. Prepare and publish a manual setting forth examples of approved uniform systems of accounts and approved methods of disclosure for use by persons required to file statements and reports under this chapter and chapter 68A. The board shall also prepare and publish other

educational materials, and any other reports or materials deemed appropriate by the board. The board shall annually provide all officials and state employees with notification of the contents of this chapter and chapter 68A by distributing copies of educational materials to ~~associations that represent the interests of the various governmental entities for dissemination to their membership~~ each agency of state government under the board's jurisdiction.

11. Establish a procedure for requesting and issuing board advisory opinions to persons subject to the authority of the board under this chapter or chapter 68A. Local officials and local employees may also seek an advisory opinion concerning the application of the applicable provisions of this chapter. Advice contained in board advisory opinions shall, if followed, constitute a defense to a complaint ~~filed with the board~~ alleging a violation of this chapter, chapter 68A, or rules of the board that is based on the same facts and circumstances.

12. Establish rules relating to ethical conduct for ~~persons holding a state office in the executive branch of state government, including candidates, and for employees of the executive branch of state government~~ officials and state employees, including candidates for statewide office, and regulations governing the conduct of lobbyists of the executive branch of state government, including but not limited to conflicts of interest, abuse of office, misuse of public property, use of confidential information, participation in matters in which an official or state employee has a financial interest, and rejection of improper offers.

Approved April 29, 2005

CHAPTER 77

SALES AND USE TAX — INDUSTRIAL PROCESSING EXEMPTION STUDY

H.F. 313

AN ACT relating to the establishment of an industrial processing exemption study committee and including an effective date.

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

Section 1. INDUSTRIAL PROCESSING EXEMPTION STUDY COMMITTEE. Upon enactment of this Act, the department of revenue 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, 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.

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

Approved April 29, 2005

CHAPTER 78

REGISTRATION OF POSTSECONDARY SCHOOLS —
COLLEGES AND UNIVERSITIES ESTABLISHED BY CITY ORDINANCE

H.F. 398

AN ACT adding an exemption for colleges and universities established by city ordinance to the requirements relating to the registration of postsecondary schools.

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

Section 1. Section 261B.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Not-for-profit colleges and universities established and authorized by city ordinance to grant degrees.

Approved April 29, 2005

CHAPTER 79

STUDENT PARTICIPATION IN
EXTRACURRICULAR INTERSCHOLASTIC ACTIVITIES

H.F. 423

AN ACT relating to participation in secondary school interscholastic sports at the varsity and inferior levels.

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

Section 1. Section 256.46, Code 2005, is amended to read as follows:

256.46 RULES FOR PARTICIPATION IN EXTRACURRICULAR ACTIVITIES BY CERTAIN CHILDREN.

The state board shall adopt rules that permit a child who does not meet the residence

requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or a similar circumstance: the child has been adopted; the child is placed under foster or shelter care; the child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody; the child is a foreign exchange student; the child has been placed in a juvenile correctional facility; the child is a ward of the court or the state; the child is a participant in a substance abuse or mental health program; or the child is enrolled in an accredited nonpublic high school because the child's district of residence has entered into a whole grade sharing agreement for the pupil's grade with another district. The rules shall permit a child who is otherwise eligible to participate, but who does not meet one of the foregoing or similar circumstances relating to residence requirements, to participate at any level of competition inferior to the varsity level. For purposes of this section and section 282.18, "varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.

Sec. 2. Section 282.18, subsection 13, Code 2005, is amended to read as follows:

13. A pupil who participates in open enrollment for purposes of attending a grade in grades ~~ten~~ nine through twelve in a school district other than the district of residence is ineligible to participate in varsity interscholastic athletic contests and athletic competitions during the pupil's first ninety school days of enrollment in the district except that the pupil may participate immediately in ~~an~~ a varsity interscholastic sport if the pupil is entering grade nine for the first time and did not participate in an interscholastic athletic competition for another school or school district during the summer immediately following eighth grade, if the district of residence and the other school district jointly participate in the sport, if the sport in which the pupil wishes to participate is not offered in the district of residence, if the pupil chooses to use open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts under section 256.11, subsection 12, if the pupil participates in open enrollment because the pupil's district of residence has entered into a whole grade sharing agreement with another district for the pupil's grade, or if the parent or guardian of the pupil participating in open enrollment is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services. A pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year ~~prior to March 10, 1989~~, is also eligible to participate immediately in interscholastic athletic contests and athletic competitions under this section, but only as a member of a team from the district that pupil had attended. For purposes of this subsection, "school days of enrollment" ~~do~~ does not include enrollment in summer school. For purposes of this subsection, "varsity" means the same as defined in section 256.46.

Approved April 29, 2005

CHAPTER 80

DEPARTMENT OF CULTURAL AFFAIRS
— ADMINISTRATIVE REVISIONS

H.F. 532

AN ACT relating to the administrative functions of the department of cultural affairs, including the board of trustees of the state historical society of Iowa and the state records commission.

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

Section 1. Section 303.4, subsection 2, Code 2005, is amended to read as follows:

2. The term of office of members of the board of trustees is three years ~~commencing and ending as provided in section 69.19~~ beginning on July 1 and ending June 30. The terms of office of the governor's appointees are staggered terms of three years each, so that three members are appointed each year.

Sec. 2. Section 305.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. In consultation with the homeland security and emergency management division of the department of public ~~safety~~ defense, 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.

Approved April 29, 2005

CHAPTER 81

LOTTERIES

H.F. 645

AN ACT relating to the regulation of lotteries, including the definition of a lottery, permissible lotteries by commercial organizations, and the prosecution of violators.

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

Section 1. Section 725.12, Code 2005, is amended to read as follows:

725.12 LOTTERIES AND LOTTERY TICKETS — DEFINITION — PROSECUTION.

1. If any person make or aid in making or establishing, or advertise or make public a scheme for a lottery; or advertise, offer for sale, sell, distribute, negotiate, dispose of, purchase, or receive a ticket or part of a ticket in a lottery or number of a ticket in a lottery; or have in the person's possession a ticket, part of a ticket, or paper purporting to be the number of a ticket of a lottery, with intent to sell or dispose of the ticket, part of a ticket, or paper on the person's own account or as the agent of another, the person commits a serious misdemeanor. However, this section does not prohibit the advertising of a lottery or possession by a person of a lottery ticket, part of a ticket, or number of a lottery ticket from a lottery legally operated or permitted under the laws of another jurisdiction. This section also does not prohibit the advertising of

a lottery, game of chance, contest, or activity conducted by a not-for-profit organization that would qualify as tax exempt under section 501 of the Internal Revenue Code, as defined in section 422.3, or conducted by a commercial organization as a promotional activity ~~by a commercial organization~~ which is clearly occasional and ancillary to the primary business of that organization, provided that the effective dates on any promotional activity shall be clearly stated on all promotional materials. A lottery, game of chance, contest, or activity shall be presumed to be a promotional activity which is not occasional if the lottery, game of chance, contest, or activity is in effect or available to the public for a period of more than ninety days within a one-year period.

2. A commercial organization shall not conduct a promotional activity that involves the sale of pull-tab tickets or instant tickets, as defined in section 99G.3, coupons, or tokens that are not authorized by the Iowa lottery authority and that may represent a chance to win a cash prize to be paid on the premises where the chance to win such prize was obtained. This subsection shall not be construed to prohibit a commercial organization from giving away pull-tab tickets, instant tickets, coupons, or tokens free of charge as part of a promotional activity, provided that the other provisions of this section are complied with. For purposes of this subsection, "cash" means United States currency.

3. When used in this section, "lottery" shall mean any scheme, arrangement, or plan whereby ~~a prize is~~ one or more prizes are awarded by chance or any process involving a substantial element of chance to a participant ~~who has~~, and where some or all participants have paid or furnished a consideration for such chance.

4. For the purpose of determining the existence of a lottery under this section, a consideration shall not be deemed to have been paid or furnished where all or substantially all entries representing chances to win are submitted by means of the internet or the United States mail or by similar delivery method to the person or persons conducting the lottery, game of chance, contest, or activity prior to any prize being awarded, and where one or more of such chances to win may be obtained by participants where no purchase or payment is required to enter or win. In all other cases, a consideration shall be deemed to have been paid or furnished only in such cases where as a direct or indirect requirement or condition of obtaining a chance to win ~~a prize, the~~ one or more prizes, some or all participants ~~are required to~~ make an expenditure of money or something of monetary value through a purchase, payment of an entry or admission fee, or other payment or the participants are required to make a substantial expenditure of effort; provided, however, that no substantial expenditure of effort shall be deemed to have been expended by any participant solely by reason of the registration of the participant's name, address, and related information, the obtaining of an entry blank or participation sheet, by permitting or taking part in a demonstration of any article or commodity, by making a personal examination of posted lists of prize winners, or by acts of a comparable nature, whether performed or accomplished in person at any store, place of business, or other designated location, through the mails, or by telephone; and further provided, that no participant shall be required to be present in person or by representative at any designated location at the time of the determination of the winner of the prize, and that the winner shall be notified either by the same method used to communicate the offering of the prize or by regular mail.

5. Upon request of the Iowa lottery authority or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged in such request with violating this section, and a county attorney may, at the request of the attorney general, appear and prosecute an action when brought in the county attorney's county.

Approved April 29, 2005

CHAPTER 82

SOYBEAN PROMOTION, RESEARCH, AND MARKETING
— ASSOCIATION — ASSESSMENT

H.F. 700

AN ACT relating to the Iowa soybean association, by providing for its board of directors, market development, and providing for an assessment.

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

Section 1. Section 185.1, subsections 1 and 8, Code 2005, are amended by striking the subsections.

Sec. 2. Section 185.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Association" means the Iowa soybean association as recognized in section 185.1A.

NEW SUBSECTION. 5A. "Influencing legislation" means the same as defined in 26 C.F.R. § 56.4911 as that section exists on the effective date of this Act.

NEW SUBSECTION. 8A. "National assessment" means the assessment on soybeans collected pursuant to 7 U.S.C. ch. 92.

NEW SUBSECTION. 8B. "Net market price" means the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors.

NEW SUBSECTION. 12A. "Secretary" means the secretary of agriculture.

NEW SUBSECTION. 13A. "State assessment" or "assessment" means an excise tax on each bushel of soybeans marketed in this state which is imposed pursuant to a promotional order as provided in this chapter.

Sec. 3. Section 185.1, subsections 2, 9, 10, and 12, Code 2005, are amended to read as follows:

2. "Board" means the Iowa soybean ~~promotion~~ association board of directors established by this chapter.

9. "Producer" means ~~any individual, firm, corporation, partnership, or association~~ a person engaged in this state in the business of producing and marketing in ~~their~~ the person's name at least two hundred fifty bushels of soybeans in the previous ~~marketing~~ year.

10. "Promotional order" means an order administered pursuant to this chapter which establishes a program for the promotion, research, and market development of soybeans and provides for ~~an~~ a state assessment to finance the program.

12. "Sale" or "purchase" includes but is not limited to the pledge or other encumbrance of soybeans as security for a loan extended under a federal price support loan program. Sale and actual delivery of the soybeans under the federal price support loan program occurs when the soybeans are marketed following redemption by the producer or when the soybeans are forfeited in lieu of loan repayment. If the soybeans are forfeited in lieu of repayment, the purchase price of the soybeans is the principal amount of the loan extended and the state assessment shall be collected at the time of loan settlement.

Sec. 4. NEW SECTION. 185.1A RECOGNITION OF IOWA SOYBEAN ASSOCIATION.

The corporation known as the Iowa soybean association incorporated under the laws of this state shall be entitled to the benefits of this chapter by filing each year with the secretary a verified proof of its organization, the names of its officers, and any other information required by the secretary.

Sec. 5. NEW SECTION. 185.1B DUTIES AND OBJECTS OF THE ASSOCIATION.

The Iowa soybean association shall aid in the promotion of the soybean industry through

research, education, public relations, promotion, and market development projects and programs as directed by the board to accomplish its purposes as provided in section 185.11.

Sec. 6. Section 185.3, Code 2005, is amended to read as follows:

185.3 BOARD ESTABLISHED — ELECTIONS.

~~If a majority of the producers voting in the referendum election approve the passage of the promotional order, an~~ The Iowa soybean ~~promotion~~ association board of directors shall ~~be established~~ administer this chapter.

1. The board shall consist of ~~one director~~ directors who are producers residing in Iowa at the time of the election. The directors shall include all of the following:

a. Four producers who are elected from the state at large.

b. One producer who is elected from each district in the state~~, except that~~. However, two producers shall be elected from a district producing more than an average of twenty-five million bushels of soybeans in the three previous ~~marketing~~ years ~~is entitled to two directors~~.

A producer shall be entitled to vote in the election regardless of whether the producer is a member of the association.

2. The following persons shall serve on the board as nonvoting, ex officio directors:

a. The secretary or the secretary's designee.

b. The dean of the college of agriculture of Iowa state university of science and technology or the dean's designee.

c. The director of the department of economic development or the director's designee.

d. Any other person that the board appoints.

Sec. 7. Section 185.5, Code 2005, is amended to read as follows:

185.5 NOTICE OF ELECTION FOR DIRECTORS.

Notice of elections for directors of the board in a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as determined by the board and shall set forth the period of time for voting, voting ~~places~~ procedures, and other information the board deems necessary.

Sec. 8. Section 185.6, Code 2005, is amended to read as follows:

185.6 WHO ELECTED.

In districts electing one director, the candidate receiving the highest number of votes shall be elected. In districts electing two directors, producers shall vote for two directors, and the two candidates receiving the highest number of votes shall be elected. If the election results in a tie vote, the board shall appoint a director from among the candidates who received the same number of votes.

Sec. 9. Section 185.7, Code 2005, is amended to read as follows:

185.7 TERMS.

~~Director terms~~ A director's term shall be for three years ~~and no. A~~ director ~~of the board~~ shall not serve for more than three ~~complete consecutive~~ full terms.

Sec. 10. Section 185.8, Code 2005, is amended to read as follows:

185.8 ELECTIONS.

The board shall administer elections for its directors ~~of the board~~ with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee ~~for the district represented by that director. The nominating committee shall consist~~ of five producers ~~who are residents of the district from which a director must be elected~~. The nominating committee shall nominate two resident producers as candidates for each director position for which an election is to be held. Additional candidates may be nominated by a written petition of one hundred producers. Procedures governing the time and place of filing shall be adopted and publicized by the board. A place shall not be reserved on the ballot for write-in candidates, and votes cast for write-in candidates shall not be counted.

Sec. 11. Section 185.9, Code 2005, is amended to read as follows:

185.9 VACANCIES — REMOVAL.

1. The board shall by appointment fill an unexpired term if a vacancy occurs in the board.

2. The secretary may remove a director for any reason enumerated in section 66.1A.

Sec. 12. Section 185.11, subsection 1, Code 2005, is amended to read as follows:

1. ~~Enter into contracts or agreements with recognized and qualified agencies or organizations for the development and carrying out of~~ Provide for research and education programs directed toward better and more efficient production, marketing, and utilization of soybeans and soybean products.

Sec. 13. Section 185.13, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board ~~may~~ shall carry out its purposes as provided in section 185.11. The board shall administer this chapter, including by doing all of the following:

Sec. 14. Section 185.13, subsections 2 and 4, Code 2005, are amended to read as follows:

2. ~~Establish~~ Acquire and establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.

4. Enter into arrangements for collection of the state assessment on soybeans marketed in this state.

Sec. 15. Section 185.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Administer the soybean checkoff account as provided in section 185.26.

Sec. 16. Section 185.14, Code 2005, is amended to read as follows:

185.14 PER DIEM AND EXPENSES.

Each ~~member~~ director of the board shall receive a per diem as specified in section 7E.6 and actual expenses in performing official board functions ~~not to exceed forty days per year~~. ~~No member~~ A director of the board shall not be a salaried employee of the board or any organization or agency which is receiving ~~funds~~ moneys from the board. The board shall meet at least ~~once every three months, and at such other times as deemed necessary by the board~~ four times each year.

Sec. 17. Section 185.20, Code 2005, is amended to read as follows:

185.20 PRODUCERS ONLY TO VOTE.

Only producers are eligible to vote in an election for directors or a referendum election and only in the district in which they reside. A producer shall sign an affidavit ~~furnished by the secretary~~ at the time of voting certifying the producer's eligibility to vote. Each qualified producer shall be entitled to one vote.

Sec. 18. Section 185.21, Code 2005, is amended to read as follows:

185.21 ASSESSMENT.

1. ~~An~~ A state assessment which is adopted upon the initiation of a promotional order shall be collected during the effective period of the promotional order, and shall be of no force or effect upon termination of the promotional order.

2. ~~The board shall determine and set the assessment rate. Assessments pursuant to the promotional order~~ The state assessment shall be paid into the soybean promotion fund established in section 185.26.

3. ~~An~~ The rate of the state assessment shall ~~not exceed~~ be as follows:

a. If the national assessment is being collected, the rate of the state assessment shall be one-quarter of one percent of the net market price of the soybeans marketed in this state ~~and sold to a first purchaser~~. ~~The net market price is the sales price received by a producer for soybeans~~

~~after adjustments for any premium or discount based on grading or quality factors. The rate of assessment shall be determined by the board. The board shall determine the effective date of a rate change.~~

b. If the national assessment is not being collected, the rate of the state assessment shall be one-half of one percent of the net market price of soybeans marketed in this state.

Sec. 19. Section 185.22, Code 2005, is amended to read as follows:

185.22 PROMOTIONAL ORDER.

After a promotional order has been issued, the first purchaser at the time of payment for soybeans shall show the total amount of state assessment deducted from the sale on the purchase invoice.

Sec. 20. Section 185.23, Code 2005, is amended to read as follows:

185.23 DEDUCTION OF ASSESSMENT.

The state assessment shall be deducted from the purchase price of soybeans at the time of sale, and forwarded to the board by the first purchaser in the manner and at intervals determined by the board.

Sec. 21. Section 185.24, Code 2005, is amended to read as follows:

185.24 TERMINATION OF A PROMOTIONAL ORDER.

If a promotional order is not extended as determined by a referendum the secretary and the board shall terminate the promotional order in an orderly manner as soon as practicable. After all ~~funds~~ moneys collected from the state assessment are expended, the board shall ~~cease to function. Any funds remaining one year following the termination of a promotional order shall be disbursed by the board to the Iowa soybean association~~ remain in existence as provided in its articles of incorporation or bylaws. The directors shall no longer be elected as required in this chapter. The ex officio directors shall no longer serve on the board. The board shall cease to administer this chapter, and the board shall no longer carry out its duties or exercise its powers as provided in this chapter. However, if a future referendum passes, the board shall be reorganized by the secretary and ~~members~~ the directors then serving on the board shall be deemed to be the same directors who served on the board when the promotional order was terminated. The directors shall serve out their terms as though there had been no lapse of time between the two effective orders.

Sec. 22. Section 185.26, Code 2005, is amended to read as follows:

185.26 ADMINISTRATION OF MONEYS.

1. ~~Assessments~~ The state assessment collected by the board ~~from a sale of soybeans~~ shall be deposited in a special fund known as the soybean promotion fund, in the office of the treasurer of state. The fund may also contain any gifts, or federal or state grant received by the board. Moneys collected, deposited into the fund, and transferred to the board, as provided in this chapter, shall be subject to audit by the auditor of state. The department of administrative services shall transfer moneys from the fund to the board for deposit into an account known as the soybean checkoff account which shall be established by the board in a qualified financial institution. The department shall transfer the moneys into the account as provided in a resolution adopted by the board. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From moneys collected, deposited, and transferred to the ~~board~~ soybean checkoff account as provided in this section, the board shall first pay the costs of referendums, elections, and other expenses incurred in the administration of this chapter, before moneys may be expended ~~for the purpose of market development~~ to carry out the purposes of the board as provided in section 185.11. The association shall strictly segregate moneys in the soybean checkoff account from all other moneys of the association. Moneys in the soybean checkoff account shall be expended exclusively for the purposes of the board as provided in section 185.11. The account shall be subject to audit by the auditor of state.

2. The fiscal year of the association shall commence on October 1 and end on September 30.

Sec. 23. Section 185.27, Code 2005, is amended to read as follows:

185.27 REFUND OF ASSESSMENT.

A producer who has sold soybeans and had ~~an~~ the state assessment deducted from the sale price may, by application in writing to the board, secure a refund in the amount deducted. The refund shall be payable only when the application ~~shall have been~~ is made to the board within sixty days after the deduction. Application forms shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for refund by a producer shall have attached thereto proof of assessment deducted. The proof of assessment may be in the form of a duplicate or certified copy of the purchase invoice by the first purchaser. The board shall have thirty days from the date the application for refund is received to remit the refund to the producer.

Sec. 24. Section 185.29, Code 2005, is amended to read as follows:

185.29 REMISSION OF ~~EXCESS FUNDS~~ REMAINING MONEYS.

After the board has paid the costs of elections, referendum, necessary board expenses, and administrative costs, ~~at least seventy-five percent of~~ the remaining moneys collected, deposited in the fund, and transferred to the ~~board~~ soybean checkoff account as provided in ~~this chapter,~~ section 185.26 shall be expended by the board ~~for market development activities, including developing and expanding new markets for soybeans and soybean products worldwide. The moneys shall only be used for research, promotion, and education in cooperation with qualified agencies~~ as is necessary to carry out its purposes as provided in section 185.11.

Sec. 25. Section 185.34, Code 2005, is amended to read as follows:

185.34 NOT A STATE AGENCY.

1. The ~~Iowa soybean promotion board shall~~ association is not ~~be~~ a state agency.

2. a. Except as provided in paragraph "b", the board is not a state agency or a governmental entity as defined in section 8A.101, public employer as defined in section 20.3, or an authority or instrumentality of the state.

b. The board is deemed to be all of the following:

(1) A department for purposes of chapter 11.

(2) A public body for purposes of chapter 12C. Moneys deposited into the soybean checkoff account as established in section 185.26 shall be deemed to be public funds under chapter 12C.

(3) An agency for purposes of an appeal from its final decision under chapter 17A. A person who is aggrieved or adversely affected by the board's final agency action is entitled to judicial review as provided in section 17A.19.

(4) A governmental body for purposes of chapter 21.

Sec. 26. NEW SECTION. 185.35 POLITICAL ACTIVITY — INFLUENCING LEGISLATION PROHIBITED.

1. Except as provided in subsection 2, all of the following shall apply:

a. The board shall not expend any moneys on political activity or on any attempt to influence legislation.

b. It shall be a condition of any allocation of moneys that an organization receives from the board, that the organization shall not expend the moneys on a political activity or on an attempt to influence legislation.

2. Subsection 1 does not apply to a communication or action taken by the board if any of the following applies:

a. The board may communicate or take action directed to an appropriate government official or government relating to the marketing of soybeans or soybean products to a foreign country.

b. The communication or action relates to the prevention, modification, or elimination of trade barriers.

Sec. 27. Chapter 185A, Code 2005, is repealed.

Sec. 28. Sections 185.10 and 185.25A, Code 2005, are repealed.

Sec. 29. TRANSITIONAL PROVISIONS.

1. a. The secretary of agriculture shall establish a transitional Iowa soybean association board of directors by appointing initial directors to the board. The directors shall take office as soon as possible after the effective date of this Act. The initial directors shall serve until the first directors are elected pursuant to this section. The board shall administer the provisions of this chapter in the same manner as a board constituted pursuant to section 185.3. The initial directors are not required to post a bond as provided in section 185.30.

b. On or before July 15 following the enactment of this Act, the Iowa soybean association shall appoint a nominating committee. On or before July 30 following the enactment of this Act, the nominating committee shall nominate two producers as candidates for each position as director on the board. Additional candidates may be nominated by written petition. The petition must include the signatures of at least one hundred producers. The petition must be delivered to the initial board on or before August 15 following the enactment of this Act. The procedure governing the place and filing of contents of the petition shall be widely publicized by the Iowa soybean association.

c. The election shall be conducted in conformance with section 185.3, as amended by this Act. Producers shall vote by ballot for the directors of the board on or before August 31 following the enactment of this Act. The secretary of agriculture shall canvass the ballots and announce the elected directors on or before September 15 following the enactment of this Act. The elected directors shall as soon as possible conduct an organizational meeting at which meeting the terms of the initial directors shall cease.

2. a. Any agreement made by the Iowa soybean promotion board prior to the effective date of this Act shall continue in full force and effect until it expires by its terms or is amended, terminated, or supplemented by the affirmative action of the Iowa soybean association board.

b. Any rule, regulation, form, order, or directive adopted or promulgated by the Iowa soybean promotion board or the department of agriculture and land stewardship on behalf of the board which is in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by the affirmative action of the Iowa soybean association board or the department of agriculture and land stewardship.

Approved April 29, 2005

CHAPTER 83

REGISTRATION AND LICENSING
OF MORTGAGE BANKERS AND BROKERS

H.F. 737

AN ACT relating to the registration and licensing of mortgage bankers and brokers, providing for fees, and providing an effective date.

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

Section 1. Section 535B.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Individual registrant" means a natural person who is registered or who is required to be registered under section 535B.4A.

Sec. 2. Section 535B.1, subsection 4, Code 2005, is amended to read as follows:

4. "Mortgage banker" means a person who does one or more of the following:

a. Makes at least four first mortgage loans on residential real property located in this state in a calendar year.

b. Originates at least four first mortgage loans on residential real property located in this state in a calendar year and sells four or more such loans in the secondary market.

c. Services at least four first mortgage loans on residential real property located in this state. However, a natural person, who services less than fifteen first mortgage loans on residential real estate within the state and who does not sell or transfer first mortgage loans, is exempt from this paragraph if that person is otherwise exempt from the provisions of this chapter.

"Mortgage banker" does not include a person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants.

Sec. 3. Section 535B.1, subsection 5, Code 2005, is amended to read as follows:

5. "Mortgage broker" means a person who arranges or negotiates, or attempts to arrange or negotiate, at least four first mortgage loans or commitments for four or more such loans on residential real property located in this state in a calendar year. "Mortgage broker" does not include a person whose job responsibilities on behalf of a licensee or individual registrant are to process mortgage loans, are solely clerical in nature, or otherwise do not involve direct contact with loan applicants.

Sec. 4. Section 535B.2, Code 2005, is amended to read as follows:

535B.2 EXEMPTIONS.

This chapter, except for sections 535B.3, 535B.11, 535B.12, and 535B.13, does not apply to any of the following:

1. A ~~national~~ bank, bank holding company, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States, or a subsidiary or affiliate of such a bank, bank holding company, savings bank, savings and loan association, or credit union.

~~2. A federally chartered savings and loan association.~~

~~3. A federally chartered savings bank.~~

~~4. A federally chartered credit union.~~

~~5.~~ 2. A loan company licensed under chapter 536 or 536A.

~~6. A bank organized under chapter 524.~~

~~7. A savings and loan association or savings bank organized under chapter 534.~~

~~8. A credit union organized under chapter 533.~~

~~9.~~ 3. An insurance company or a subsidiary or affiliate of an insurance company organized under the laws of this state, another state, or the United States, and subject to regulation by the commissioner of insurance.

~~10. A wholly owned subsidiary of an organization listed in subsections 1 through 9 if the listed organization has its principal place of business in Iowa.~~

~~11. A bank, savings and loan association, credit union, or insurance company organized or chartered under the laws of any other state, provided the financial institution or insurance company has a place of business in Iowa or in a county of another state if that county is contiguous to an Iowa border.~~

~~12.~~ 4. Mortgage lenders or mortgage bankers maintaining an office in this state whose principal business in this state is conducted with or through mortgage lenders or mortgage bankers otherwise exempt under this section and which maintain a place of business in this state.

5. An insurance producer licensed under chapter 522B.

6. An individual who is employed by a person otherwise exempt under this section, or who is under an exclusive contract with a person otherwise exempt under this section to the extent that the individual is acting within the scope of the individual's employment or exclusive contract with the exempt person and is acting within the scope of the exempt person's charter, license, authority, approval, or certificate.

7. A real estate broker licensed under chapter 543B.

~~13.~~ 8. A nonprofit organization qualifying for tax-exempt status under the Internal Revenue Code as defined in section 422.3 which offers housing services to low and moderate income families.

Sec. 5. Section 535B.3, subsections 1 and 3, Code 2005, are amended to read as follows:

1. A person exempt under section 535B.2, subsection ~~10, 11, 12, or 13~~ 4 or 8, shall register with the administrator.

3. The registrant, except a nonprofit organization exempt under section 535B.2, subsection ~~13~~ 8, shall pay an annual registration fee of one hundred dollars.

Sec. 6. NEW SECTION. 535B.4A INDIVIDUAL REGISTRATION REQUIREMENTS — FEES.

1. A natural person who is a mortgage banker or mortgage broker and who is employed by, under contract with, or is an agent of a licensee under section 535B.4 shall register annually with the administrator. The administrator shall collect registration fees necessary to cover the costs associated with the annual registrations made pursuant to this section.

2. An individual registrant who registers pursuant to this section for the first time shall submit to a criminal background check prior to being registered. The administrator shall collect fees necessary to cover the costs associated with criminal background checks conducted pursuant to this section.

3. A person shall not be eligible for licensing pursuant to section 535B.4 unless all individual registrants employed by, under contract with, or who are agents of the person have successfully completed the registration and criminal background check required by this section.

4. The registration of an individual registrant pursuant to this section is not assignable.

5. The registration of an individual registrant pursuant to this section expires on June 30 following the date of registration.

6. An individual registrant who fails to comply with the requirements of section 535B.9A shall not be registered or the registration of the individual registrant may be suspended or revoked by the administrator.

Sec. 7. Section 535B.9, subsection 1, Code 2005, is amended to read as follows:

1. An applicant for a license shall file with the administrator a bond furnished by a surety company authorized to do business in this state. The bond shall be in the amount of ~~fifteen~~ twenty-five thousand dollars for an applicant seeking to transact business solely as a mortgage broker, or ~~thirty~~ fifty thousand dollars for an applicant seeking to transact business as a mortgage banker. The bond shall be continuous in nature until canceled by the surety with not less than thirty days' notice in writing to the mortgage broker or mortgage banker and to the administrator indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

Sec. 8. NEW SECTION. 535B.9A CONTINUING EDUCATION REQUIREMENTS.

1. All individual registrants shall complete twelve hours of continuing education or training each year. The administrator shall establish an annual deadline for the completion of such continuing education or training.

2. Continuing education or training shall not be offered to individual registrants until the curriculum of the continuing education or training has been approved by the administrator.

3. Each individual registrant shall annually provide the administrator with proof of the individual registrant's compliance with the requirements of this section.

Sec. 9. Section 558.70, subsection 4, Code 2005, is amended to read as follows:

4. This section applies to a contract seller who entered into four or more residential real estate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to an organization listed in section 535B.2, subsections 1 through ~~12~~ 7.

Sec. 10. EFFECTIVE DATE. The provisions of this Act take effect July 1, 2006.

Approved April 29, 2005

CHAPTER 84

THEFT — LEASED OR RENTED PERSONAL PROPERTY

H.F. 745

AN ACT relating to the criminal offense of theft of leased or rented personal property and making penalties applicable.

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

Section 1. Section 714.1, subsection 2, Code 2005, is amended to read as follows:

2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.

a. Failure by a bailee or lessee of personal property to return the property within seventy-two hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.

b. If a time is not specified in the written agreement of lease or bailment for the expiration or termination of the lease or bailment or for the return of the personal property, failure by a lessee or bailee to return the property within five days after proper notice to the lessee or bailee shall be evidence of misappropriation. For the purposes of this paragraph, "proper notice" means a written notice of the expiration or termination of the lease or bailment agreement sent to the lessee or bailee by certified or restricted certified mail at the address of the lessee or bailee specified in the agreement. The notice shall be considered effective on the date of the mailing of the notice regardless of whether or not the lessee or bailee signs a receipt for the notice.

Approved April 29, 2005

CHAPTER 85

RURAL WATER AND WASTEWATER SERVICES

H.F. 746

AN ACT providing procedures for a rural water district to transfer its right to provide water or wastewater service and for dissolution of the district.

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

Section 1. Section 357A.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 13. In addition to all other powers granted to the board, the board may sell, convey, merge, or otherwise dispose of all or any portion of the real property or personal property of the district and all or any portion of the district's right to provide water or wastewater service to an area in order that another service provider permitted by the department of natural resources pursuant to chapter 455B may assume any or all of the district's duties and obligations or that the district may be dissolved. If the district is to be dissolved, the board shall file a notice of dissolution with the auditor of the county or counties in which the district is located.

Prior to such sale, conveyance, merger, or disposition by the board that includes the relinquishment of the district's right to provide service to an area, the board shall publish notice of a public hearing not less than four nor more than twenty days before the date fixed for the hearing in a newspaper of general circulation in the area for which the board seeks to relinquish service. The board shall mail notice of a public hearing to the district's members in the area for which the board seeks to relinquish service not less than fourteen days prior to such public hearing. A public hearing is not required when the board relinquishes the district's right to service an area within the corporate limits of a city if the city will provide service in compliance with the city's annexation plan.

After hearing or if none is required, the board may adopt a resolution approving the sale, conveyance, merger, or disposition; however, the board shall provide for the continuation of water or wastewater service to the area by another service provider immediately following such sale, conveyance, merger, or disposition.

Approved April 29, 2005

CHAPTER 86

HOMESTEAD EXEMPTION —
WAIVER AFFECTING AGRICULTURAL PROPERTY

H.F. 754

AN ACT relating to a homestead exemption waiver notice contained in a written contract affecting agricultural land.

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

Section 1. Section 561.22, Code 2005, is amended to read as follows:

561.22 NOTICE OF HOMESTEAD EXEMPTION WAIVER REQUIREMENT.

1. a. ~~If~~ Except as otherwise provided in subsection 2, if a homestead exemption waiver is

contained in a written contract affecting agricultural land as defined in section 9H.1, or dwellings, buildings, or other appurtenances located on the land, the contract must contain a statement in substantially the following form, in boldface type of a minimum size of ten points, and be signed and dated by the person waiving the exemption at the time of the execution of the contract: "I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract."

b. A principal or deputy state, county, or city officer shall not be required to waive the officer's homestead exemption in order to be bonded as required pursuant to chapter 64.

2. This section shall not apply to a written contract affecting agricultural land of less than forty acres.

Sec. 2. HOMESTEAD EXEMPTION WAIVER — APPLICABILITY. If a holder of legal or equitable title to real estate affecting agricultural land, or dwellings, buildings, or other appurtenances located on the land, conveyed less than forty acres of such real estate by written contract prior to July 1, 2005, and such written contract was not executed in compliance with the requirements of section 561.22, Code 2005, the holder is deemed to have waived the right to have the holder's homestead exempt from judicial sale unless suit is brought within one year from July 1, 2005, by the holder or the holder's representative to determine the effect of the written contract upon the real estate or any interest in the real estate.

Approved April 29, 2005

CHAPTER 87

CONTAGIOUS OR INFECTIOUS DISEASES —
PERSONS CONFINED TO JAIL OR IN PEACE OFFICER CUSTODY

H.F. 777

AN ACT relating to testing a person for contagious or infectious disease if the person assaults a person by exchanging or attempting to exchange bodily fluids, and providing a penalty.

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

Section 1. Section 356.48, Code 2005, is amended to read as follows:

356.48 REQUIRED TEST.

1. A person confined to a jail or in the custody of a peace officer, who bites another person, who causes an exchange of bodily fluids with another person, or who causes any bodily secretion to be cast upon another person, shall submit to the withdrawal of a bodily specimen for testing to determine if the person is infected with a contagious or infectious disease as defined in section 141A.2. The bodily specimen to be taken shall be determined by the attending physician of ~~that~~ the jail or the county medical examiner. The specimen taken shall be sent to the state hygienic laboratory at the state university at Iowa City or some other laboratory approved by the Iowa department of public health. If a person to be tested pursuant to this section refuses to submit to the withdrawal of a bodily specimen, ~~application may be made by~~ the sheriff, ~~or~~ person in charge of the jail ~~to~~, or any potentially infected person may file an application with the district court for an order compelling the person that may have caused an infection to submit to the withdrawal and, if infected, to receive available treatment. An order authorizing the withdrawal of a specimen for testing may be issued only by a district judge or district associate

judge upon application by the sheriff, ~~or~~ person in charge of the jail, or any other potentially infected person.

2. A person who fails to comply with an order issued pursuant to this section is guilty of a serious misdemeanor.

3. Personnel at the jail shall be notified if a person confined is found to have a contagious or infectious disease.

4. The sheriff, ~~or~~ person in charge of the jail, or any other potentially infected person shall take any appropriate measure to prevent the transmittal of a contagious or infectious disease to other persons~~, including the segregation of~~. The sheriff or person in charge of the jail shall also segregate a confined person who tests positive for acquired immune deficiency syndrome from other confined persons.

~~For purposes of this section, "infectious disease" means any infectious condition which if spread by contamination would place others at serious health risk.~~

5. For purposes of this section, "potentially infected person" includes a care provider as defined in section 139A.2.

Approved April 29, 2005

CHAPTER 88

DIRECT CARE WORKER TASK FORCE

H.F. 781

AN ACT relating to the establishment of a direct care worker task force.

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

Section 1. DIRECT CARE WORKER TASK FORCE — RECOMMENDATIONS — REPORT.

1. The Iowa department of public health shall convene a direct care worker task force to review the education and training requirements applicable to and to make recommendations regarding direct care workers. The Iowa department of public health shall provide administrative support for the task force.

2. The task force shall consist of twelve members including representatives of the direct care workforce, health care providers, consumer and disability advocates, and individuals involved in the education and training of direct care workers selected by the governor.

3. The task force shall also include the director or the director's designee of the Iowa department of public health, the department of human services, the department of elder affairs, and the department of inspections and appeals, and members of the general assembly as ex officio, nonvoting members.

4. The legislative members of the task force shall be appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives.

5. The task force shall select a chairperson from its membership. A majority of the members of the task force shall constitute a quorum.

6. The direct care worker task force shall do all of the following:

a. Identify the existing direct care worker classifications.

b. Review and outline the corresponding educational and training requirements for each direct care worker classification identified.

c. Determine the appropriate educational and training requirements for each direct care worker classification identified.

d. Recommend a process for streamlining the educational and training system for direct care workers.

e. Recommend a process for establishing a direct care worker registry by expanding the Iowa nurse aide registry to integrate direct care workers, and consider moving administration of the registry to the Iowa department of public health.

7. The task force shall submit a report of its recommendations regarding the issues specified in subsection 6 to the governor and the general assembly no later than December 15, 2006.

Approved April 29, 2005

CHAPTER 89

PUBLIC HEALTH — MISCELLANEOUS CHANGES

H.F. 789

AN ACT relating to programs and functions 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 29C.20, subsection 1, paragraph a, subparagraph (5), Code 2005, is amended to read as follows:

(5) 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~~ public health response teams when acting under the provisions of section 135.143.

Sec. 2. Section 135.11, subsection 16, Code 2005, is amended to read as follows:

16. Administer the statewide public health nursing, homemaker-home health aide, and senior health programs by approving grants of state funds to the local boards of health and the county boards of supervisors and by providing guidelines for the approval of the grants and allocation of the state funds. Program direction, evaluation requirements, and formula allocation procedures for each of the programs shall be established by the department by rule~~, consistent with 1997 Iowa Acts, chapter 203, section 5~~.

Sec. 3. Section 135.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 30. Establish and administer, if sufficient funds are available to the department, a program to assess and forecast health workforce supply and demand in the state for the purpose of identifying current and projected workforce needs. The program may collect, analyze, and report data that furthers the purpose of the program. The program shall not release information that permits identification of individual respondents of program surveys.

Sec. 4. Section 135.22A, subsection 7, Code 2005, is amended to read as follows:

7. The department is designated as Iowa's lead agency for brain injury. For the purposes of this section, the designation of lead agency authorizes the department to perform or oversee

the performance of those functions specified in subsection 6, paragraphs "a" through "c". The council is assigned to the department for administrative purposes. The director shall be responsible for budgeting, program coordination, and related management functions.

Sec. 5. Section 135.107, subsection 1, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A simple majority of the membership of the advisory committee shall constitute a quorum. Action may be taken by the affirmative vote of a majority of the advisory committee membership.

Sec. 6. Section 135.140, subsection 5, Code 2005, is amended to read as follows:

5. ~~"Disaster medical assistance team" or "DMAT"~~ "Public health response team" 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.

Sec. 7. Section 135.140, subsection 6, Code 2005, is amended to read as follows:

6. "Division" means the division of ~~epidemiology, emergency medical services, and disaster operations~~ acute disease prevention and emergency response of the department.

Sec. 8. Section 135.141, subsection 1, Code 2005, is amended to read as follows:

1. A division of ~~epidemiology, emergency medical services, and disaster operations~~ acute disease prevention and emergency response 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.

Sec. 9. Section 135.143, Code 2005, is amended to read as follows:

135.143 ~~DISASTER MEDICAL ASSISTANCE TEAMS~~ PUBLIC HEALTH RESPONSE TEAMS.

1. The department shall approve ~~disaster medical assistance~~ public health response 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~~. Assistance shall be rendered under the following circumstances:

a. At or near the site of a disaster or threatened disaster by providing direct medical care to victims or providing other support services.

b. If local medical or public health personnel or hospitals request the assistance of a public health response team to provide direct medical care to victims or to provide other support services in relation to any of the following incidents:

(1) During an incident resulting from a novel or previously controlled or eradicated infectious agent, disease, or biological toxin.

(2) After a chemical attack or accidental chemical release.

(3) After an intentional or accidental release of radioactive material.

(4) In response to a nuclear or radiological attack or accident.

(5) Where an incident poses a high probability of a large number of deaths or long-term disabilities in the affected population.

2. A member of a ~~disaster medical assistance~~ public health response team acting pursuant to this division of this chapter shall be considered an employee of the state under section 29C.21 and 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, disability, 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~~ public health response team from the department.

b. Provided direct medical care ~~to a victim of a disaster or provided other support services during a disaster~~ or other support services during a disaster, threatened disaster, or other incident described in subsection 1; or participated in a training exercise to prepare for a disaster or other incident described in subsection 1.

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

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

Sec. 10. NEW SECTION. 139A.8A VACCINE SHORTAGE — DEPARTMENT ORDER — IMMUNITY.

1. In the event of a shortage of a vaccine, or in the event a vaccine shortage is imminent, the department may issue an order controlling, restricting, or otherwise regulating the distribution and administration of the vaccine. The order may designate groups of persons which shall receive priority in administration of the vaccine and may prohibit vaccination of persons who are not included in a priority designation. The order shall include an effective date, which may be amended or rescinded only through a written order of the department. The order shall be applicable to health care providers, hospitals, clinics, pharmacies, health care facilities, local boards of health, public health agencies, and other persons or entities that distribute or administer vaccines.

2. A health care provider, hospital, clinic, pharmacy, health care facility, local board of health, public health agency, or other person or entity that distributes or administers vaccines shall not be civilly liable in any action based on a failure or refusal to distribute or administer a vaccine to any person if the failure or refusal to distribute or administer the vaccine was consistent with a department order issued pursuant to this section.

3. The department shall adopt rules to administer this section.

Sec. 11. Section 142C.15, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. Not more than twenty percent of the moneys in the fund annually may be expended in the form of grants to state agencies or to nonprofit legal entities with an interest in anatomical gift public awareness and transplantation to conduct public awareness projects ~~or to research and develop a statewide organ and tissue donor registry~~. Moneys remaining that were not requested and awarded for public awareness projects may be used for research, or to develop and support a statewide organ and tissue donor registry. Grants shall be made based upon the submission of a grant application by an agency or entity to conduct a public awareness project or to research, ~~and~~ develop, and support a statewide organ and tissue donor registry.

Sec. 12. Section 144.23, subsection 1, Code 2005, is amended to read as follows:

1. An adoption ~~certificate~~ report as provided in section 144.19, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth~~; except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person~~.

Sec. 13. Section 144.40, Code 2005, is amended to read as follows:

144.40 PATERNITY OF CHILDREN — BIRTH CERTIFICATES.

Upon request and receipt of an affidavit of paternity completed and filed pursuant to section 252A.3A, or a certified copy or notification by the clerk of court of a court or administrative order establishing paternity, the state registrar shall ~~amend~~ establish a new certificate of birth

to show paternity if paternity is not shown on the birth certificate. Upon written request of the parents on the affidavit of paternity, the surname of the child may be changed on the certificate to that of the father. The certificate shall not be marked "amended". The original certificate and supporting documentation shall be maintained in a sealed file; however, a photocopy of the paternity affidavit filed pursuant to section 252A.3A and clearly labeled as a copy may be provided to a parent named on the affidavit of paternity.

Sec. 14. Section 148.12, Code 2005, is amended to read as follows:

148.12 VOLUNTARY AGREEMENTS.

The medical examiners, after due notice and hearing, may issue an order to revoke, suspend, or restrict a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or to issue a restricted license on application if the medical examiners determine that a physician licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or an applicant for licensure has entered into a voluntary agreement to restrict the practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in another state, district, territory, ~~or~~ country, or an agency of the federal government. A certified copy of the voluntary agreement shall be considered prima facie evidence.

Sec. 15. Section 152B.5, Code 2005, is amended to read as follows:

152B.5 RESPIRATORY CARE STUDENTS.

Respiratory care services may be rendered by a student enrolled in a respiratory therapy training program when these services are incidental to the student's course of study.

A student enrolled in a respiratory therapy training program who is employed in an organized health care system may render services defined in sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for a limited period of time as determined by rule. The student shall be identified as a "student respiratory care practitioner".

~~A graduate of an approved respiratory care training program employed in an organized health care system may render services as defined in sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for one year. The graduate shall be identified as a "respiratory care practitioner-licensure applicant".~~

Sec. 16. Section 152B.14, Code 2005, is amended to read as follows:

152B.14 LICENSURE THROUGH ~~PRIOR~~ EXAMINATION ~~OR PRACTICE~~.

~~1.~~ The board shall issue a license to practice respiratory care to an applicant who~~, on July 1, 1996,~~ has passed an examination administered by the state or a national agency approved by the board.

~~2. Other applicants who have not passed these examinations or their equivalent on July 1, 1996, and who, through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this chapter, shall be given a temporary license to practice respiratory care for a period of thirty-six months from July 1, 1996. Such applicants must pass a licensure examination administered or approved by the board within thirty-six months after July 1, 1996, in order to continue to practice respiratory care.~~

Sec. 17. Section 154D.2, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Has at least two years of supervised clinical experience or its equivalent as approved by the board ~~in consultation with the mental health, mental retardation, developmental disabilities, and brain injury commission created in section 225C.5~~. Standards for supervision, including the required qualifications for supervisors, shall be determined by the board by rule.

Sec. 18. Section 154D.2, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Has at least two years of supervised clinical experience~~, supervised by a licensee,~~ in

assessing mental health needs and problems and in providing appropriate mental health services as approved by the board ~~of behavioral science examiners in consultation with the mental health, mental retardation, developmental disabilities, and brain injury commission created in section 225C.5~~. Standards for supervision, including the required qualifications for supervisors, shall be determined by the board by rule.

Sec. 19. Section 156.4, subsection 4, Code 2005, is amended to read as follows:

4. ~~Written examinations for a funeral director's license shall be held at least once a year at a time and place to be designated by the board. The examination~~ Applicants shall pass an examination prescribed by the board, which shall include the subjects of funeral directing, burial or other disposition of dead human bodies, sanitary science, embalming, restorative art, anatomy, public health, transportation, business ethics, and such other subjects as the board may designate.

Sec. 20. Section 157.1, subsection 12, paragraph c, Code 2005, is amended to read as follows:

c. Removing superfluous hair from the body of a person by the use of depilatories, waxing, sugaring, tweezers, or use of any certified laser products or intense pulsed light devices. This excludes the practice of electrology, whereby hair is removed with an electric needle.

Sec. 21. Section 157.1, subsection 14, Code 2005, is amended to read as follows:

14. "General supervision" means the supervising physician is not onsite for laser procedures or use of an intense pulsed light device for hair removal conducted on minors, but is available for direct communication, either in person or by telephone, radio, radiotelephone, television, or similar means.

Sec. 22. Section 157.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15A. "Intense pulsed light device" means a device that uses incoherent light to destroy the vein of the hair bulb.

Sec. 23. Section 157.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Persons licensed under this chapter shall only use intense pulsed light devices for purposes of hair removal.

Sec. 24. Section 157.3, subsection 1, Code 2005, is amended to read as follows:

1. An applicant who has graduated from high school or its equivalent shall be issued a license to practice any of the cosmetology arts and sciences by the department when the applicant satisfies all of the following:

~~a. Presents to the department a high school diploma or its equivalent.~~

~~b.~~ a. Presents to the department a diploma, or similar evidence, issued by a licensed school of cosmetology arts and sciences indicating that the applicant has completed the course of study for the appropriate practice of the cosmetology arts and sciences prescribed by the board. An applicant may satisfy this requirement upon presenting a diploma or similar evidence issued by a school in another state, recognized by the board, which provides instruction regarding the practice for which licensure is sought, provided that the course of study is equivalent to or greater in length and scope than that required for a school in this state, and is approved by the board.

~~c.~~ b. Completes the application form prescribed by the board.

~~d.~~ c. Passes an examination prescribed by the board. The examination may include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method. However, a member of the board who is a licensed instructor of cosmetology arts and sciences shall not be involved in the selection or administration of the exam.

Sec. 25. Section 157.3A, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A licensed esthetician, who intends to provide services pursuant to section 157.1, subsec-

tion 12, paragraphs "a" and "c", having received additional training on the use of microdermabrasion, ~~or~~ a certified laser product, or an intense pulsed light device, shall submit a written application and proof of additional training and certification for approval by the board. Training shall be specific to the service provided or certified laser product used.

Sec. 26. Section 157.3A, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A licensed cosmetologist having received additional training in the use of chemical peels, microdermabrasion, ~~or~~ a certified laser product, or an intense pulsed light device for hair removal shall submit a written application and proof of additional training and certification for approval by the board. A cosmetologist who is licensed after July 1, 2005, shall not be eligible to provide chemical peels, practice microdermabrasion procedures, ~~or~~ use certified laser products, or use an intense pulsed light device for hair removal.

Sec. 27. Section 157.3A, subsection 3, Code 2005, is amended to read as follows:

3. A licensed electrologist having received additional training on the use of a certified laser product or an intense pulsed light device for the purpose of hair removal shall submit a written application and proof of additional training and certification for approval by the board.

Sec. 28. Section 157.3A, subsection 4, Code 2005, is amended to read as follows:

4. Any additional training received by a licensed esthetician, cosmetologist, or electrologist and submitted to the board relating to utilization of a certified laser product or an intense pulsed light device shall include a safety training component which provides a thorough understanding of the procedures being performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

Sec. 29. Section 157.4, Code 2005, is amended to read as follows:

157.4 TEMPORARY PERMITS.

~~1. A person who completes the requirements for licensure listed in section 157.3, except for the examination, shall be known as a trainee and shall be issued a temporary permit by the department which allows the applicant to practice in the cosmetology arts and sciences from the date of application until passage of the examination subject to this subsection. An applicant shall take the first available examination administered by the board, and may retain the temporary permit if the applicant does not pass the examination. An applicant who does not pass the first examination shall take the next available examination administered by the board. The temporary permit of an applicant who does not pass the second examination shall be revoked. An applicant who passes either examination shall be issued a license pursuant to section 157.3. The board shall adopt rules providing for a waiver of the requirement to take the first available examination for good cause.~~

~~2. The department may issue a temporary permit for the purpose of demonstrating cosmetology arts and sciences upon recommendation of the board.~~

1. The department may issue a temporary permit which allows the applicant to practice in the cosmetology arts and sciences for purposes determined by rule. The board shall determine and state its recommendations and the length of time the temporary permit issued under this subsection is valid.

~~3.~~ 2. The fee for a temporary permit shall be established by the board as provided in section 147.80.

Sec. 30. Section 157.5, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A licensed cosmetologist, esthetician, or electrologist who provides services relating to the use of a certified laser product, intense pulsed light device for hair removal, chemical peel, or microdermabrasion, shall obtain a consent in writing prior to the administration of the ser-

vices. A consent in writing shall create a presumption that informed consent was given if the consent:

Sec. 31. Section 157.5, subsection 2, Code 2005, is amended to read as follows:

2. A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, intense pulsed light device for hair removal, chemical peel, or microdermabrasion, shall submit a report to the board within thirty days of any incident involving the provision of such services which results in physical injury requiring medical attention. Failure to comply with this section shall result in disciplinary action being taken by the board.

Sec. 32. Section 157.12A, Code 2005, is amended to read as follows:

157.12A USE OF LASER OR LIGHT PRODUCTS ON MINORS.

A laser hair removal product or device, or intense pulsed light device, shall not be used on a minor unless the minor is accompanied by a parent or guardian and only under the general supervision of a physician.

Sec. 33. Section 157.13, subsection 1, Code 2005, is amended to read as follows:

1. It is unlawful for a person to employ an individual to practice cosmetology arts and sciences unless that individual is licensed ~~or has obtained a temporary permit~~ under this chapter. It is unlawful for a licensee to practice with or without compensation in any place other than a licensed salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in section 158.1, except that a licensee may practice at a location which is not a licensed salon or school of cosmetology arts and sciences under extenuating circumstances arising from physical or mental disability or death of a customer, or when a temporary permit has been approved by the board. It is unlawful for a licensee to claim to be a licensed barber, but it is lawful for a licensed cosmetologist to work in a licensed barbershop. It is unlawful for a person to employ a licensed cosmetologist, esthetician, or electrologist to perform the services described in section 157.3A if the licensee has not received the additional training and met the other requirements specified in section 157.3A.

Sec. 34. Section 233.2, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. ~~The~~ If the name of the parent is unknown to the institutional health facility, the individual on duty or other person designated by the institutional health facility at which physical custody of the newborn infant was relinquished shall submit the certificate of birth report as required pursuant to section 144.14. If the name of the parent is disclosed to the institutional health facility, the facility shall submit the certificate of birth report as required pursuant to section 144.13. The department of public health shall not file the certificate of birth with the county of birth and shall otherwise maintain the confidentiality of the birth certificate in accordance with section 144.43.

Sec. 35. Section 272C.4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Insurance carriers which insure professional and occupational licensees for acts or omissions that constitute negligence, careless acts, or omissions in the practice of a profession or occupation shall file reports with the appropriate licensing board. The reports shall include information pertaining to ~~claims~~ any lawsuit filed against a licensee which may affect the licensee as defined by rule, involving an insured of the insurer.

Sec. 36. Section 272C.9, subsection 1, Code 2005, is amended to read as follows:

1. Each licensee of a licensing board, as a condition of licensure, is under a duty to submit to a physical, ~~or~~ mental, or clinical competency examination when directed in writing by the board for cause. All objections shall be waived as to the admissibility of the examining physi-

cian's testimony or reports on the grounds of privileged communications. The medical testimony or report shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board, or one commenced in district court for revocation of the licensee's privileges. The licensing board, upon probable cause, shall have the authority to order a physical, ~~or~~ mental, or clinical competency examination, and upon refusal of the licensee to submit to the examination the licensing board may order that the allegations pursuant to which the order of physical, ~~or~~ mental, or clinical competency examination was made shall be taken to be established.

Sec. 37. Section 331.805, subsection 1, Code 2005, is amended to read as follows:

1. When a death occurs in the manner specified in section 331.802, subsection 3, the body, clothing, and any articles upon or near the body shall not be disturbed or removed from the position in which it is found, and physical or biological evidence shall not be obtained or collected from the body, without authorization from the county medical examiner or the state medical examiner except for the purpose of preserving the body from loss or destruction or permitting the passage of traffic on a highway, railroad or airport, or unless the failure to immediately remove the body might endanger life, safety, or health. A person who moves, disturbs, or conceals a body, clothing, or any articles upon or near the body or who obtains or collects physical or biological evidence in violation of this subsection or chapter 691 is guilty of a simple misdemeanor.

Sec. 38. Section 691.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. To perform an autopsy or order that an autopsy be performed if required or authorized by section 331.802 or by rule. If the state medical examiner assumes jurisdiction over a body for purposes of performing an autopsy required or authorized by section 331.802 or by rule under this section, the body or its effects shall not be disturbed, withheld from the custody of the state medical examiner, or removed from the custody of the state medical examiner without authorization from the state medical examiner.

Sec. 39. Sections 135.45 through 135.48 and section 142A.11, Code 2005, are repealed.

Sec. 40. RESPONSE TEAM TASK FORCE. The department shall establish a task force to study the current and future capacity of the public health workforce to respond to bioterrorism, emerging infectious diseases, and other public health threats and emergencies. The task force shall examine the concept of developing and implementing regional response teams which will include members from local, regional, and state agencies and organizations. The task force shall submit a report to the department, the governor, and the general assembly by July 1, 2006, which shall include the findings and recommendations of the task force, including a proposed budget necessary for sustaining public health workforce teams. Task force members shall be appointed by the director and shall include representatives from local public health agencies, hospitals, emergency medical care providers and programs, the department, and other stakeholders. Appointments to the task force shall not be subject to the requirements of sections 69.16 and 69.16A.

Approved April 29, 2005

CHAPTER 90

TECHNOLOGY GOVERNANCE BOARD

H.F. 839

AN ACT providing for the establishment of a technology governance board within the department of administrative services, and making an appropriation.

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

Section 1. Section 8A.201, subsection 2, Code 2005, is amended by striking the subsection.[1]

Sec. 2. Section 8A.201, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Technology governance board" means the board established in section 8A.204.[2]

Sec. 3. Section 8A.204, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

8A.204 TECHNOLOGY GOVERNANCE BOARD — MEMBERS — POWERS AND DUTIES.

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

a. "Agency" means a participating agency as defined in section 8A.201.

In addition, the following definitions shall also apply:

(1) "Large agency" means a state agency with more than seven hundred full-time, year-round employees.

(2) "Medium-sized agency" means a state agency with at least seventy or more full-time, year-round employees, but not more than seven hundred permanent employees.

(3) "Small agency" means a state agency with less than seventy full-time, year-round employees.

b. "Board" means the technology governance board.

c. "Department" means the department of administrative services, including the information technology enterprise.

2. MEMBERSHIP.

a. The technology governance board is composed of ten members as follows:

(1) The director.

(2) The director of the department of management, or the director's designee.

(3) Eight members appointed by the governor as follows:

(a) Three representatives from large agencies.

(b) Two representatives from medium-sized agencies.

(c) One representative from a small agency.

(d) Two public members who are knowledgeable and have experience in information technology matters.

b. (1) Members appointed pursuant to paragraph "a", subparagraph (3), shall serve two-year staggered terms. The department shall provide, by rule, for the commencement of the term of membership for the nonpublic members. The terms of the public members shall be staggered at the discretion of the governor.

(2) Sections 69.16, 69.16A, and 69.19 shall apply to the public members of the board.

(3) Public members appointed by the governor are subject to senate confirmation.

(4) Public members appointed by the governor may be eligible to receive compensation as provided in section 7E.6.

(5) Members shall be reimbursed for actual and necessary expenses incurred in performance of the members' duties.

(6) A director, deputy director, or chief financial officer of an agency is preferred as an appointed representative for each of the agency categories of membership pursuant to paragraph "a", subparagraph (3).

c. The director shall serve as the permanent chair of the board.

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[1] See chapter 179, §142 herein

[2] See chapter 179, §142 herein

d. The technology governance board annually shall elect a vice chair from among the members of the board, by majority vote, to serve a one-year term.

e. A majority of the members of the board shall constitute a quorum.

f. Meetings of the board shall be held at the call of the chairperson or at the request of three members.

3. POWERS AND DUTIES OF THE BOARD. The powers and duties of the technology governance board as they relate to information technology services shall include, but are not limited to, all of the following:

a. On an annual basis, prepare a report to the governor, the department of management, and the general assembly regarding the total spending on technology for the previous fiscal year, the total amount appropriated for the current fiscal year, and an estimate of the amount to be requested for the succeeding fiscal year for all agencies. The report shall include a five-year projection of technology cost savings, an accounting of the level of technology cost savings for the current fiscal year, and a comparison of the level of technology cost savings for the current fiscal year with that of the previous fiscal year. This report shall be filed as soon as possible after the close of a fiscal year, and by no later than the second Monday of January of each year.

b. Work with the department of management and the state accounting enterprise of the department, pursuant to section 8A.502, to maintain the relevancy of the central budget and proprietary control accounts of the general fund of the state and special funds to information technology, as those terms are defined in section 8.2, of state government.

c. Develop and approve administrative rules governing the activities of the board. The department shall assist in development of the rules and shall adopt the rules under the department's name.

d. In conjunction with the department, develop and adopt information technology standards pursuant to section 8A.206 applicable to all agencies.

e. Make recommendations to the department regarding all of the following:

(1) Technology utility services to be implemented by the department or other agencies.

(2) Improvements to information technology service levels and modifications to the business continuity plan for information technology operations developed by the department pursuant to section 8A.202 for agencies, and to maximize the value of information technology investments by the state.

(3) Technology initiatives for the executive branch.

f. Review the recommendations of the IowAccess advisory council regarding rates to be charged for access to and for value-added services performed through IowAccess, pursuant to section 8A.221. The board shall report the establishment of a new rate of change in the level of an existing rate to the department, which shall notify the department of management and the legislative services agency regarding the rate establishment or change.

g. Designate advisory groups as appropriate to assist the board in all of the following:

(1) Development and adoption of an executive branch strategic technology plan.

(2) Annual review of technology operating expenses and capital investment budgets of agencies by October 1 for the following fiscal year, and development of technology costs savings projections, accountings, and comparisons.

(3) Quarterly review of requested modifications to budgets of agencies due to funding changes.

(4) Review and approval of all requests for proposals prior to issuance for all information technology devices, hardware acquisition, information technology services, software development projects, and information technology outsourcing for agencies that exceed the greater of a total cost of fifty thousand dollars or a total involvement of seven hundred fifty agency staff hours.

(5) Development of a plan and process to improve service levels and continuity of business operations, and to maximize the value of information technology investments.

(6) Formation of internal teams to address cost-savings initiatives, including consolidation of information technology and related functions among agencies, as enacted by the technology governance board.

(7) Development of information technology standards.

(8) Development of rules, processes, and procedures for implementation of aggregate purchasing among agencies.

4. FUNDING. Activities of the technology governance board shall be funded by the information technology enterprise of the department, through the IowAccess revolving fund created in section 8A.224, notwithstanding contrary provisions of any other law.

5. RULES. The department shall adopt rules as necessary to administer this section, which shall at a minimum, consistent with section 8A.221, establish a process for the submission to the board of proposed fees for value-added services by participating agencies and other governmental entities, as well as the board's submission of recommendations regarding such fees to the department of management.[3]

Sec. 4. Section 8A.206, subsection 1, Code 2005, is amended to read as follows:

1. The department shall develop, in consultation with the ~~information technology council~~ technology governance board, 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.[4]

Sec. 5. Section 8A.221, subsection 2, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) Recommend to the ~~information technology council~~ technology governance board rates to be charged for access to and for value-added services performed through IowAccess.[5]

Sec. 6. Section 8A.224, Code 2005, is amended to read as follows:

8A.224 IOWACCESS REVOLVING FUND.

1. 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 subchapter, and for the support of activities of the technology governance board pursuant to section 8A.204.

2. 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.[6]

Sec. 7. TECHNOLOGY GOVERNANCE BOARD FUNDING. Of the funds appropriated pursuant to section 8A.224, an amount not to exceed two hundred fifty thousand dollars may be used by the department of administrative services during the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the support of activities of the technology governance board pursuant to section 8A.204.[7]

Sec. 8. TECHNOLOGY GOVERNANCE BOARD — TRANSITION — INITIAL TERMS OF MEMBERSHIP.

1. The information technology council established by section 8A.204, Code 2005, is dissolved.

2. The former public members of the information technology council appointed by the governor may be appointed to the technology governance board created by section 8A.204 to fill the public member positions on that board. The governor may designate the initial length of

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[3] See chapter 179, §142 herein

[4] See chapter 179, §142 herein

[5] See chapter 179, §142 herein

[6] See chapter 179, §142 herein

[7] See chapter 179, §142 herein

terms of such members to provide for staggering of terms of representation, pursuant to section 8A.204.

3. Notwithstanding section 8A.204, one-half of the initial terms of membership for agency representatives to the technology governance board shall be two years, and one-half shall be one year, as designated by the governor, to initiate the staggering of member terms under section 8A.204.

4. Notwithstanding section 8A.204, subsection 2, paragraph "f", the technology governance board shall meet no less than monthly for the one-year period following the appointment of all members.[8]

Approved April 29, 2005

CHAPTER 91

HEALTH INSURANCE — BIOLOGICALLY BASED MENTAL ILLNESSES

H.F. 420

AN ACT relating to third-party payment of health care coverage costs for biologically based mental illness treatment services.

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

Section 1. NEW SECTION. 514C.22 BIOLOGICALLY BASED MENTAL ILLNESS COVERAGE.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group policy, contract, or plan providing for third-party payment or prepayment of health, medical, and surgical coverage benefits issued by a carrier, as defined in section 513B.2, or by an organized delivery system authorized under 1993 Iowa Acts, chapter 158, shall provide coverage benefits for treatment of a biologically based mental illness if either of the following is satisfied:

a. The policy, contract, or plan is issued to an employer who on at least fifty percent of the employer's working days during the preceding calendar year employed more than fifty full-time equivalent employees. In determining the number of full-time equivalent employees of an employer, employers who are affiliated or who are able to file a consolidated tax return for purposes of state taxation shall be considered one employer.

b. The policy, contract, or plan is issued to a small employer as defined in section 513B.2, and such policy, contract, or plan provides coverage benefits for the treatment of mental illness.

2. Notwithstanding the uniformity of treatment requirements of section 514C.6, a plan established pursuant to chapter 509A for public employees shall provide coverage benefits for treatment of a biologically based mental illness.

3. For purposes of this section, "biologically based mental illness" means the following psychiatric illnesses:

a. Schizophrenia.
b. Bipolar disorders.
c. Major depressive disorders.
d. Schizo-affective disorders.
e. Obsessive-compulsive disorders.

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[8] See chapter 179, §142 herein

f. Pervasive developmental disorders.

g. Autistic disorders.

4. The commissioner, by rule, shall define the biologically based mental illnesses identified in subsection 3. Definitions established by the commissioner shall be consistent with definitions provided in the most recent edition of the American psychiatric association's diagnostic and statistical manual of mental disorders, as such definitions may be amended from time to time. The commissioner may adopt the definitions provided in such manual by reference.

5. This section shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance, or individual accident and sickness policies issued to individuals or to individual members of a member association.

6. A carrier, organized delivery system, or plan established pursuant to chapter 509A may manage the benefits provided through common methods including, but not limited to, providing payment of benefits or providing care and treatment under a capitated payment system, prospective reimbursement rate system, utilization control system, incentive system for the use of least restrictive and least costly levels of care, a preferred provider contract limiting choice of specific providers, or any other system, method, or organization designed to assure services are medically necessary and clinically appropriate.

7. a. A group policy, contract, or plan covered under this section shall not impose an aggregate annual or lifetime limit on biologically based mental illness coverage benefits unless the policy, contract, or plan imposes an aggregate annual or lifetime limit on substantially all health, medical, and surgical coverage benefits.

b. A group policy, contract, or plan covered under this section that imposes an aggregate annual or lifetime limit on substantially all health, medical, and surgical coverage benefits shall not impose an aggregate annual or lifetime limit on biologically based mental illness coverage benefits that is less than the aggregate annual or lifetime limit imposed on substantially all health, medical, and surgical coverage benefits.

8. A group policy, contract, or plan covered under this section shall at a minimum allow for thirty inpatient days and fifty-two outpatient visits annually. The policy, contract, or plan may also include deductibles, coinsurance, or copayments, provided the amounts and extent of such deductibles, coinsurance, or copayments applicable to other health, medical, or surgical services coverage under the policy, contract, or plan are the same. It is not a violation of this section if the policy, contract, or plan excludes entirely from coverage benefits for the cost of providing the following:

a. Marital, family, educational, developmental, or training services.

b. Care that is substantially custodial in nature.

c. Services and supplies that are not medically necessary or clinically appropriate.

d. Experimental treatments.

9. This section applies to third-party payment provider policies or contracts and to plans established pursuant to chapter 509A that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2006.

Approved May 2, 2005

CHAPTER 92

RAILROAD CROSSING AND SCHOOL BUS WARNING DEVICE VIOLATIONS — TRAFFIC CITATIONS

S.F. 313

AN ACT relating to traffic citations issued for school bus warning device and railroad crossing violations.

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

Section 1. Section 321.344A, Code 2005, is amended to read as follows:

321.344A REPORTED VIOLATIONS FOR FAILURE TO STOP AT A RAILROAD CROSSING.

1. The employee of a railroad who observes a violation of section 321.341, 321.342, 321.343, or 321.344 may prepare a written report on a form provided by the department of public safety indicating that a violation has occurred. The railroad employee may deliver the report not more than seventy-two hours after the violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the violation occurred. The report shall state the time and the location at which the violation occurred and shall include the registration plate number and a description of the vehicle involved in the violation.

2. A peace officer may initiate an investigation not more than seven calendar days after receiving a report of a violation pursuant to this section. The peace officer may request that the owner of the vehicle supply information identifying the driver of the vehicle in accordance with section 321.484.

a. If from the investigation, the peace officer is able to identify the driver of the vehicle and has reasonable cause to believe a violation has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail on the driver of the vehicle.

b. If, from the investigation, the peace officer has reasonable cause to believe that a violation occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation on the owner of the motor vehicle. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.341, 321.342, 321.343, or 321.344, together with proof that the defendant named in the citation was the owner of the motor vehicle at the time the violation occurred, constitutes a permissible inference that the owner was the driver who committed the violation.

c. For purposes of this subsection, "owner" means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Sec. 2. Section 321.372A, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. If, from the investigation, the peace officer has reasonable cause to believe that a violation of section 321.372, subsection 3, occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation to the owner of the motor vehicle. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.372, subsection 3, together with proof that the defendant named in the citation was the ~~registered~~ owner of the motor vehicle at the time the violation occurred, constitutes a permissible inference that the ~~registered~~ owner was the driver who committed the violation.

Sec. 3. Section 321.372A, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For purposes of this subsection, "owner" means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Approved May 3, 2005

CHAPTER 93

REGULATION OF CIGARETTE AND TOBACCO PRODUCT RETAILERS

H.F. 339

AN ACT relating to the regulation of tobacco product retailers, and making penalties applicable.

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

Section 1. Section 453A.3, subsection 1, paragraphs a and b, Code 2005,[1] are amended to read as follows:

a. A person, other than a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, is guilty of a simple misdemeanor.

b. An employee of a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 3, paragraph "b".

Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005, are amended to read as follows:

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, as defined in sections 453A.1 and 453A.42, 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, as defined in sections 453A.1 and 453A.42, 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.

Sec. 3. Section 453A.22, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For the purposes of this section, "retailer" means retailer as defined in sections 453A.1 and 453A.42 and "retail permit" includes permits issued to retailers under division I or division II of this chapter.

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[1] In Code 2005, section 453A.3, subsection 1, contained only paragraphs a and b

Sec. 4. NEW SECTION. 453A.47A RETAILERS — PERMITS — FEES — PENALTIES.

1. PERMITS REQUIRED. A person shall not engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer.

2. NO SALES WITHOUT PERMIT. A retailer shall not sell any tobacco products until an application has been filed and the fee prescribed paid for a permit and until such permit is obtained and only while such permit is not suspended, unrevoked, or unexpired.

3. NUMBER OF PERMITS. An application shall be filed and a permit obtained for each place of business owned or operated by a retailer.

4. RETAILER — CIGARETTES AND TOBACCO PRODUCTS. A retailer, as defined in section 453A.1, who holds a permit under division I of this chapter is not required to also obtain a retailer[2] permit under this division. However, if a retailer, as defined in section 453A.1, only holds a permit under division I of this chapter and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during the time which the permit is suspended, revoked, or expired.

5. SEPARATE PERMIT. A separate retail permit shall be required of a distributor or subjobber if the distributor or subjobber sells tobacco products at retail.

6. ISSUANCE. Cities shall issue retail permits to retailers within their respective limits. County boards of supervisors shall issue retail permits to retailers in their respective counties, outside of the corporate limits of cities. The city or county shall submit a duplicate of any application for a retail permit and any retail permit issued by the entity under this section to the Iowa department of public health within thirty days of issuance.

7. FEES — EXPIRATION.

a. All permits provided for in this division shall expire on June 30 of each year. A permit shall not be granted or issued until the applicant has paid the fees provided for in this section for the period ending June 30 next, to the city or county granting the permit. The fee for retail permits is as follows when the permit is granted during the months of July, August, or September:

(1) In places outside any city, fifty dollars.

(2) In cities of less than fifteen thousand population, seventy-five dollars.

(3) In cities of fifteen thousand or more population, one hundred dollars.

b. If any permit is granted during the months of October, November, or December, the fee shall be three-fourths of the above maximum schedule; if granted during the months of January, February, or March, one-half of the maximum schedule, and if granted during the months of April, May, or June, one-fourth of the maximum schedule.

8. REFUNDS.

a. An unrevoked permit for which the retailer paid the full annual fee may be surrendered during the first nine months of the year to the officer issuing it, and the city or county granting the permit shall make refunds to the retailer as follows:

(1) Three-fourths of the annual fee if the surrender is made during July, August, or September.

(2) One-half of the annual fee if the surrender is made during October, November, or December.

(3) One-fourth of the annual fee if the surrender is made during January, February, or March.

b. An unrevoked permit for which the retailer has paid three-fourths of a full annual fee may be surrendered during the first six months of the period covered by the payment, and the city or county shall make refunds to the retailer as follows:

(1) A sum equal to one-half of an annual fee if the surrender is made during October, November, or December.

(2) A sum equal to one-fourth of an annual fee if the surrender is made during January, February, or March.

c. An unrevoked permit for which the retailer has paid one-half of a full annual fee may be

[2] See chapter 179, §131 herein

surrendered during the first three months of the period covered by the payment, and the city or county shall refund to the retailer a sum equal to one-fourth of an annual fee.

9. APPLICATION. Retailer[3] permits shall be issued only upon applications, accompanied by the fee indicated above, made upon forms furnished by the department upon written request. The failure to furnish such forms shall be no excuse for the failure to file the form unless absolute refusal is shown. The forms shall specify:

a. The manner under which the retailer transacts or intends to transact business as a retailer.

b. The principal office, residence, and place of business, for which the permit is to apply.

c. If the applicant is not an individual, the principal officers or members of the applicant, not to exceed three, and their addresses.

d. Such other information as the director shall by rules prescribe.

10. RECORDS AND REPORTS OF RETAILERS.

a. The director shall prescribe the forms necessary for the efficient administration of this section and may require uniform books and records to be used and kept by each retailer or other person as deemed necessary.

b. Every retailer shall, when requested by the department, make additional reports as the department deems necessary and proper and shall at the request of the department furnish full and complete information pertaining to any transaction of the retailer involving the purchase or sale or use of tobacco products.

11. PENALTIES. The permit suspension and revocation provisions and the civil penalties established in section 453A.22 shall apply to retailers under this division, in addition to any other penalties imposed under this division.

Approved May 3, 2005

CHAPTER 94

UNLAWFUL TRANSMISSION, INSTALLATION, AND USE OF COMPUTER SOFTWARE

H.F. 614

AN ACT relating to the transmission, installation, and use of computer software through deceptive or unauthorized means and providing for penalties.

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

Section 1. NEW SECTION. 714F.1 LEGISLATIVE INTENT.

It is the intent of the general assembly to protect owners and operators of computers in this state from the use of spyware and malware that is deceptively or surreptitiously installed on the owner's or the operator's computer.

Sec. 2. NEW SECTION. 714F.2 TITLE.

This chapter shall be known and may be cited as the "Computer Spyware Protection Act".

Sec. 3. NEW SECTION. 714F.3 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Advertisement" means a communication, the primary purpose of which is the commer-

[3] See chapter 179, §131 herein

cial promotion of a commercial product or service, including content on an internet website operated for a commercial purpose.

2. "Computer software" means a sequence of instructions written in any programming language that is executed on a computer. "Computer software" does not include computer software that is a web page or data components of a web page that are not executable independently of the web page.

3. "Damage" means any significant impairment to the integrity or availability of data, software, a system, or information.

4. "Execute", when used with respect to computer software, means the performance of the functions or the carrying out of the instructions of the computer software.

5. "Intentionally deceptive" means any of the following:

a. An intentionally and materially false or fraudulent statement.

b. A statement or description that intentionally omits or misrepresents material information in order to deceive an owner or operator of a computer.

c. An intentional and material failure to provide a notice to an owner or operator regarding the installation or execution of computer software for the purpose of deceiving the owner or operator.

6. "Internet" means the same as defined in section 4.1.

7. "Owner or operator" means the owner or lessee of a computer, or a person using such computer with the owner or lessee's authorization, but does not include a person who owned a computer prior to the first retail sale of the computer.

8. "Person" means the same as defined in section 4.1.

9. "Personally identifiable information" means any of the following information with respect to the owner or operator of a computer:

a. The first name or first initial in combination with the last name.

b. A home or other physical address including street name.

c. An electronic mail address.

d. Credit or debit card number, bank account number, or any password or access code associated with a credit or debit card or bank account.

e. Social security number, tax identification number, driver's license number, passport number, or any other government-issued identification number.

f. Account balance, overdraft history, or payment history that personally identifies an owner or operator of a computer.

10. "Transmit" means to transfer, send, or make available computer software using the internet or any other medium, including local area networks of computers other than a wireless transmission, and a disc or other data storage device. "Transmit" does not include an action by a person providing any of the following:

a. An internet connection, telephone connection, or other means of transmission capability such as a compact disc or digital video disc through which the computer software was made available.

b. The storage or hosting of the computer software program or an internet web page through which the software was made available.

c. An information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of the computer located the computer software, unless the person transmitting receives a direct economic benefit from the execution of such software on the computer.

Sec. 4. NEW SECTION. 714F.4 PROHIBITIONS — TRANSMISSION AND USE OF SOFTWARE.

It is unlawful for a person who is not an owner or operator of a computer to transmit computer software to such computer knowingly or with conscious avoidance of actual knowledge, and to use such software to do any of the following:

1. Modify, through intentionally deceptive means, settings of a computer that control any of the following:

a. The web page that appears when an owner or operator launches an internet browser or similar computer software used to access and navigate the internet.

b. The default provider or web proxy that an owner or operator uses to access or search the internet.

c. An owner's or an operator's list of bookmarks used to access web pages.

2. Collect, through intentionally deceptive means, personally identifiable information through any of the following means:

a. The use of a keystroke-logging function that records keystrokes made by an owner or operator of a computer and transfers that information from the computer to another person.

b. In a manner that correlates personally identifiable information with data respecting all or substantially all of the websites visited by an owner or operator, other than websites operated by the person collecting such information.

c. By extracting from the hard drive of an owner's or an operator's computer, an owner's or an operator's social security number, tax identification number, driver's license number, passport number, any other government-issued identification number, account balances, or overdraft history.

3. Prevent, through intentionally deceptive means, an owner's or an operator's reasonable efforts to block the installation of, or to disable, computer software by causing computer software that the owner or operator has properly removed or disabled to automatically reinstall or reactivate on the computer.

4. Intentionally misrepresent that computer software will be uninstalled or disabled by an owner's or an operator's action.

5. Through intentionally deceptive means, remove, disable, or render inoperative security, antispyware, or antivirus computer software installed on an owner's or an operator's computer.

6. Take control of an owner's or an operator's computer by doing any of the following:

a. Accessing or using a modem or internet service for the purpose of causing damage to an owner's or an operator's computer or causing an owner or operator to incur financial charges for a service that the owner or operator did not authorize.

b. Opening multiple, sequential, stand-alone advertisements in an owner's or an operator's internet browser without the authorization of an owner or operator and which a reasonable computer user could not close without turning off the computer or closing the internet browser.

7. Modify any of the following settings related to an owner's or an operator's computer access to, or use of, the internet:

a. Settings that protect information about an owner or operator for the purpose of taking personally identifiable information of the owner or operator.

b. Security settings for the purpose of causing damage to a computer.

8. Prevent an owner's or an operator's reasonable efforts to block the installation of, or to disable, computer software by doing any of the following:

a. Presenting the owner or operator with an option to decline installation of computer software with knowledge that, when the option is selected by the authorized user, the installation nevertheless proceeds.

b. Falsely representing that computer software has been disabled.

Sec. 5. NEW SECTION. 714F.5 OTHER PROHIBITIONS.

It is unlawful for a person who is not an owner or operator of a computer to do any of the following with regard to the computer:

1. Induce an owner or operator to install a computer software component onto the owner's or the operator's computer by intentionally misrepresenting that installing computer software is necessary for security or privacy reasons or in order to open, view, or play a particular type of content.

2. Using intentionally deceptive means to cause the execution of a computer software com-

ponent with the intent of causing an owner or operator to use such component in a manner that violates any other provision of this chapter.

Sec. 6. NEW SECTION. 714F.6 EXCEPTIONS.

Sections 714F.4 and 714F.5 shall not apply to the monitoring of, or interaction with, an owner's or an operator's internet or other network connection, service, or computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, authorized updates of computer software or system firmware, authorized remote system management, or detection or prevention of the unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing computer software prescribed under this chapter. Nothing in this chapter shall limit the rights of providers of wire and electronic communications under 18 U.S.C. § 2511.

Sec. 7. NEW SECTION. 714F.7 CRIMINAL PENALTIES.

1. A person who commits an unlawful act under this chapter is guilty of an aggravated misdemeanor.

2. A person who commits an unlawful act under this chapter and who causes pecuniary losses exceeding one thousand dollars to a victim of the unlawful act is guilty of a class "D" felony.

Sec. 8. NEW SECTION. 714F.8 VENUE FOR CRIMINAL VIOLATIONS.

For the purpose of determining proper venue, a violation of this chapter shall be considered to have been committed in any county in which any of the following apply:

1. An act was performed in furtherance of the violation.

2. The owner or operator who is the victim of the violation has a place of business in this state.

3. The defendant has control or possession of any proceeds of the violation, or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects used in furtherance of the violation.

4. The defendant unlawfully accessed a computer or computer network by wires, electromagnetic waves, microwaves, or any other means of communication.

5. The defendant resides.

6. A computer used as an object or an instrument in the commission of the violation was located at the time of the violation.

Approved May 3, 2005

CHAPTER 95

DECATEGORIZATION OF CHILD WELFARE
AND JUVENILE JUSTICE FUNDING PROJECTS

H.F. 616

AN ACT revising requirements applicable to county and multicounty decategorization of child welfare and juvenile justice funding projects.

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

Section 1. Section 232.188, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

232.188 DECATEGORIZATION OF CHILD WELFARE AND JUVENILE JUSTICE FUNDING INITIATIVE.

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

a. "Decategorization governance board" or "governance board" means the group that enters into and implements a decategorization project agreement.

b. "Decategorization project" means the county or counties that have entered into a decategorization agreement to implement the decategorization initiative in the county or multicounty area covered by the agreement.

c. "Decategorization services funding pool" or "funding pool" means the funding designated for a decategorization project from all sources.

2. PURPOSE. The decategorization of the child welfare and juvenile justice funding initiative is intended to establish a system of delivering human services based upon client needs to replace a system based upon a multitude of categorical programs and funding sources, each with different service definitions and eligibility requirements. The purposes of the decategorization initiative include but are not limited to redirecting child welfare and juvenile justice funding to services which are more preventive, family-centered, and community-based in order to reduce use of restrictive approaches which rely upon institutional, out-of-home, and out-of-community services.

3. IMPLEMENTATION.

a. Implementation of the initiative shall be through creation of decategorization projects. A project shall consist of either a single county or a group of counties interested in jointly implementing the initiative. Representatives of the department, juvenile court services, and county government shall develop a project agreement to implement the initiative within a project.

b. The initiative shall include community planning activities in the area covered by a project. As part of the community planning activities, the department shall partner with other community stakeholders to develop service alternatives that provide less restrictive levels of care for children and families receiving services from the child welfare and juvenile justice systems within the project area.

c. The decategorization initiative shall not be implemented in a manner that limits the legal rights of children and families to receive services.

4. GOVERNANCE BOARD.

a. In partnership with an interested county or group of counties which has demonstrated the commitment and involvement of the affected county department, or departments of human services, the juvenile justice system within the project area, and board, or boards, of supervisors in order to form a decategorization project, the department shall develop a process for combining specific state and state-federal funding categories into a decategorization services funding pool for that project. A decategorization project shall be implemented by a decategorization governance board. The decategorization governance board shall develop specific, quantifiable short-term and long-term plans for enhancing the family-centered and community-based services and reducing reliance upon out-of-community care in the project area.

b. The department shall work with the decategorization governance boards to best coordinate planning activities and most effectively target funding resources. A departmental service area manager shall work with the decategorization governance boards in that service area to support board planning and service development activities and to promote the most effective alignment of resources.

c. A decategorization governance board shall coordinate the project's planning and budgeting activities with the departmental service area manager for the county or counties comprising the project area and the community empowerment area board or boards for the community empowerment area or areas within which the decategorization project is located.

5. FUNDING POOL.

a. The governance board for a decategorization project has authority over the project's decategorization services funding pool and shall manage the pool to provide more flexible, individualized, family-centered, preventive, community-based, comprehensive, and coordinated service systems for children and families served in that project area. A funding pool shall also be used for child welfare and juvenile justice systems enhancements.

b. Notwithstanding section 8.33, moneys designated for a project's decategorization services funding pool that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure as directed by the project's governance board for child welfare and juvenile justice systems enhancements and other purposes of the project until the close of the succeeding fiscal year and shall be known as "carryover funding". Moneys may be made available to a funding pool from one or more of the following sources:

(1) Funds designated for the initiative in a state appropriation.

(2) Child welfare and juvenile justice services funds designated for the initiative by a departmental service area manager.

(3) Juvenile justice program funds designated for the initiative by a chief juvenile court officer.

(4) Carryover funding.

(5) Any other source designating moneys for the funding pool.

c. The services and activities funded from a project's funding pool may vary depending upon the strategies selected by the project's governance board and shall be detailed in an annual child welfare and juvenile justice decategorization services plan developed by the governance board. A decategorization governance board shall involve community representatives and county organizations in the development of the plan for that project's funding pool. In addition, the governance board shall coordinate efforts through communication with the appropriate departmental service area manager regarding budget planning and decategorization service decisions.

d. A decategorization governance board is responsible for ensuring that decategorization services expenditures from that project's funding pool do not exceed the amount of funding available. If necessary, the governance board shall reduce expenditures or discontinue specific services as necessary to manage within the funding pool resources available for a fiscal year.

e. The annual child welfare and juvenile justice decategorization services plan developed for use of the funding pool by a decategorization governance board shall be submitted to the department administrator of child welfare services and the Iowa empowerment board. In addition, the decategorization governance board shall submit an annual progress report to the department administrator and the Iowa empowerment board which summarizes the progress made toward attaining the objectives contained in the plan. The progress report shall serve as an opportunity for information sharing and feedback.

6. DEPARTMENTAL ROLE. A departmental service area's share of the child welfare appropriation that is not allocated by law for the decategorization initiative shall be managed by and is under the authority of the service area manager. A service area manager is responsible for meeting the child welfare service needs in the counties comprising the service area with the available funding resources.

Sec. 2. Section 232.190, subsection 3, Code 2005, is amended to read as follows:

3. Applications for moneys from the community grant fund shall demonstrate a collaborative effort by all relevant local government and school officials and service agencies with authority, responsibilities, or other interests within the decategorization project area. Proposed plans set forth in the applications shall reflect community-wide consensus in how to remediate community problems related to juvenile crime. Services provided under a grant through this program shall be comprehensive, preventive, community-based, and shall utilize flexible delivery systems and promote youth development. A plan for grant moneys under this section shall be a part of or be consistent with the annual child welfare and juvenile justice decategorization services plan developed by the governance board of the decategorization project area and submitted to the department of human services and Iowa empowerment board pursuant to section 232.188.

Sec. 3. Section 235.7, subsection 2, Code 2005, is amended to read as follows:

2. MEMBERSHIP. The department may authorize the governance boards of decategorization of child welfare and juvenile justice 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 central point of coordination 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.

Sec. 4. Section 237A.1, subsection 3, paragraph k, subparagraph (2), Code 2005, is amended to read as follows:

(2) A contract approved by a ~~local decategorization~~ governance board of a decategorization of child welfare and juvenile justice funding project created under section 232.188.

Approved May 3, 2005

CHAPTER 96

MEDICAL ASSISTANCE PROGRAM — ASSISTED LIVING SERVICES

H.F. 617

AN ACT relating to inclusion of assisted living services under the medical assistance home and community-based services waiver for the elderly.

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

Section 1. HOME AND COMMUNITY-BASED SERVICES WAIVER FOR THE ELDERLY — INCLUSION OF ASSISTED LIVING SERVICES.

1. The department of human services shall request a waiver from the centers for Medicare and Medicaid services of the United States department of health and human services to add assisted living services to the home and community-based services waiver for the elderly under the medical assistance program.

2. If the department of human services receives approval of the waiver, the department, in consultation with assisted living services providers, shall submit a plan for implementation to the general assembly. However, the waiver shall not be implemented prior to specific action by the general assembly to implement the waiver.

Approved May 3, 2005

CHAPTER 97

PRESCRIPTION DRUG DONATION REPOSITORY

H.F. 724

AN ACT creating a prescription drug donation repository program.

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

Section 1. NEW SECTION. 135M.1 PURPOSE.

The purpose of this chapter is to improve the health of low-income Iowans through a prescription drug donation repository that authorizes medical facilities and pharmacies to redispense prescription drugs and supplies that would otherwise be destroyed.

Sec. 2. NEW SECTION. 135M.2 DEFINITIONS.

1. "Anti-rejection drug" means a prescription drug that suppresses the immune system to prevent or reverse rejection of a transplanted organ.
2. "Cancer drug" means a prescription drug that is used to treat any of the following:
a. Cancer or the side effects of cancer.
b. The side effects of any prescription drug that is used to treat cancer or the side effects of cancer.
3. "Controlled substance" means the same as defined in section 155A.3.
4. "Department" means the Iowa department of public health.
5. "Indigent" means a person with an income that is below two hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.
6. "Medical facility" means any of the following:
a. A physician's office.
b. A hospital.
c. A health clinic.
d. A nonprofit health clinic which includes a federally qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B); a rural health clinic as defined in 42 U.S.C. § 1396d(l)(1); and a nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.
e. A free clinic as defined in section 135.24.
f. A charitable organization as defined in section 135.24.
g. A nursing facility as defined in section 135C.1.
7. "Pharmacy" means a pharmacy as defined in section 155A.3.
8. "Prescription drug" means the same as defined in section 155A.3, and includes cancer drugs and anti-rejection drugs, but does not include controlled substances.
9. "Supplies" means the supplies necessary to administer the prescription drugs donated.

Sec. 3. NEW SECTION. 135M.3 PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM AUTHORIZED.

1. The department, in cooperation with the board of pharmacy examiners, may establish and maintain a prescription drug donation repository program under which any person may donate prescription drugs and supplies for use by an individual who meets eligibility criteria specified by the department by rule. The department may contract with a third party to implement and administer the program.

2. Donations of prescription drugs and supplies under the program may be made on the premises of a medical facility or pharmacy that elects to participate in the program and meets the requirements established by the department.

3. The medical facility or pharmacy may charge an individual who receives a prescription drug or supplies a handling fee that shall not exceed an amount established by rule by the department.

4. A medical facility or pharmacy that receives prescription drugs or supplies may distribute the prescription drugs or supplies to another eligible medical facility or pharmacy for use pursuant to the program.

5. Participation in the program shall be voluntary.

Sec. 4. NEW SECTION. 135M.4 PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM REQUIREMENTS.

1. A prescription drug or supplies may be accepted and dispensed under the prescription drug donation repository program if all of the following conditions are met:

a. The prescription drug is in its original sealed and tamper-evident packaging. However, a prescription drug in a single-unit dose or blister pack with the outside packaging opened may be accepted if the single-unit dose packaging remains intact.

b. The prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated.

c. The prescription drug or supplies are inspected before the prescription drug or supplies are dispensed by a licensed pharmacist employed by or under contract with the medical facility or pharmacy, and the licensed pharmacist determines that the prescription drug or supplies are not adulterated or misbranded.

d. The prescription drug or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a pharmacist.

2. A prescription drug or supplies donated under this chapter shall not be resold.

3. a. If a person who donates prescription drugs under this chapter to a medical facility or pharmacy receives a notice from a pharmacy that a prescription drug has been recalled, the person shall inform the medical facility or pharmacy of the recall.

b. If a medical facility or pharmacy receives a recall notification from a person who donated prescription drugs under this chapter, the medical facility or pharmacy shall perform a uniform destruction of all of the recalled prescription drugs in the medical facility or pharmacy.

4. A prescription drug dispensed through the prescription drug donation repository program shall not be eligible for reimbursement under the medical assistance program.

5. The department shall adopt rules establishing all of the following:

a. Requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies, including all of the following:

(1) Eligibility criteria for participation by medical facilities and pharmacies.

(2) Standards and procedures for accepting, safely storing, and dispensing donated prescription drugs and supplies.

(3) Standards and procedures for inspecting donated prescription drugs to determine if the prescription drugs are in their original sealed and tamper-evident packaging, or if the prescription drugs are in single-unit doses or blister packs and the outside packaging is opened, if the single-unit dose packaging remains intact.

(4) Standards and procedures for inspecting donated prescription drugs and supplies to determine that the prescription drugs and supplies are not adulterated or misbranded.

b. Eligibility criteria for individuals to receive donated prescription drugs and supplies dispensed under the program. The standards shall prioritize dispensing to individuals who are indigent or uninsured, but may permit dispensing to other individuals if an uninsured or indigent individual is unavailable.

c. Necessary forms for administration of the prescription drug donation repository program, including forms for use by individuals who donate, accept, distribute, or dispense the prescription drugs or supplies under the program.

d. A means by which an individual who is eligible to receive donated prescription drugs and supplies may indicate such eligibility.

e. The maximum handling fee that a medical facility or pharmacy may charge for accepting, distributing, or dispensing donated prescription drugs and supplies under the program.

f. A list of prescription drugs that the prescription drug donation repository program will accept.

Sec. 5. NEW SECTION. 135M.5 EXEMPTION FROM DISCIPLINARY ACTION, CIVIL LIABILITY, AND CRIMINAL PROSECUTION.

1. A drug manufacturer acting reasonably and in good faith, is not subject to criminal prosecution or civil liability for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the drug manufacturer that is donated under this chapter, including liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

2. Except as provided in subsection 3, a person other than a drug manufacturer subject to subsection 1, acting reasonably and in good faith, is immune from civil liability and criminal prosecution for injury to or the death of an individual to whom a donated prescription drug is dispensed under this chapter and shall be exempt from disciplinary action related to the person's acts or omissions related to the donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter.

3. The immunity and exemption provided in subsection 2 do not extend to any of the following:

a. The donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter by a person if the person's acts or omissions are not performed reasonably and in good faith.

b. To acts or omissions outside the scope of the program.

Sec. 6. NEW SECTION. 135M.6 SAMPLE PRESCRIPTION DRUGS.

This chapter shall not be construed to restrict the use of samples by a physician or other person legally authorized to prescribe drugs pursuant to section 147.107[1] during the course of the physician's or other person's duties at a medical facility or pharmacy.

Sec. 7. NEW SECTION. 135M.7 RESALE PROHIBITED.

This chapter shall not be construed to authorize the resale of prescription drugs by any person.

Approved May 3, 2005

[1] See chapter 179, §119 herein

CHAPTER 98

UNEMPLOYMENT COMPENSATION —
SALE OR TRANSFER OF ORGANIZATION, TRADE, OR BUSINESS —
EMPLOYER CONTRIBUTION RATES

H.F. 764

AN ACT relating to the unemployment rate of contribution of a person who acquires an organization, trade, or business and providing penalties.

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

Section 1. Section 96.7, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. (1) If an ~~enterprise~~ organization, trade, or business, or a clearly segregable and identifiable part of an ~~enterprise~~ organization, trade, or business, for which contributions have been paid is sold or transferred to a subsequent employing unit, or if one or more employing units have been reorganized or merged into a single employing unit, and the successor employer, having qualified as an employer as defined in section 96.19, subsection 16, paragraph "b", continues to operate the ~~enterprise~~ organization, trade, or business, the successor employer shall assume the position of the predecessor employer or employers with respect to the predecessors' payrolls, contributions, accounts, and contribution rates to the same extent as if no change had taken place in the ownership or control of the ~~enterprise~~ organization, trade, or business. However, the successor employer shall not assume the position of the predecessor employer or employers with respect to the predecessor employer's or employers' payrolls, contributions, accounts, and contribution rates which are attributable to that part of the ~~enterprise~~ organization, trade, or business transferred, unless the successor employer applies to the department within ninety days from the date of the partial transfer, and the succession is approved by the predecessor employer or employers and the department.

(2) Notwithstanding any other provision of this chapter, if an employer sells or transfers its organization, trade, or business, or a portion thereof, to another employer, and at the time of the sale or transfer, there is substantially common ownership, management, or control of the two employers, then the unemployment experience attributable to the sold or transferred organization, trade, or business shall be transferred to the successor employer. The transfer of part or all of an employer's workforce to another employer shall be considered a sale or transfer of the organization, trade, or business where the predecessor employer no longer operates the organization, trade, or business with respect to the transferred workforce and such organization, trade, or business is operated by the successor employer.

(3) Notwithstanding any other provision of this chapter, if a person is not an employer at the time such person acquires an organization, trade, or business of an employer, or a portion thereof, the unemployment experience of the acquired organization, trade, or business shall not be transferred to such person if the department finds such person acquired the organization, trade, or business solely or primarily for the purpose of obtaining a lower rate of contribution. Instead, such person shall be assigned the applicable new employer rate under paragraph "c".

In determining whether an organization, trade, or business or portion thereof was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the department shall use objective factors which may include the cost of acquiring the organization, trade, or business; whether the person continued the acquired organization, trade, or business; how long such organization, trade, or business was continued; and whether a substantial number of new employees was hired for performance of duties unrelated to the organization, trade, or business operated prior to the acquisition. The department shall establish methods and procedures to identify the transfer or acquisition of an organization, trade, or business under this subparagraph and subparagraph (2).

(4) The predecessor employer, prior to entering into a contract with a successor employer relating to the sale or transfer of the ~~enterprise~~ organization, trade, or business, or a clearly segregable and identifiable part of the ~~enterprise~~ organization, trade, or business, shall disclose to the successor employer the predecessor employer's record of charges of benefits payments and any layoffs or incidences since the last record that would affect the experience record. A predecessor employer who fails to disclose or willfully discloses incorrect information to a successor employer regarding the predecessor employer's record of charges of benefits payments is liable to the successor employer for any actual damages and attorney fees incurred by the successor employer as a result of the predecessor employer's failure to disclose or disclosure of incorrect information. The department shall include notice of the requirement of disclosure in the department's quarterly notification given to each employer pursuant to paragraph "a", subparagraph (6).

(5) The contribution rate to be assigned to the successor employer for the period beginning not earlier than the date of the succession and ending not later than the beginning of the next following rate year, shall be the contribution rate of the predecessor employer with respect to the period immediately preceding the date of the succession, provided the successor employer was not, prior to the succession, a subject employer, and only one predecessor employer, or only predecessor employers with identical rates, are involved. If the predecessor employers' rates are not identical and the successor employer is not a subject employer prior to the succession, the department shall assign the successor employer a rate for the remainder of the rate year by combining the experience of the predecessor employers. If the successor employer is a subject employer prior to the succession, the successor employer may elect to retain the employer's own rate for the remainder of the rate year, or the successor employer may apply to the department to have the employer's rate redetermined by combining the employer's experience with the experience of the predecessor employer or employers. However, if the successor employer is a subject employer prior to the succession and has had a partial transfer of the experience of the predecessor employer or employers approved, then the department shall recompute the successor employer's rate for the remainder of the rate year.

Sec. 2. Section 96.16, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. EXPERIENCE AND TAX RATE AVOIDANCE. If a person knowingly violates or attempts to violate section 96.7, subsection 2, paragraph "b", subparagraph (2) or (3), with respect to a transfer of unemployment experience, or if a person knowingly advises another person in a way that results in a violation of such subparagraph, the person shall be subject to the penalties established in this subsection. If the person is an employer, the employer shall be assigned a penalty rate of contribution of two percent of taxable wages in addition to the regular contribution rate assigned for the year during which such violation or attempted violation occurred and for the two rate years immediately following. If the person is not an employer, the person shall be subject to a civil penalty of not more than five thousand dollars for each violation which shall be deposited in the unemployment trust fund, and shall be used for payment of unemployment benefits. In addition to any other penalty imposed in this subsection, violations described in this subsection shall also constitute an aggravated misdemeanor.

For purposes of this subsection, "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the requirement or prohibition involved. For purposes of this subsection, "violates or attempts to violate" includes, but is not limited to, the intent to evade, misrepresentation, and willful nondisclosure.

Approved May 3, 2005

CHAPTER 99

OPEN MEETINGS AND OPEN RECORDS VIOLATIONS

H.F. 772

AN ACT relating to violations of the open meetings and open records law by a member of a governmental body, the lawful custodian of a public record, or any other appropriate person.

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

Section 1. Section 21.6, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. Shall issue an order removing a member of a governmental body from office if that member has engaged in ~~two~~ a prior ~~violations~~ violation of this chapter for which damages were assessed against the member during the member's term.

Sec. 2. Section 22.10, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. Shall issue an order removing a person from office if that person has engaged in ~~two~~ a prior ~~violations~~ violation of this chapter for which damages were assessed against the person during the person's term.

Approved May 3, 2005

CHAPTER 100

STATE PROCUREMENT PROCEDURES —
NOTICE OF BIDDING OPPORTUNITIES

H.F. 814

AN ACT relating to electronic notices of bidding opportunities for state purchases.

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

Section 1. Section 8A.311, subsection 1, Code 2005, is amended to read as follows:

1. a. All equipment, supplies, or services procured by the department shall be purchased by a competitive bidding procedure as established by rule. However, the director may exempt by rule purchases of noncompetitive 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.

b. The department and each state agency shall provide notice in an electronic format available to the public of every competitive bidding opportunity offered by the department or the

state agency as provided in section 73.2, subsection 2. The department may establish by rule requirements relating to such notice. A competitive bidding opportunity that is not preceded by a notice that satisfies the requirements of this paragraph is void and shall be rebid. A request for proposals for architectural or engineering services may be posted electronically by a department or state agency.

Approved May 3, 2005

CHAPTER 101

REAL ESTATE AUCTIONS —
BROKERAGE AND CLOSING SERVICES PROVIDERS

S.F. 210

AN ACT relating to specified requirements applicable to a real estate broker or attorney providing services in connection with a real estate auction.

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

Section 1. Section 543B.7, subsection 5, Code 2005, is amended to read as follows:

5. The acts of an auctioneer in conducting a public sale or auction. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction including a brief description of the property for auction and the time and place for the auction; and crying the property at the auction. The auctioneer shall provide in any advertising the name and address of the real estate broker ~~or attorney~~ who is providing brokerage services for the transaction and the name of the real estate broker or attorney who is ~~also~~ responsible for closing the sale of the property. The real estate broker ~~or attorney~~ providing brokerage services ~~and closing services~~ shall be present at the time of the auction and, if found to be in violation of this subsection, shall be subject to a civil penalty of two thousand five hundred dollars. If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, then the requirements of this chapter do apply to the auctioneer. If an investigation pursuant to this chapter reveals that an auctioneer has violated this subsection or has assumed to act in the capacity of a real estate broker or real estate salesperson, the real estate commission may issue a cease and desist order, and shall issue a warning letter notifying the auctioneer of the violation for the first offense, and impose a penalty of up to the greater of ten thousand dollars or ten percent of the real estate sales price for each subsequent violation.

Approved May 4, 2005

CHAPTER 102

UNIFORM ENVIRONMENTAL COVENANTS ACT

S.F. 375

AN ACT creating the uniform environmental covenants Act.

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

Section 1. Section 455B.103, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. At the discretion of the director, enter into environmental covenants in accordance with chapter 455L and accept or maintain such other real property interests as shall be appropriate for the protection of human health and safety or the environment.

Sec. 2. Section 455B.474, subsection 1, paragraph f, subparagraph (4), subparagraph subdivision (f), Code 2005, is amended to read as follows:

(f) Other relevant site specific factors such as the feasibility of available technologies, existing background contaminant levels, current and planned future uses, ecological, aesthetic, and other relevant criteria, and the applicability and availability of engineering and institutional controls, including an environmental covenant as established by chapter 455L.

Sec. 3. Section 455H.103, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations as defined in section 455L.2.

Sec. 4. Section 455H.206, subsections 2, 3, 4, 5, and 6, Code 2005, are amended to read as follows:

2. An institutional or technological control includes any of the following:

a. A state or federal law or regulation.

b. An ordinance of any political subdivision of the state.

c. A contractual obligation recorded and executed in a manner satisfying chapter 558.

d. A control which the participant can demonstrate reduces or manages the risk from a release through the period necessary to comply with the applicable standards.

e. An environmental protection easement filed prior to the effective date of this Act.

f. An environmental covenant created in accordance with chapter 455L.

3. If the department's determination of compliance with applicable standards pursuant to subchapter 3 is conditioned on a restriction in the use of any real estate in the affected area, the participant must utilize an institutional control. If the restriction in use is to limit the use to nonresidential use, the participant must use an environmental ~~protection easement~~ covenant as the institutional control. Environmental ~~protection easements~~ covenants may also be used to implement other institutional or technological controls. An environmental ~~protection easement must be granted by the fee title owners of the relevant real estate. The participant shall furnish to the department abstracts of title and other documents sufficient to enable the department to determine that the easements will be enforceable. An environmental protection easement shall be in a form provided by rule of the department. An environmental protection easement must provide all of the following:~~

~~a. The easement names the state, acting through the department, as grantee.~~

~~b. The easement identifies the activity either being restricted or required through the institutional or technological control.~~

~~c. The easement runs with the land, binding the owner of the land and the owner's successors and assigns.~~

~~d. The easement shall include an acknowledgment by the director of acceptance of the easement by the department.~~

~~e. The easement is filed in the office of the recorder of the county in which the real estate is located and in any central registry which may be created by the director~~ covenant must comply with the requirements of chapter 455L.

4. If the use of an institutional or technological control is confirmed in a no further action letter issued pursuant to section 455H.301, the institutional or technological control may be enforced in district court by the department, a political subdivision of this state, the participant, or any successor in interest to the participant. ~~An environmental protection easement granted pursuant to subsection 3 shall be enforceable in perpetuity notwithstanding sections 614.24 through 614.38. After the recording of the easement, each instrument transferring an interest in the area affected by the easement shall include a specific reference to the recorded easement. If a transfer instrument fails to include a specific reference to the recorded easement, the transferor may lose any of the benefits provided by this chapter.~~

5. An institutional or technological control, except for an environmental ~~protection easement~~ covenant, may be removed, discontinued, modified, or terminated by the participant or a successor in interest to the participant upon a demonstration that the control no longer is required to assure compliance with the applicable standard. Upon review and approval by the department, the department shall issue an amendment to its no further action letter approving the removal, discontinuance, modification, or termination of an institutional or technological control which is no longer needed.

6. An environmental ~~protection easement granted~~ covenant created pursuant to subsection 3 may be ~~released~~ terminated or amended only ~~by a release or amendment of the easement executed by the director and filed with the county recorder~~ in accordance with chapter 455L. The department may determine that any person who intentionally violates an environmental ~~protection easement~~ covenant or other technological or institutional control contained in a no further action letter loses any of the benefits provided by this chapter as to the affected area. In the event the technological or institutional controls fail to achieve compliance with the applicable standards, the participant shall undertake an additional response action sufficient to demonstrate to the department compliance with applicable standards. Failure to proceed in a timely manner in performing the additional response action may result in termination of the participant's enrollment in the land recycling program.

Sec. 5. NEW SECTION. 455L.1 TITLE.

This chapter shall be known and cited as the "Uniform Environmental Covenants Act".

Sec. 6. NEW SECTION. 455L.2 DEFINITIONS.

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

1. "Activity and use limitations" means restrictions or obligations created under this chapter with respect to real property. "Activity and use limitations" may include, but is not limited to, restrictions on installation of water wells and other exposure receptors, construction of surface and subsurface structures, disturbance of and maintenance of soil caps and technological controls, and land use classifications such as residential, nonresidential, or industrial.

2. "Agency" means the department of natural resources created by section 455A.2 or any other state department or federal agency that determines or approves the environmental response project pursuant to which an environmental covenant is created.

3. "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums for, or for maintenance or improvement of, other real property described in a recorded covenant that creates the common interest community.

4. "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations or the written document creating such servitude.

5. "Environmental response project" means a plan or work performed for environmental remediation affecting real property and conducted under or by one of the following:

a. A federal or state program that is subject to the jurisdiction of an agency, including but not limited to programs established by chapters 455B and 445G, corrective or response actions pursuant to 42 U.S.C. § 6901 et seq., and remedial actions under 42 U.S.C. § 9601 et seq.

b. A federal or state program for the replacement or protection of ecological features including wetlands.

c. A state voluntary cleanup program authorized in chapter 455H.

d. An incident to a closure conducted with approval of an agency of a solid or hazardous waste management unit, a sanitary disposal project, or an underground storage tank.

6. "Grantor" means any person with sufficient fee title or other property ownership interests necessary to create a valid environmental covenant under Iowa law.

7. "Holder" means the grantee of an environmental covenant as specified in section 455L.3, subsection 1.

8. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

9. "Record", used as a noun, 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.

Sec. 7. NEW SECTION. 455L.3 NATURE OF RIGHTS — SUBORDINATION OF INTERESTS.

1. Any person, including a person that owns an interest in the real property, an agency, or a municipality or other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.

2. A right of an agency under this chapter or under an environmental covenant, other than a right as a holder, is not an interest in real property.

3. An agency is bound by any obligation it assumes in an environmental covenant, but an agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the environmental covenant, but signing the environmental covenant does not change obligations, rights, or protections granted or imposed under law or administrative action other than this chapter except as provided in the environmental covenant.

4. The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

a. An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the environmental covenant.

b. This chapter does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the environmental covenant.

c. A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the covenant or record may be signed by any person authorized by the governing board of the owners' association.

d. An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

Sec. 8. NEW SECTION. 455L.4 CONTENTS OF ENVIRONMENTAL COVENANT.

1. An environmental covenant shall contain all of the following:

a. A statement that the instrument is an environmental covenant executed pursuant to this chapter.

b. A legally sufficient description of the real property subject to the environmental covenant.

c. A description of the activity and use limitations on the real property.

d. The identity of every holder and grantor.

e. A signature by the grantor, the agency, every holder, and, unless waived by the agency, every owner in fee simple of the real property subject to the environmental covenant.

f. Identification of the name and location of any final agency action decision documents for the environmental response project reflected in the environmental covenant.

g. The rights of access to the real property granted in connection with implementation or enforcement of the environmental covenant.

2. In addition to the information required in this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who sign the environmental covenant, including any of the following:

a. Requirements for periodic reporting describing compliance with the environmental covenant.

b. Requirements for notice to an agency following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the real property subject to the environmental covenant.

c. A brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination.

d. Limitations on amendment or termination of the environmental covenant in addition to those contained in sections 455L.9 and 455L.10.

e. Rights of the holder in addition to the holder's right to enforce the environmental covenant pursuant to section 455L.11.

3. In addition to other conditions for its approval of an environmental covenant authorized by law, an agency may require those persons specified by the agency who have interests in the real property to sign the environmental covenant.

Sec. 9. NEW SECTION. 455L.5 VALIDITY — EFFECT ON OTHER INSTRUMENTS.

1. An environmental covenant that complies with this chapter runs with the land.

2. An environmental covenant that is otherwise effective is valid and enforceable even if any of the following applies to the environmental covenant:

a. The environmental covenant is not appurtenant to an interest in real property.

b. The environmental covenant can be or has been assigned to a person other than the original holder.

c. The environmental covenant is not of a character that has been recognized traditionally at common law.

d. The environmental covenant imposes a negative burden.

e. The environmental covenant imposes an affirmative obligation on a person having an interest in the real property or on the holder.

f. The benefit or burden does not touch or concern real property.

g. There is no privity of estate or contract.

h. The holder dies, ceases to exist, resigns, or is replaced.

i. The owner of an interest subject to the environmental covenant and the holder are the same person.

3. An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before the effective date of this chapter is valid and enforceable and is not rendered invalid or unenforceable based upon any of the potential limitations on enforcement of interests described in subsection 2 or because it was identified as an easement, servitude, deed restriction, or other interest. This chapter does not apply in any other respect to such an instrument.

4. This chapter does not invalidate or render unenforceable any interest, whether desig-

nated as an environmental covenant or other interest, that was created prior to the enactment of this chapter or that is otherwise enforceable under the laws of this state.

Sec. 10. NEW SECTION. 455L.6 RELATIONSHIP TO OTHER LAND-USE LAW.

This chapter does not authorize a use of real property that is otherwise prohibited by zoning, by law other than this chapter regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than this chapter.

Sec. 11. NEW SECTION. 455L.7 NOTICE.

1. A copy of a recorded environmental covenant shall be provided to each of the following in the manner required by an agency:

a. Each person that signed the environmental covenant.

b. Each person holding a recorded interest in the real property subject to the environmental covenant.

c. Each person in possession of the real property subject to the environmental covenant.

d. Each municipality or other unit of local government in which real property subject to the environmental covenant is located.

e. Any other person the agency requires.

2. The validity of an environmental covenant is not affected by failure to provide a copy of the environmental covenant as required under this section.

Sec. 12. NEW SECTION. 455L.8 RECORDING.

1. An environmental covenant and any amendment or termination of the environmental covenant shall be recorded in every county in which any portion of the real property subject to the environmental covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

2. Except as otherwise provided in section 455L.9, subsection 4, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

Sec. 13. NEW SECTION. 455L.9 DURATION — AMENDMENT BY COURT OR DEPARTMENT ACTION.

1. An environmental covenant is perpetual unless any of the following occurs:

a. The environmental covenant, by its terms, is limited to a specific duration or terminated by the occurrence of a specific event.

b. The environmental covenant is terminated by consent pursuant to section 455L.10.

c. The environmental covenant is terminated pursuant to subsection 2 or 3.

d. The environmental covenant is terminated by foreclosure of an interest that has priority over the environmental covenant.

e. The environmental covenant is terminated or modified in an eminent domain proceeding, but only if all of the following occur:

(1) The agency that signed the document, if any, is a party to the proceeding.

(2) Each person that signed the environmental covenant, unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence, and the current property owner are given notice of the pendency of the proceeding.

(3) The court determines, after hearing, that the termination or modification will not adversely affect human health and safety or the environment.

2. If the agency that signed an environmental covenant is a state agency and has determined that the intended purposes can no longer be realized, the agency may terminate the environmental covenant or reduce its burden on the real property subject to the environmental covenant. Notice shall be provided to each person that signed the covenant or their assignee, to the current property owner, and to any other persons identified in section 455L.10, subsection

1. The agency's determination or failure to make a determination upon request shall constitute final agency action. Failure by the agency to make a determination within sixty days upon request shall constitute final agency action. Any person entitled to notice by the agency shall be entitled to judicial review pursuant to section 17A.19 with the following exceptions:

a. Proceedings for judicial review shall be filed in the county in which the environmental covenant was recorded.

b. Notwithstanding section 17A.19, subsection 2, service of process shall not be jurisdictional and shall be as provided in the Iowa rules of civil procedure.

c. Notwithstanding section 17A.19, subsection 3, a petition for judicial review shall be filed within thirty days of the written decision by the agency. Such filing shall be jurisdictional.

d. The district court shall hear and consider relevant evidence, including testimony or other evidence not considered by the agency, regarding the question of whether the environmental covenant should be terminated or the burden on the real estate reduced if, based on changed circumstances, the court determines the intended purposes of the environmental covenant can no longer be realized.

3. If the agency that signed an environmental covenant is a federal agency, the agency's determination or failure to make a determination as provided in subsection 2 shall be reviewable in accordance with applicable federal law.

4. Except as otherwise provided in subsections 1, 2, and 3, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.

5. An environmental covenant may not be extinguished, limited, or impaired by application of section 558.68 or sections 614.24 through 614.38.

Sec. 14. NEW SECTION. 455L.10 AMENDMENT OR TERMINATION BY CONSENT.

1. An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by all of the following:

a. The agency.

b. The current owner in fee simple of the real property subject to the environmental covenant.

c. Each person that originally signed the environmental covenant or an assignee of an original signatory, unless the person waived in a recorded document the right to consent or the agency finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence.

d. Except as otherwise provided in subsection 4, paragraph "b", the holder.

2. If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment to the environmental covenant unless the current owner of the interest consents to the amendment or has waived in a recorded document the right to consent to amendments.

3. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

4. Except as otherwise provided in an environmental covenant, all of the following apply:

a. A holder may not assign its interest without consent of the other parties as provided in subsection 1.

b. A holder may be removed and replaced by agreement of the other parties specified in subsection 1.

c. A court of competent jurisdiction may fill a vacancy in the position of holder.

Sec. 15. NEW SECTION. 455L.11 ENFORCEMENT OF ENVIRONMENTAL COVENANT.

1. A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by any of the following:

a. A holder or grantor.

b. The agency or, if it is not the agency with authority to determine or approve the environmental response project, the department of natural resources.

c. Any person to whom the environmental covenant expressly grants power to enforce the environmental covenant.

d. A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the environmental covenant.

e. A municipality or other unit of local government in which the real property subject to the environmental covenant is located.

2. This chapter does not limit the regulatory authority of an agency under law other than this chapter with respect to an environmental response project.

3. A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

Sec. 16. NEW SECTION. 455L.12 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101(a) of that Act, 15 U.S.C. § 7001(a), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. § 7003(b).

Sec. 17. Section 558.68, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This section shall not impair the validity of an environmental covenant established pursuant to chapter 455L.

Sec. 18. Section 614.24, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section shall not impair the validity of an environmental covenant established pursuant to chapter 455L.

Sec. 19. Section 614.32, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. All interests created by an environmental covenant established pursuant to chapter 455L.

Approved May 4, 2005

CHAPTER 103

PUBLIC RECORDS REQUESTS — PROCEDURES — FEES

S.F. 403

AN ACT providing for the receipt of and costs relating to public records requests.

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

Section 1. Section 22.3, Code 2005, is amended to read as follows:

22.3 SUPERVISION — FEES.

1. ~~Such~~ The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian's authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a

public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request and such estimated expenses shall be communicated to the requester upon receipt of the request. The lawful custodian may adopt and enforce reasonable rules regarding the ~~work~~ examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the ~~work~~ examination and copying of the records, but if it is impracticable to do the ~~work~~ examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the work.

2. All expenses of the work shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized designee in supervising the examination and copying of the records during the work. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian.

Approved May 4, 2005

CHAPTER 104

REGISTRATION AND REGULATION OF INTERIOR DESIGNERS

S.F. 405

AN ACT establishing an interior design examining board, providing for the registration of interior designers, and providing fees and penalties.

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

Section 1. Section 544A.16, subsection 7, Code 2005, is amended by striking the subsection.

Sec. 2. NEW SECTION. 544C.1 DEFINITIONS.

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

1. "Board" means the interior design examining board established pursuant to this chapter.

2. "Division" means the professional licensing and regulation division of the department of commerce.

3. "Interior design" means the design of interior spaces including the preparation of documents relating to space planning, finish materials, furnishings, fixtures, and equipment, and the preparation of documents relating to interior construction that does not affect the mechanical or structural systems of a building. "Interior design" does not include services that constitute the practice of architecture or the practice of professional engineering.

4. "Registered interior designer" means a person registered under this chapter.

Sec. 3. NEW SECTION. 544C.2 ESTABLISHMENT OF INTERIOR DESIGN EXAMINING BOARD.

1. An interior design examining board is established within the division. The board consists of seven members, five members who are interior designers who are registered under this chapter, and who have been in the active practice of interior design for not less than five years, the last two of which shall have been in Iowa; and two members who are not registered under this chapter and who shall represent the general public. Members shall be appointed by the governor subject to confirmation by the senate.

2. Professional associations or societies composed of interior designers may recommend the names of potential board members to the governor, but the governor is not bound by the recommendations. A board member is not required to be a member of any professional association or society composed of registered interior designers.

3. Appointments shall be for three-year terms and shall commence and end as provided in section 69.19. Vacancies shall be filled for the unexpired term by appointment of the governor and shall require senate confirmation. Members shall serve no more than three terms or nine years, whichever is less.

Sec. 4. NEW SECTION. 544C.3 DUTIES OF THE BOARD.

The duties of the board shall include, but are not limited to, all of the following:

1. Administering and enforcing this chapter.

2. Establishing requirements for the examination, education, and practical training of applicants for registration.

3. Holding meetings each year for the purpose of transacting business pertaining to the affairs of the board. Action at a meeting shall not be taken without the affirmative votes of a majority of members of the board.

4. Adopting rules under chapter 17A necessary for the proper performance of its duties. The rules shall include provisions addressing conflicts of interest and full disclosure, including sources of compensation.

5. Establishing fees for registration as a registered interior designer, renewal of registration, reinstatement of registration, and for other activities of the board pertaining to its duties. The fees shall be sufficient to defray the costs of administering this chapter, and shall be deposited in the general fund of the state.

6. Maintaining records, which are open to public inspection at all reasonable times, of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of registration. The records shall also contain a roster indicating the name, place of business and residence, and the date and registration number of every registrant.

The administrator of the division shall provide staff to assist the board in the implementation of this chapter.

Sec. 5. NEW SECTION. 544C.4 EXPENSES — COMPENSATION.

The members of the board are entitled to be reimbursed for the actual expenses incurred in the performance of their duties within the limits of the funds appropriated to the board. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

Sec. 6. NEW SECTION. 544C.5 QUALIFICATIONS FOR REGISTRATION.

Each applicant for registration must meet the interior design education and practical training requirements adopted by rule by the board, and have passed an examination prescribed by the board that is task-oriented, focused on public safety, and validated by a recognized testing agency. The division shall register an individual who submits an application to the board on the form and in the manner prescribed by the board as a registered interior designer if the individual satisfies the following requirements:

1. Submits written proof that the individual has successfully passed the national council for interior design qualification examination, or its equivalent.

2. Has completed any of the following:

a. Four years of interior design education plus two years of full-time work experience in interior design.

b. Three years of interior design education plus three years of full-time work experience in interior design.

c. Two years of interior design education plus four years of full-time work experience in interior design.

3. Submits the required registration fee to the board.

Sec. 7. NEW SECTION. 544C.6 RECIPROCAL REGISTRATION.

The board may also grant registration by reciprocity. An applicant applying to the board for registration by reciprocity shall furnish satisfactory evidence that the applicant meets both of the following requirements:

1. Holds a valid registration or license issued by another registration authority recognized by the board, where the qualifications for registration or licensure were substantially equivalent to those prescribed in this state on the date of original registration or licensure with the other registration authority.

2. Holds a current certificate number issued by the national council for interior design qualification.

Sec. 8. NEW SECTION. 544C.7 REGISTRATION ISSUANCE.

When an applicant has complied with the qualifications for registration in section 544C.5 or 544C.6 to the satisfaction of a majority of the members of the board and has paid the fees prescribed by the board, the board shall enroll the applicant's name and address in the roster of registered interior designers and issue to the applicant a registration certificate, signed by the officers of the board. The certificate shall entitle the applicant to use the title "registered interior designer" in this state.

Sec. 9. NEW SECTION. 544C.8 CONTINUING EDUCATION.

A registered interior designer shall, at the time of application for renewal of a certificate of registration, submit proof of completion of continuing education requirements established by rules adopted by the board.

Sec. 10. NEW SECTION. 544C.9 REVOCATION, SUSPENSION, AND NONISSUANCE OF REGISTRATION.

1. The board may revoke, suspend, or refuse to issue or renew the registration of any person upon a finding of any of the following:

a. Fraud in obtaining or renewing a certificate of registration.

b. Professional incompetency.

c. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the registrant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Conviction of a felony related to the profession or occupation of the registrant. A copy of the record of conviction or plea of guilty shall be conclusive evidence of the conviction.

e. Unlawful use of the title of "registered interior designer".

f. Willful or repeated violations of the provisions of this chapter or a rule adopted under this chapter.

2. Any person may appeal a finding of the board within thirty days of the date of notification of action. Upon appeal, the board shall schedule a hearing in accordance with chapter 17A.

Sec. 11. NEW SECTION. 544C.10 UNLAWFUL USE OF TITLE OF "REGISTERED INTERIOR DESIGNER" — VIOLATIONS — PENALTY — CONSENT AGREEMENT.

1. It is unlawful for a person to use the title, or aid or abet a person in using the title, of "registered interior designer" or any title or device indicating that the person is a registered interior designer unless the person has been issued a certificate of registration as provided in this chap-

ter. This section does not prohibit the provision of interior design services, or the use of the terms "interior design" or "interior designer", by an architect or by a person who is not registered as an interior designer.

2. A person who violates this section is guilty of a simple misdemeanor. The board, in its discretion and in lieu of prosecuting a first offense under this section, may enter into a consent agreement with a violator, or with a person guilty of aiding or abetting a violator, which acknowledges the violation and the violator's agreement to refrain from any further violations.

Sec. 12. NEW SECTION. 544C.11 INJUNCTION.

In addition to any other remedies, and on the petition of the board, any person violating this chapter may be restrained and permanently enjoined from committing or continuing the violations.

Sec. 13. NEW SECTION. 544C.12 SCOPE OF CHAPTER.

This chapter does not apply to the following:

1. A person licensed to practice architecture pursuant to the laws of this state.

2. A person licensed as a professional engineer pursuant to the laws of this state.

3. A person who performs the following services: selling, selecting, or assisting in selecting personal property used in connection with furnishings of interior spaces or fixtures such as, but not limited to, furnishings, decorative accessories, furniture, paint, wall coverings, window treatments, floor coverings, cabinets, countertops, surface-mounted lighting, or decorative materials for a retail sale; or installing or coordinating installations as a part of the prospective retail sale, or providing computer-aided or other drawings for the purpose of retail sale if the drawings are used for material listed for retail sale; and who does not represent that the person is a registered interior designer.

Sec. 14. NEW SECTION. 544C.14 TRANSITION PROVISIONS.

For a period of two years from the effective date of this Act, the board may issue a certificate as a registered interior designer to a person residing in Iowa who does not meet the examination requirements specified in section 544C.5, if the person submits evidence to the board demonstrating both of the following:

1. A minimum of two years of interior design education and a combined total of six years of interior design education and experience that is acceptable to the board.

2. Successful completion of section 1 of the national council for interior design qualification examination relating to life safety codes and barrier-free requirements.

Sec. 15. INITIAL BOARD. The initial members of the interior design examining board shall be appointed to the following terms:

1. Two interior designer members shall be appointed for a term of three years.

2. Two interior designer members and one public member shall be appointed for a term of two years.

3. One interior designer member and one public member shall be appointed for a term of one year.

4. The initial interior designer members need not meet the requirements for registration, but shall have previously passed the examination by the national council for interior design qualification, and shall have been in active practice for not less than five years, the last two of which shall have been in Iowa.

Approved May 4, 2005

CHAPTER 105

PURCHASE, POSSESSION, OR CONTROL OF ALCOHOL
BY PERSONS UNDER LEGAL AGE

H.F. 275

AN ACT relating to the purchase, possession, or consumption of alcohol by a person under legal age, and providing a penalty.

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

Section 1. Section 123.47, subsection 3, Code 2005, is amended to read as follows:

3. a. A person who is under legal age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits ~~a~~ the following:

(1) A simple misdemeanor punishable ~~by a fine of one hundred dollars for the first offense~~ as a scheduled violation under section 805.8C, subsection 7.

(2) A second ~~or subsequent~~ offense shall be a simple misdemeanor punishable by a fine of ~~two~~ five hundred dollars ~~and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year~~. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

(3) A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

b. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section. ~~However, if~~

c. If the person who commits ~~the~~ a violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

Sec. 2. Section 805.8C, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. ALCOHOL BEVERAGE VIOLATIONS BY PERSONS UNDER LEGAL AGE. For first offense violations of section 123.47, subsection 3, the scheduled fine is two hundred dollars.

Approved May 4, 2005

CHAPTER 106

REGULATION OF GAMBLING — MISCELLANEOUS PROVISIONS

H.F. 646

AN ACT concerning social and charitable gambling, including the regulation of cash raffles, prohibiting raffles at annual game nights, establishing a permanent electrical and mechanical amusement devices special fund and providing an appropriation, prohibiting certain electrical or mechanical amusement devices and bona fide contests, and providing for the denial, suspension, and revocation of certain gambling licenses by the department of inspections and appeals, and providing an effective date.

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

Section 1. Section 99B.5, subsection 1, paragraphs e and g, Code 2005, are amended to read as follows:

e. Except with respect to an annual raffle as provided in paragraph "g", and subsection 3, cash prizes are not awarded and merchandise prizes are not repurchased.

g. The actual retail value of any prize does not exceed one thousand dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed one thousand dollars. However, either a fair sponsor or a qualified organization, but not both, may hold one raffle per calendar year at which prizes having a combined value of more than one thousand dollars may be offered. If the prize for the annual raffle is cash, the total cash amount awarded shall not exceed two hundred thousand dollars. If the prize is merchandise, its value shall be determined by the purchase price paid by the fair sponsor or qualified organization.

Sec. 2. Section 99B.5, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A licensee under this section may hold one real property raffle per calendar year in lieu of the annual raffle authorized in subsection 1, paragraph "g", at which the value of the real property may exceed one thousand dollars ~~in lieu of the~~ or an annual raffle of cash as authorized in subsection 1, paragraph "g", if the total cash amount awarded is one hundred thousand dollars or more, if all of the following applicable requirements are met:

Sec. 3. Section 99B.5, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The licensee has submitted the special real property or cash raffle license application and a fee of one hundred dollars to the department, has been issued a license, and prominently displays the license at the drawing area of the raffle.

Sec. 4. Section 99B.5, subsection 4, Code 2005, is amended to read as follows:

4. For each real property or cash raffle license issued pursuant to subsection 3, the department shall conduct a special audit of the raffle to verify compliance with the appropriate requirements of this chapter.

Sec. 5. Section 99B.7, subsection 1, paragraph d, unnumbered paragraphs 1 and 2, Code 2005, are amended to read as follows:

Cash prizes shall not be awarded in games other than bingo and raffles. The value of a prize shall not exceed ten thousand dollars and merchandise prizes shall not be repurchased. If a prize consists of more than one item, unit, or part, the aggregate value of all items, units, or parts shall not exceed ten thousand dollars. However, one raffle may be conducted per calendar year at which real property or one or more merchandise prizes having a combined value of more than ten thousand dollars may be awarded or ~~a~~ cash ~~prize~~ prizes of up to a total of two hundred thousand dollars may be awarded.

If a raffle licensee holds a statewide raffle license, the licensee may hold not more than eight raffles per calendar year at which real property or one or more merchandise prizes having a combined value of more than ten thousand dollars may be awarded or ~~a~~ cash ~~prize~~ prizes of up to a total of two hundred thousand dollars may be awarded. Each such raffle held under a statewide license shall be held in a separate county.

Sec. 6. Section 99B.8, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Games of skill, games of chance, and card games ~~and raffles~~ lawfully may be conducted during a period of twelve consecutive hours once each year by any person. The games ~~or raffles~~ may be conducted at any location except one for which a license is required pursuant to section 99B.3 or section 99B.5, but only if all of the following are complied with:

Sec. 7. Section 99B.10, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. An electrical or mechanical amusement device required to be registered as provided in this section shall not be a gambling device, as defined in section 725.9, or a device that plays poker, blackjack, or keno.

Sec. 8. NEW SECTION. 99B.10D ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES — SPECIAL FUND.

Fees collected by the department pursuant to sections 99B.10 and 99B.10A 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, 99B.10A, 99B.10B, and 99B.10C, 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. 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.

Sec. 9. Section 99B.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A poker, blackjack, craps, keno, or roulette contest, league, or tournament shall not be considered a bona fide contest under this section.

Sec. 10. Section 99B.14, Code 2005, is amended to read as follows:

99B.14 ~~REVOCATION OF~~ LICENSE DENIAL, SUSPENSION, AND REVOCATION.

1. The department ~~shall~~ may deny, suspend, or revoke a license ~~issued pursuant to this chapter~~ if the department finds that an applicant, licensee, or an agent of the licensee ~~violates or permits~~ violated or permitted a violation of a provision of this chapter~~,~~ or a departmental rule adopted pursuant to chapter 17A, or ~~if a~~ for any other cause ~~exists~~ for which the director of the department would be or would have been justified in refusing to issue a license, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the licensed premises. However, the denial, suspension, or revocation of one type of gambling license does not require, but may result in, the denial, suspension, or revocation of a different type of gambling license held by the same licensee. In addition, a person whose license is revoked under this section who is a person for which a class "A", class "B", class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". In addition, a person whose license is revoked under this section who is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended and that person's sales tax permit suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

~~Revocation proceedings shall be held only after giving notice and an opportunity for hearing~~

~~to the licensee. Notice shall be given at least ten days in advance of the date set for hearing. If the department finds cause for revocation, the license shall be revoked for a period not to exceed two years.~~

2. The process for denial, suspension, or revocation of a license shall commence by delivering to the applicant or licensee by certified mail, return receipt requested, or by personal service a notice setting forth the particular reasons for such action.

a. If a written request for a hearing is not received within thirty days after the mailing or service of the notice, the denial, suspension, or revocation of a license shall become effective pending a final determination by the department. The determination involved in the notice may be affirmed, modified, or set aside by the department in a written decision.

b. If a request for a hearing is timely received by the department, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department and the denial, suspension, or revocation shall be deemed suspended until the department makes a final determination. However, the director may suspend a license prior to a hearing if the director finds that the public integrity of the licensed activity is compromised or there is a risk to public health, safety, or welfare. In addition, at any time during or prior to the hearing the department may rescind the notice of the denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of any such hearing, the determination involved in the notice may be affirmed, modified, or set aside by the department in a written decision.

3. A copy of the final decision of the department shall be sent by certified mail, return receipt requested, or served personally upon the applicant or licensee. The applicant or licensee may seek judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

4. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department and chapter 17A.

5. If the department finds cause for denial of a license, the applicant may not reapply for the same license for a period of two years. If the department finds cause for suspension, the license shall be suspended for a period determined by the department. If the department finds cause for revocation, the license shall be revoked for a period not to exceed two years.

Sec. 11. EFFECTIVE DATE. The section of this Act amending section 99B.7, subsection 1, paragraph "d", being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 2005

CHAPTER 107

LEGAL REPRESENTATION FOR INDIGENT PERSONS

H.F. 683

AN ACT authorizing the appointment of an attorney to represent an indigent person during a termination of parental rights proceeding or an indigent parole violator, and providing effective and retroactive applicability date provisions.

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

Section 1. Section 13B.4, subsection 1, Code 2005, is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indi-

gents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under section 811.1A or chapter 229A or 812, in juvenile proceedings, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, ~~and on a reopening of a sentence proceeding,~~ and may provide for the representation of indigents in proceedings instituted pursuant to ~~section 908.11~~ chapter 908. The state public defender shall not engage in the private practice of law.

Sec. 2. Section 600A.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Indigent" means a person has an income level at or below one hundred percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, unless the court determines that the person is able to pay for the cost of an attorney in the pending case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider the person's income and the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the nature and complexity of the case.

Sec. 3. Section 600A.6, subsection 3, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A statement that the person against whom a proceeding for termination of parental rights is brought shall have the right to counsel pursuant to section 600A.6A.

Sec. 4. NEW SECTION. 600A.6A RIGHT TO AND APPOINTMENT OF COUNSEL.

1. Upon the filing of a petition for termination of parental rights under this chapter, the parent identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings.

2. If the parent against whom the petition is filed desires but is financially unable to employ counsel, the court, following an in-court colloquy, shall appoint counsel for the person if all of the following criteria are met:

a. The person requests appointment of counsel.

b. The person is indigent.

c. The court determines both of the following:

(1) The person, because of lack of skill or education, would have difficulty in presenting the person's version of the facts in dispute, particularly where the presentation of the facts requires the examination or cross-examination of witnesses or the presentation of complex documentary evidence.

(2) The person has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.

Sec. 5. NEW SECTION. 600A.6B PAYMENT OF ATTORNEY FEES.

1. A person filing a petition for termination of parental rights under this chapter or the person on whose behalf the petition is filed shall be responsible for the payment of reasonable attorney fees for counsel appointed pursuant to section 600A.6A unless the court determines that the person filing the petition or the person on whose behalf the petition is filed is indigent.

2. If the person filing the petition or the person on whose behalf the petition is filed is indigent, the appointed attorney shall be paid reasonable attorney fees as determined by the state public defender.

3. The state public defender shall review all the claims submitted under this section and shall have the same authority with regard to the payment of these claims as the state public defender has with regard to claims submitted under chapters 13B and 815, including the authority to adopt rules concerning the review and payment of claims submitted.

Sec. 6. Section 602.1302, subsection 3, Code 2005, is amended to read as follows:

3. A revolving fund is created in the state treasury for the payment of jury and witness fees, mileage, ~~and~~ costs related to summoning jurors by the judicial branch, and attorney fees paid by the state public defender for counsel appointed pursuant to section 600A.6A. The judicial branch shall deposit any reimbursements to the state for the payment of jury and witness fees and mileage in the revolving fund. In each calendar quarter the judicial branch shall reimburse the state public defender for attorney fees paid pursuant to section 600A.6B. Notwithstanding section 8.33, unencumbered and unobligated receipts in the revolving fund at the end of a fiscal year do not revert to the general fund of the state. The judicial branch shall on or before February 1 file a financial accounting of the moneys in the revolving fund with the legislative services agency. The accounting shall include an estimate of disbursements from the revolving fund for the remainder of the fiscal year and for the next fiscal year.

Sec. 7. Section 602.8102, subsection 133, Code 2005, is amended by striking the subsection.

Sec. 8. Section 815.10, subsection 1, Code 2005, is amended to read as follows:

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint the state public defender's designee pursuant to section 13B.4 to represent an indigent person at any stage of the criminal, postconviction, contempt, commitment under chapter 229A, termination under chapter 600A, detention under section 811.1A, competency under chapter 812, parole revocation if applicable under section 908.2A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, termination under chapter 600A, detention under section 811.1A, competency under chapter 812, parole revocation under chapter 908, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9. Only one attorney shall be appointed in all cases, except that in class "A" felony cases the court may appoint two attorneys.

Sec. 9. Section 815.11, Code 2005, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, ~~or~~ 822, or 908, or section 232.141, subsection 3, paragraph "c", or section 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or 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 representing an indigent defendant in a contempt action, or representing an indigent juvenile in a juvenile court proceeding under chapter 600, are also payable from these funds. However, costs incurred in any administrative proceeding or in any other proceeding under chapter 598, 600, 600A, 633, or 915 or other provisions of the Code or administrative rules are not payable from these funds.

Sec. 10. Section 908.2, Code 2005, is amended to read as follows:

908.2 INITIAL APPEARANCE — BAIL.

1. An officer making an arrest of an alleged parole violator shall take the arrested person before a magistrate without unnecessary delay for an initial appearance. At ~~that time the alleged parole violator shall be furnished with a~~ the initial appearance the magistrate shall do all of the following:

a. Provide written notice of the claimed violation ~~and shall be given.~~

b. Provide notice that a parole revocation hearing will take place and that its purpose is to determine whether the alleged parole violation occurred and whether the alleged violator's parole should be revoked.

c. Advise the alleged parole violator of the right to request an appointed attorney.

2. The magistrate may order the alleged parole violator confined in the county jail or may order the alleged parole violator released on bail under terms and conditions as the magistrate may require. Admittance to bail is discretionary with the magistrate and is not a matter of right. A person for whom bail is set may make application for amendment of bail to a district judge or district associate judge having jurisdiction to amend the order. The motion shall be promptly set for hearing and a record shall be made of the hearing.

Sec. 11. NEW SECTION. 908.2A APPOINTMENT OF AN ATTORNEY.

1. An attorney may be appointed to represent an alleged parole violator in a parole revocation proceeding only if all of the following criteria apply:

a. The alleged parole violator requests appointment of an attorney.

b. The alleged parole violator is determined to be indigent as defined in section 815.9.

c. The appointing authority determines each of the following:

(1) The alleged parole violator lacks skill or education and would have difficulty presenting the alleged parole violator's case, particularly if the proceeding would require the cross-examination of witnesses or would require the submission or examination of complex documentary evidence.

(2) The alleged parole violator has a colorable claim the alleged violation did not occur, or there are substantial reasons that justify or mitigate the violation and make any revocation inappropriate under the circumstances.

2. If all of the criteria apply in subsection 1, a contract attorney with the state public defender may be appointed to represent the alleged parole violator. If a contract attorney is unavailable, an attorney who has agreed to provide these services may be appointed. The appointed attorney shall apply to the state public defender for payment in the manner prescribed by the state public defender.

Sec. 12. Section 908.4, subsection 2, Code 2005, is amended to read as follows:

2. The administrative parole judge shall make a verbatim record of the proceedings. The alleged violator ~~shall not have the right to appointed counsel,~~ shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the judge finds that a witness would be subjected to risk or harm if the witness's identity were disclosed. The revocation hearing may be conducted electronically.

Sec. 13. Section 815.1, Code 2005, is repealed.

Sec. 14. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment. The sections of this Act amending chapter 600A and section 602.1302, and the portions of this Act amending sections 815.10 and 815.11 relating to chapter 600A apply retroactively to May 12, 2004, and the remaining sections of this Act, including the portions of this Act amending sections 815.10 and 815.11 relating to chapter 908, apply retroactively to November 10, 2004.

Approved May 4, 2005

CHAPTER 108

RURAL IMPROVEMENT ZONES — ESTABLISHMENT

H.F. 708

AN ACT relating to the establishment of rural improvement zones.

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

Section 1. Section 357H.1, subsection 1, Code 2005, is amended to read as follows:

1. The board of supervisors of a county with less than ~~eighteen~~ twenty thousand ~~five hundred~~ residents, not counting persons admitted or committed to an institution enumerated in section 218.1 or 904.102, based upon the ~~1990~~ 2000 certified federal census, and with a private lake development shall designate an area surrounding the lake, if it is an unincorporated area of the county, a rural improvement zone upon receipt of a petition pursuant to section 357H.2, and upon the board's determination that the area is in need of improvements.

Approved May 4, 2005

CHAPTER 109

NATIONAL HISTORIC LANDMARKS
AND CERTIFIED CULTURAL AND ENTERTAINMENT DISTRICTS
— PROMOTIONAL PROGRAM

H.F. 797

AN ACT relating to the establishment of a promotional program for national historic landmarks and certified cultural and entertainment districts.

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

Section 1. NEW SECTION. 15.274 PROMOTIONAL PROGRAM FOR NATIONAL HISTORIC LANDMARKS AND CULTURAL AND ENTERTAINMENT DISTRICTS.

The department of economic development, in cooperation with the state department of transportation and the department of cultural affairs, shall establish and administer a program designed to promote knowledge of and access to buildings, sites, districts, structures, and objects located in this state that have been designated by the secretary of the interior of the United States as a national historical[1] landmark, unless the national historic landmark is protected under section 22.7, subsection 20, and certified cultural and entertainment districts, as established in 2005 Iowa Acts,[2] if enacted. The program shall be designed to maximize the visibility and visitation of national historic landmarks in this state and buildings, sites, structures, and objects located in certified cultural and entertainment districts, as established in 2005 Iowa Acts,[3] if enacted. Methods used to maximize the visibility and visitation of such locations may include the use of tourism literature, signage on highways, maps of the state and cities, and internet websites. For purposes of this section, "highway" means the same as defined in section 325A.1.

Approved May 4, 2005

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[1] The word "historic" probably intended

[2] See chapter 150, §19 herein

[3] See chapter 150, §19 herein

CHAPTER 110

STATE SALES TAX REBATE FOR AUTOMOBILE RACETRACK FACILITY

H.F. 840

AN ACT authorizing the rebate of state sales tax to the owner or operator of a sanctioned automobile racetrack facility.

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

Section 1. FINDINGS. The general assembly finds that a nationally sanctioned automobile racetrack facility in Iowa would result in a substantial economic benefit to the state and would offer thousands of spectators the opportunity to experience and discover Iowa.

The general assembly further finds that the development of the racetrack facility and surrounding entertainment complex including a museum would enhance the economic development of the area through an increase in tourism.

The general assembly further finds that the rebate of state sales tax collected at the racetrack facility and entertainment complex to assist in the development of such facility and complex would further tourism and is a public purpose for which state funds may be used.

The general assembly further finds that the rebate of state sales tax to the racetrack facility should be viewed as a pilot project and considered a potential program to be used as a means to increase tourism into the state.

Sec. 2. Section 423.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. For purposes of this subsection:

(1) "Automobile racetrack facility" means a sanctioned automobile racetrack facility located as part of a racetrack and entertainment complex, including any museum attached to or included in the racetrack facility but excluding any restaurant, and which facility is located, on a maximum of two hundred thirty-two acres, in a city with a population of at least fourteen thousand five hundred but not more than sixteen thousand five hundred residents, which city is located in a county with a population of at least thirty-five thousand but not more than forty thousand residents and where the construction on the racetrack facility commenced not later than one year following the enactment of this Act and the cost of the construction upon completion was at least thirty-five million dollars.

(2) "Change of control" means any of the following:

(a) Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the automobile racetrack facility such that at least sixty percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

(b) The original owners of the legal entity that is the owner or operator of the automobile racetrack facility shall collectively cease to own more than fifty percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

(3) "Iowa corporation" means a corporation incorporated under the laws of Iowa where at least sixty percent of the corporation's equity interests are owned by individuals who are residents of Iowa.

(4) "Owner or operator" means a for-profit legal entity where at least sixty percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of an automobile racetrack facility and is primarily a promoter of motor vehicle races.

(5) "Population" means the population based upon the 2000 certified federal census.

b. The owner or operator of an automobile racetrack facility may apply to the department for a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, or services furnished to purchasers at the automobile racetrack facility.

c. The rebate may be obtained only in the following amounts and manner and only under the following conditions:

(1) On forms furnished by the department within the time period provided by the department by rule, which time period shall not be longer than quarterly.

(2) The owner or operator shall provide information as deemed necessary by the department.

(3) The transactions for which sales tax was collected and the rebate is sought occurred on or after January 1, 2006, but before January 1, 2016. However, not more than twelve million five hundred thousand dollars in total rebates shall be provided pursuant to this subsection.

(4) Notwithstanding subparagraph (3), the rebate of sales tax shall cease for transactions occurring on or after the date of the sale or other transfer, whether voluntarily or involuntarily, of the automobile racetrack facility to a party other than the original owner of the facility or upon a change of control of such facility.

(5) The automobile racetrack facility has not received or shall not receive any grants under the community attraction and tourism program pursuant to chapter 15F, subchapter II, or the vision Iowa program pursuant to chapter 15F, subchapter III.

d. To assist the department in determining the amount of the rebate, the owner or operator shall identify to the department retailers located at the automobile racetrack facility who will be collecting sales tax. The department shall verify such identity and ensure that all proper permits have been issued. For purposes of this subsection, advance ticket and admissions sales shall be considered occurring at the automobile racetrack facility regardless of where the transactions actually occur.

e. Upon determining that the conditions and requirements of this subsection and the department are met, the department shall issue a warrant to the owner or operator in the amount equal to the amount claimed and verified by the department.

f. Only the state sales tax is subject to rebate. Any local option taxes paid and collected shall not be subject to rebate under this subsection.

g. This subsection is repealed June 30, 2016, or thirty days following the date on which twelve million five hundred thousand dollars in total rebates have been provided, or thirty days following the date on which rebates cease as provided in paragraph "c", subparagraph (4), whichever is the earliest.

Sec. 3. PILOT PROJECT — EVALUATION. The sales tax rebate provided in this Act for the owner or operator of an automobile racetrack facility is viewed as a pilot project to gauge the feasibility of using such an approach to assist large capital projects that have the potential to increase tourism into the state.

The department of economic development and the department of revenue shall review and evaluate the pilot project established in this Act and determine the benefits to the state. A report from each department shall be filed with the general assembly no later than January 15, 2008, and shall contain its evaluation and recommendations, especially with regard to the creation of a sales tax rebate program as part of the state's economic development tools. However, the departments may file a joint report if this would prove more beneficial to the general assembly and the evaluation of the pilot project.

Approved May 4, 2005

CHAPTER 111

TAXATION OF PROPERTY ANNEXED BY CITIES

S.F. 78

AN ACT relating to the exemption from city taxes of land included in an application for voluntary annexation or in a city's involuntary annexation petition and including effective and applicability date provisions.

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

Section 1. Section 368.7, subsection 1, paragraph d, Code 2005, is amended to read as follows:

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 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. The city council shall approve or deny the application by resolution of the council.

Sec. 2. Section 368.7, subsections 2 and 3, Code 2005, are amended to read as follows:

2. An application for annexation of territory not within an urbanized area of a city other than the city to which the annexation is directed must be approved by resolution of the council which receives the application. ~~In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 3, paragraph "m".~~ The city council shall mail a copy of the application by certified mail to the board of supervisors of each county which contains a portion of the territory at least fourteen business days prior to any action taken by the city council on the application. The council shall also publish notice of the application in an official county newspaper in each county which contains a portion of the territory at least fourteen days prior to any action taken by the council on the application. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the secretary of state, the county board of supervisors of each county which contains a portion of the territory, each affected public utility, and the state department of transportation. The city clerk shall also record a copy of the legal description, map, and resolution with the county recorder of each county which contains a portion of the territory. The secretary of state shall not accept and acknowledge a copy of a legal description, map, and resolution of annexation which would create an island. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the legal description, map, and resolution.

3. An application for annexation of territory within an urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. The board shall not approve an application which creates an island. Notice of the application shall be mailed by certified mail, by the city to which the annexation is directed, at least fourteen business days prior to any action by the city council on the application to the council of each city whose boundary adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, each affected public utility, and to the regional planning authority

of the territory. Notice of the application shall be published in an official county newspaper in each county which contains a portion of the territory at least ten business days prior to any action by the city council on the application. ~~In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 3, paragraph "m".~~ The annexation is completed when the board has filed and recorded copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 3. Section 368.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In the discretion of a city council, the resolution provided for in subsection 1, paragraph "d", or subsection 2 or 3, may include a provision for a transition for the imposition of city taxes against property within the annexation area as provided in section 368.11, subsection 3, paragraph "m".

Sec. 4. Section 368.11, subsection 3, paragraph m, Code 2005, is amended to read as follows:

m. In the discretion of a city council, a provision for a transition for the imposition of city taxes against property within an annexation area. The provision shall ~~not~~ allow ~~a greater~~ for an exemption from taxation ~~than the tax exemption formula~~ of the following percentages of assessed valuation according to the following schedule ~~provided under section 427B.3, subsections 1 through 5, and~~:

(1) For the first and second years, seventy-five percent.

(2) For the third and fourth years, sixty percent.

(3) For the fifth and sixth years, forty-five percent.

(4) For the seventh and eighth years, thirty percent.

(5) For the ninth and tenth years, fifteen percent.

An alternative schedule may be adopted by the city council. However, an alternative schedule shall not allow a greater exemption than that provided in this paragraph. The exemption shall be applied in the levy and collection of taxes. The provision may also allow for the partial provision of city services during the time in which the exemption from taxation is in effect.

Sec. 5. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies to an application submitted to a city council and to petitions for involuntary annexation filed with the city development board on or after the effective date of this Act.

Approved May 5, 2005

CHAPTER 112

CHILD SUPPORT — MISCELLANEOUS PROVISIONS

S.F. 350

AN ACT relating to child support recovery including access to information for the purposes of recovery, provisions relating to failure to withhold income or to pay the amounts withheld, and to the suspension of a child support obligation, the satisfaction of support payments, nullifying related administrative rules and providing penalties.

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

Section 1. Section 252B.9, subsection 1, paragraph d, subparagraph (2), Code 2005, is amended to read as follows:

(2) Certain records held by public utilities ~~and,~~ cable, or other television companies, cellular telephone companies, and internet service providers with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records. If the records are maintained in automated databases, the unit shall be provided with automated access.

Sec. 2. Section 252B.20, subsection 1, paragraphs a, c, and d, Code 2005, are amended to read as follows:

a. The parents have reconciled and are cohabiting, and the child for whom support is ordered is living in the same residence as the parents, or the child is currently residing with the parent who is ordered to pay support. If the basis for suspension under this paragraph applies to at least one but not all of the children for whom support is ordered, the condition of this paragraph is met only if the support order includes a step change.

c. The parents have signed a notarized affidavit attesting to the conditions under paragraphs "a" and "b", have consented to suspension of the support order or obligation, and have submitted the affidavit to the unit.

d. No prior request for suspension has been filed with the unit during the two-year period preceding the request, unless the request was filed during the two-year period preceding July 1, 2005, the unit denied the request because the suspension did not apply to all children for whom support is ordered, and the parents jointly file a request on or after July 1, 2005.

Sec. 3. Section 252B.20, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Approve the request and prepare an order which shall be submitted, along with the affidavit, to a judge of a district court for approval, suspending the accruing support obligation and, if requested by the obligee, and if not prohibited by chapter 252K, satisfying the obligation of support due the obligee. If the basis for suspension applies to at least one but not all of the children for whom support is ordered and the support order includes a step change, the unit shall prepare an order suspending the accruing support obligation for each child to whom the basis for suspension applies.

Sec. 4. Section 252B.20, subsection 5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

During the six-month period the unit may request that the court reinstate the accruing support order or obligation if any of the following conditions exist:

Sec. 5. Section 252B.20, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. If a condition under subsection 5 exists, the unit may request that the court reinstate an accruing support obligation as follows:

a. If the basis for the suspension no longer applies to any of the children for whom an accru-

ing support obligation was suspended, the unit shall request that the court reinstate the accruing support obligations for all of the children.

b. If the basis for the suspension continues to apply to at least one but not all of the children for whom an accruing support obligation was suspended and if the support order includes a step change, the unit shall request that the court reinstate the accruing support obligation for each child for whom the basis for the suspension no longer applies.

NEW SUBSECTION. 12. For the purposes of chapter 252H regarding the criteria for a review under subchapter II of that chapter or for a cost-of-living alteration under subchapter IV of that chapter, if a support obligation is terminated or reinstated under this section, such termination or reinstatement shall not be considered a modification of the support order.

NEW SUBSECTION. 13. As used in this section, unless the context otherwise requires, "step change" means a change designated in a support order specifying the amount of the child support obligation as the number of children entitled to support under the order changes.

Sec. 6. NEW SECTION. 252B.25 CONTEMPT — COMBINING ACTIONS.

Notwithstanding any provision of law to the contrary, if an obligor has been ordered to provide support in more than one order, the unit may bring a single action for contempt to enforce the multiple orders. However, if the obligor objects to the consolidation of the actions regarding multiple orders into a single action for contempt, and the court determines that severance of the single action into multiple actions is in the interest of justice, the unit shall bring multiple actions for contempt to enforce the multiple orders. If the single action is brought and the obligor does not object, the unit shall file the action in the district court of a county where the obligor resides, or if the obligor does not reside in the state, in the district court of the county where at least one of the support orders was entered or registered. For the purposes of this section, the district court where the unit files the action shall have jurisdiction and authority over all other support orders for the obligor entered or registered by a court of this state and affected under this section. In such case, the unit shall also file a document with the clerk of court in each county affected specifying the county where the action under this section was filed and the disposition of the action.

Sec. 7. NEW SECTION. 252B.26 SERVICE OF PROCESS.

Notwithstanding any provision of law to the contrary, the unit may serve a petition, notice, or rule to show cause under chapter 252A, 252C, 252F, 252H, 252K, 598, or 665 as specified in each chapter, or by certified mail. Return acknowledgement is required to prove service by certified mail, rules of civil procedure 1.303(5) and 1.308(5) shall not apply, and the return acknowledgment shall be filed with the clerk of court.

Sec. 8. Section 252D.3, Code 2005, is amended to read as follows:

252D.3 NOTICE OF INCOME WITHHOLDING.

All orders for support entered on or after July 1, 1984, shall notify the person ordered to pay support of the mandatory withholding of income required under section 252D.1. ~~However, for orders for support entered before July 1, 1984, the clerk of the district court, the child support recovery unit, or the person entitled by the order to receive the support payments, shall notify each person ordered to pay support under such orders of the mandatory withholding of income required under section 252D.1. The notice shall be sent by certified mail to the person's last known address or the person shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to the ordering of income withholding under section 252D.1. A person ordered to pay support may waive the right to receive the notice at any time.~~ However, this subchapter is sufficient notice of implementation of mandatory withholding of income under section 252D.1 without any further notice.

Sec. 9. Section 252D.10, Code 2005, is amended to read as follows:

252D.10 NOTICE OF IMMEDIATE INCOME WITHHOLDING.

~~The notice requirements of section 252D.3 do not apply to this subchapter.~~ An order for sup-

port entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

Sec. 10. Section 252D.16, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. A sole payment or lump sum as provided in section 252D.18C, including but not limited to payment from an estate including inheritance, or payment for personal injury or property damage.

Sec. 11. Section 252D.24, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 12. Section 252I.3, Code 2005, is amended to read as follows:

252I.3 INITIAL NOTICE TO OBLIGOR.

~~The unit may proceed under this chapter only if notice has been provided to the obligor in one of the following manners:~~

~~1. The obligor is provided notice of the provisions of this chapter in the court order establishing the support obligation.~~ The unit or district court may include language in any new or modified support order issued on or after July 1, 1994, notifying the obligor that the obligor is subject to the provisions of this chapter. However, this chapter is sufficient notice for implementation of administrative levy provisions without further notice of the provisions of this chapter.

~~2. The unit may send a notice by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to the provisions of this chapter, with proof of service completed according to rule of civil procedure 1.442.~~

Sec. 13. Section 252I.5, subsection 1, Code 2005, is amended to read as follows:

1. If an obligor is subject to this chapter under section 252I.2, the unit may initiate an administrative action to levy against the accounts of the obligor. ~~If notice has previously been provided pursuant to section 252I.3, further notice is not required.~~

Sec. 14. Section 252J.3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The unit shall proceed in accordance with this chapter only if the unit sends a notice ~~is served on~~ to the individual ~~in accordance with rule of civil procedure 1.305 or notice is sent by certified mail addressed to the individual's last known address and served upon any person who may accept service under rule of civil procedure 1.305. Return acknowledgment is required to prove service by certified~~ by regular mail to the last known address of the individual. The notice shall include all of the following:

Sec. 15. Section 252J.3, subsections 4 and 5, Code 2005, are amended to read as follows:

4. A statement that if, within twenty days of ~~service~~ mailing of the notice ~~on~~ to the individual, the individual fails to contact the unit to schedule a conference, the unit shall issue a certificate of noncompliance, bearing the individual's name, social security number and unit case number, to any appropriate licensing authority, certifying that the obligor is not in compliance with a support order or an individual has not complied with a subpoena or warrant.

5. A statement that in order to stay the issuance of a certificate of noncompliance the request for a conference shall be in writing and shall be received by the unit within twenty days of ~~service~~ mailing of the notice ~~on~~ to the individual.

Sec. 16. Section 252J.4, subsections 1, 2, and 6, Code 2005, are amended to read as follows:

1. The individual may schedule a conference with the unit following ~~service~~ mailing of the notice pursuant to section 252J.3, or at any time after service of notice of suspension, revocation, denial of issuance, or nonrenewal of a license from a licensing authority, to challenge the unit's actions under this chapter.

2. The request for a conference shall be made to the unit, in writing, and, if requested after ~~service~~ mailing of ~~a~~ the notice pursuant to section 252J.3, shall be received by the unit within twenty days following ~~service~~ mailing of the notice.

6. If the individual does not timely request a conference or does not comply with a subpoena or warrant or if the obligor does not pay the total amount of delinquent support owed within twenty days of ~~service~~ mailing of the notice pursuant to section 252J.3, the unit shall issue a certificate of noncompliance.

Sec. 17. Section 252J.6, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If an obligor is not in compliance with a support order or the individual is not in compliance with a subpoena or warrant pursuant to section 252J.2, the unit ~~notifies~~ mails a notice to the individual pursuant to section 252J.3, and the individual requests a conference pursuant to section 252J.4, the unit shall issue a written decision if any of the following conditions exists:

Sec. 18. Section 598.22A, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

For payment made pursuant to an order, the clerk of the district court or collection services center shall record a satisfaction as a credit on the official support payment record if its validity is confirmed by the court upon submission of an affidavit by the person entitled to receive the payment or upon submission of documentation of the financial instrument used in the payment of the support by the person ordered to pay support, after notice is given to all parties.

Sec. 19. Section 600.16A, subsection 5, Code 2005, is amended to read as follows:

5. Notwithstanding subsection 2, a termination of parental rights order issued pursuant to this chapter, section 600A.9 ~~may~~, or any other chapter shall be disclosed to the child support recovery unit, upon request, without court order.

Sec. 20. NULLIFICATION OF RULES. The following rules are nullified:

1. 441 IAC 98.22.
2. 441 IAC 98.23.
3. 441 IAC 98.33.
4. 441 IAC 98.92.

Approved May 5, 2005

CHAPTER 113

GRAPE AND WINE INDUSTRY PROMOTION

S.F. 395

AN ACT relating to the activities of the grape and wine development commission, and providing for the transfer of wine gallonage tax revenues to the grape and wine development fund.

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

Section 1. Section 123.183, subsection 3, paragraph a, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Five percent of the revenue collected from the wine gallonage tax on wine imported into

this state for sale at wholesale and sold in this state at wholesale shall be deposited in the grape and wine development fund as created in section 175A.5.

Sec. 2. Section 175A.3, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Establish and administer grape and wine development programs as provided in section 175A.4 and account for and expend moneys from the grape and wine development fund created pursuant to section 175A.5. Prior to authorizing an expenditure of moneys, the department shall consult with the grape and wine development commission. The commission shall make recommendations to the department regarding the expenditure of moneys to enhance and develop the native wine industry and to provide an infrastructure to encourage the growth of the native wine industry in this state.

Sec. 3. Section 175A.3, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Make recommendations to the department regarding a proposed expenditure of funds as provided in subsection 1, paragraph "a".

Approved May 5, 2005

CHAPTER 114

COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES EXPENDITURES — STATE FUNDING

S.F. 404

AN ACT providing for county eligibility for state payment of property tax relief moneys and allowed growth funding for mental health, mental retardation, and developmental disabilities services and providing effective and retroactive applicability dates.

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

Section 1. STATE PAYMENT TO ELIGIBLE COUNTIES. Notwithstanding section 331.439, subsection 1, paragraph "a", a county that accurately reported the county's expenditures for mental health, mental retardation, and developmental disabilities services for the previous fiscal year on the forms prescribed by the department of human services, and the report was received after December 1, 2004, and on or before March 15, 2005, shall be eligible for state payment, as defined in section 331.438, in accordance with section 331.439 and other law providing for the state payment in the fiscal year beginning July 1, 2004.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to December 2, 2004.

Approved May 5, 2005

CHAPTER 115

VETERANS AFFAIRS

H.F. 374

AN ACT relating to veterans by providing for the establishment of a department of veterans affairs, modifying the definition of veteran for property taxation and certain other purposes, providing for the compensation of members of a county commission of veteran affairs, providing for the issuance of combined hunting and fishing licenses to certain veterans, establishing a hepatitis C awareness program for veterans, concerning funds in an account for a state veterans cemetery, concerning military pay differential, and providing an effective date and retroactive and other applicability dates.

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

Section 1. Section 7E.5, subsection 1, paragraph v, Code 2005, is amended to read as follows:

v. The department of veterans affairs. However, the commission of veterans affairs~~, which has~~ created in section 35A.2 shall have primary responsibility for state veterans affairs.

Sec. 2. Section 35.1, subsection 1, Code 2005, is amended to read as follows:

1. ~~"Commission"~~ "Department" means the ~~commission~~ Iowa department of veterans affairs created in section ~~35A.2~~ 35A.4.

Sec. 3. Section 35.1, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) Former members of the reserve forces of the United States who served at least twenty years in the reserve forces ~~after January 28, 1973,~~ and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of ninety days of active federal service, other than training, and was discharged under honorable conditions, or was retired under Title X of the United States Code shall be included as a veteran.

(2) Former members of the Iowa national guard who served at least twenty years in the Iowa national guard ~~after January 28, 1973,~~ and who were discharged under honorable conditions. However, a member of the Iowa national guard who was activated for federal duty, other than training, for a minimum aggregate of ninety days, and was discharged under honorable conditions or was retired under Title X of the United States Code shall be included as a veteran.

Sec. 4. Section 35.1, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (6) Members of the reserve forces of the United States who have served at least twenty years in the reserve forces and who continue to serve in the reserve forces.

NEW SUBPARAGRAPH. (7) Members of the Iowa national guard who have served at least twenty years in the Iowa national guard and who continue to serve in the Iowa national guard.

Sec. 5. NEW SECTION. 35.2 PROOF OF VETERAN STATUS FOR CERTAIN VETERANS.

In order to fulfill any eligibility requirements under Iowa law pertaining to veteran status, a veteran described in section 35.1, subsection 2, paragraph "b", subparagraph (6) or (7), shall submit the veteran's retirement points accounting statement issued by the armed forces of the United States, the state adjutant general, or the adjutant general of any other state, to confirm that the person has completed twenty years of service with the reserve forces or the national guard.

Sec. 6. Section 35.8, Code 2005, is amended to read as follows:

35.8 WAR ORPHANS EDUCATIONAL AID FUND.

A war orphans educational aid fund is created as a separate fund in the state treasury under the control of the ~~commission~~ department of veterans affairs. Any money appropriated for the purpose of aiding in the education of orphaned children of veterans, as defined in section 35.1, shall be deposited in the war orphans educational aid fund.

Sec. 7. Section 35.9, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The ~~commission~~ department of veterans affairs may expend not more than six hundred dollars per year for any one child who has lived in the state of Iowa for two years preceding application for aid, and who is the child of a person who died during active federal military service while serving in the armed forces or during active federal military service in the Iowa national guard or other military component of the United States, to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for the child or children incident to attendance in this state at an educational or training institution of college grade, or in a business or vocational training school with standards approved by the ~~commission~~ department of veterans affairs.

Sec. 8. Section 35.10, Code 2005, is amended to read as follows:

35.10 ELIGIBILITY AND PAYMENT OF AID.

Eligibility for aid shall be determined upon application to the ~~commission~~ department of veterans affairs, whose decision is final. The eligibility of eligible applicants shall be certified by the ~~commission~~ department of veterans affairs to the director of the department of administrative services, and all amounts that are or become due to an individual or a training institution under this chapter shall be paid to the individual or institution by the director of the department of administrative services upon receipt by the director of certification by the president or governing board of the educational or training institution as to accuracy of charges made, and as to the attendance of the individual at the educational or training institution. The ~~commission~~ department of veterans affairs may pay over the annual sum of four hundred dollars to the educational or training institution in a lump sum, or in installments as the circumstances warrant, upon receiving from the institution such written undertaking as the ~~commission~~ department may require to assure the use of funds for the child for the authorized purposes and for no other purpose. A person is not eligible for the benefits of this chapter until the person has graduated from a high school or educational institution offering a course of training equivalent to high school training.

Sec. 9. Section 35A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Department" means the Iowa department of veterans affairs established in section 35A.4.

Sec. 10. Section 35A.3, subsections 2 and 3, Code 2005, are amended to read as follows:

2. Adopt rules pursuant to chapter 17A and establish policy for the management and operation of the department and the commission.

3. Prescribe the duties of an executive director and other employees ~~as the commission shall deem necessary to carry out the duties~~ of the ~~commission~~ department.

Sec. 11. Section 35A.3, subsections 5, 6, 7, 8, 9, 10, 11, 12, and 14, Code 2005, are amended by striking the subsections.

Sec. 12. NEW SECTION. 35A.4 DEPARTMENT ESTABLISHED.

There is established an Iowa department of veterans affairs which shall consist of a commission, an executive director, and any additional personnel as employed by the executive director.

Sec. 13. NEW SECTION. 35A.5 DUTIES OF THE DEPARTMENT.

The department shall do all of the following:

1. Maintain information and data concerning the military service records of Iowa veterans.

2. Assist county veteran affairs commissions established pursuant to chapter 35B. The department shall provide to county commissions suggested uniform benefits and administrative procedures for carrying out the functions and duties of the county commissions.

3. Permanently maintain the records including certified records of bonus applications for awards paid from the war orphans educational fund under chapter 35.

4. Collect and maintain information concerning veterans affairs.

5. Conduct two service schools each year for the Iowa association of county commissioners and executive directors.

6. Assist the United States veterans administration, the Iowa veterans home, funeral directors, and federally chartered veterans service organizations in providing information concerning veterans service records and veterans affairs data.

7. Maintain alphabetically a permanent registry of the graves of all persons who served in the military or naval forces of the United States in time of war and whose mortal remains rest in Iowa.

8. Provide training to executive directors of county commissions of veteran affairs pursuant to section 35B.6. The commission may adopt rules in accordance with chapter 17A to provide for training of county veteran affairs executive directors.

9. Establish and operate a state veterans cemetery and make application to the government of the United States or any subdivision, agency, or instrumentality thereof, for funds for the purpose of establishing such a cemetery. The state may enter into agreements with any subdivision of the state for assistance in operating the cemetery. The state shall own the land on which the cemetery is located. The department shall have the authority to accept federal grant funds, funding from state subdivisions, donations from private sources, and federal "plot allowance" payments. All such funds shall be deposited into an account dedicated to the establishment, operation, and maintenance of a veterans cemetery and these funds shall be expended only for those purposes. The department through the director shall have the authority to accept suitable cemetery land, in accordance with federal veterans cemetery grant guidelines, from the federal government, state government, state subdivisions, private sources, and any other source wishing to transfer land for use as a veterans cemetery. Notwithstanding section 8.33, any moneys in the account for a state veterans cemetery shall not revert and, notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the account.

10. Carry out the policies of the department.

Sec. 14. Section 35A.8, subsections 1 and 3, Code 2005, are amended to read as follows:

1. The governor shall appoint an executive director, subject to confirmation by the senate, who shall serve at the pleasure of the governor. The executive director is responsible for administering the duties of the department and the commission other than those related to the Iowa veterans home.

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 department and 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 8A, subchapter IV.

Sec. 15. Section 35A.9, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The executive director, commandant, and employees of the ~~commission~~ department and the Iowa veterans home are entitled to receive, in addition to salary, reimbursement for actual expenses incurred while engaged in the performance of official duties.

2. All out-of-state travel by commissioners, the executive director, the commandant, or

employees of the ~~commission~~ department or the Iowa veterans home shall be approved by the chairperson of the commission.

Sec. 16. Section 35B.5, Code 2005, is amended to read as follows:

35B.5 COMPENSATION.

A member of the commission shall receive twenty-five dollars or a greater amount as established by the board of supervisors for each month during which the member attends one or more commission meetings and shall be reimbursed for mileage the same as a member of the board of supervisors. Compensation and mileage shall be paid out of the appropriation authorized in section 35B.14.

Sec. 17. Section 35B.6, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Upon the employment of an executive director, the executive director shall complete a course of initial training provided by the ~~commission~~ department of veterans affairs pursuant to section ~~35A.3~~ 35A.5. If an executive director is not appointed, a commissioner or a clerical assistant shall complete the course of training. The ~~commission~~ department shall issue the executive director, commissioner, or clerical assistant a certificate of training after completion of the initial training course. To maintain annual certification, the executive director, commissioner, or clerical assistant shall attend one ~~commission~~ department training course each year. Failure to maintain certification may be cause for removal from office. The expenses of training shall be paid from the appropriation authorized in section 35B.14.

Sec. 18. Section 35B.11, Code 2005, is amended to read as follows:

35B.11 DATA FURNISHED ~~STATE COMMISSION~~ IOWA DEPARTMENT OF VETERANS AFFAIRS.

The commission of veteran affairs of each county shall provide information to the ~~state commission~~ department of veterans affairs as the ~~state commission~~ department may request.

Sec. 19. Section 35B.19, Code 2005, is amended to read as follows:

35B.19 BURIAL RECORDS.

The county commission of veteran affairs shall be charged with securing the information requested by the ~~commission~~ department of veterans affairs of every person having a military service record and buried in that county. Such information shall be secured from the undertaker in charge of the burial and shall be transmitted by the undertaker to the commission of veteran affairs of the county where burial is made. This information shall be recorded alphabetically and by description of location in the cemetery where the veteran is buried. This recording shall conform to the directives of the ~~state commission~~ department of veterans affairs and shall be kept in a book by the county commission.

Sec. 20. Section 36.1, subsection 3, Code 2005, is amended to read as follows:

3. "Commission" means the commission of veterans affairs established in section 35A.2.

Sec. 21. Section 36.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Department" means the department of veterans affairs established in section 35A.4.

Sec. 22. Section 36.2, Code 2005, is amended to read as follows:

36.2 CHEMICAL EXPOSURE REPORT TO ~~COMMISSION~~ DEPARTMENT.

A licensed physician, as defined in section 135.1, subsection 4, who treats a veteran the physician believes may have been exposed to chemicals while serving in the armed forces of the United States shall submit a report indicating that information to the ~~commission~~ department at the request of the veteran pursuant to section 36.3.

Sec. 23. Section 36.3, Code 2005, is amended to read as follows:

36.3 DUTIES OF THE ~~COMMISSION~~ DEPARTMENT.

The ~~commission~~ department shall:

1. Provide the forms for the reports required in section 36.2. The report form shall require the doctor to provide all of the following:

a. Symptoms of the veteran which may be related to exposure to chemicals.

b. Diagnosis of the veteran.

c. Methods of treatment prescribed.

2. Annually compile and evaluate the information submitted in the reports pursuant to subsection 1, in consultation and cooperation with a certified medical toxicologist selected by the ~~commission~~ department. The ~~commission~~ department shall submit the report to the governor, the general assembly, and the United States veterans' administration. The report shall include current research data on the effects of exposure to chemicals, statistical information received from individual physicians' reports, and statistical information from the epidemiological investigations pursuant to subsection 3.

3. Conduct epidemiological investigations of veterans who have cancer or other medical problems or who have children born with birth defects associated with exposure to chemicals, in consultation and cooperation with a certified medical toxicologist selected by the ~~commission~~ department. The ~~commission~~ department shall obtain consent from a veteran before conducting the investigations.

The ~~commission~~ department shall cooperate with local and state agencies during the course of an investigation.

Sec. 24. Section 36.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The ~~commission~~ department shall not identify a veteran consenting to the epidemiological investigations pursuant to section 36.3, subsection 3, unless the veteran consents to the release of identity. The statistical information compiled by the ~~commission~~ department pursuant to section 36.3 is a public record.

Sec. 25. Section 36.6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The ~~commission~~ department and appropriate medical facilities at the state university of Iowa under the control of the state board of regents shall institute a cooperative program to:

Sec. 26. Section 36.7, Code 2005, is amended to read as follows:

36.7 FEDERAL PROGRAM.

If the ~~commission~~ department or the general assembly determines that an agency of the federal government or the state of Iowa is providing the referral and genetic services pursuant to section 36.6, the ~~commission~~ department or the general assembly by specific action may discontinue all or part of the services and requirements in this chapter.

Sec. 27. NEW SECTION. 135.20 HEPATITIS C AWARENESS PROGRAM — VETERANS — VACCINATIONS.

1. The department shall establish and administer a hepatitis C awareness program. The goal of the program shall be to distribute information to veterans regarding the higher incidence of hepatitis C exposure and infection among veterans, the dangers presented by the disease, and contacts for additional information and referrals. For purposes of this section, "veteran" means an individual meeting the definition contained in section 35.1.

2. The information to be distributed shall be determined by the department by rule, in consultation with the commission of veterans affairs. The information shall, at a minimum, contain statements indicating that:

a. The federal department of veterans affairs estimates a hepatitis C infection rate in veterans more than three times higher than for the general population.

b. The infection rate for Vietnam veterans is estimated to be even higher than for other veterans groups.

c. The disease is caused by a bloodborne virus readily transmitted during combat and combat-related emergency medical treatment.

d. Many veterans currently carrying the virus were infected prior to the development of medical screening tests.

e. The hepatitis C virus often resolves into a chronic infection without symptoms for ten to thirty years before signs of resultant liver disease appear.

f. This unusually long latency period makes it difficult to connect current symptoms with an infection that may have actually been contracted during military service decades ago.

The information shall also present treatment options and shall specify a procedure to be followed for veterans desiring a medical consultation for screening and treatment purposes. The department shall cooperate with the state commission of veterans affairs regarding distribution of the information to the veterans home, the county commissions of veteran affairs, veterans hospitals, and other appropriate points of distribution.

Sec. 28. Section 135C.31A, Code 2005, 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~~ department of veterans affairs in identifying, upon admission of a resident, the resident's eligibility for benefits through the federal department of veterans affairs. The health care facility shall also assist the Iowa ~~commission~~ department 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 or to the admission of an individual to the Iowa veterans home.

Sec. 29. Section 256.9, subsection 48, Code 2005, is amended to read as follows:

48. Develop and administer, with the cooperation of the ~~commission~~ department of veterans affairs, a program which shall be known as operation recognition. The purpose of the program is to award high school diplomas to veterans of World War I, World War II, and the Korean and Vietnam conflicts who left high school prior to graduation to enter United States military service. The department of education and the ~~commission~~ department of veterans affairs shall jointly develop an application procedure, distribute applications, and publicize the program to school districts, accredited nonpublic schools, county commissions of veteran affairs, veterans organizations, and state, regional, and local media. All honorably discharged veterans who are residents or former residents of the state; who served at any time between April 6, 1917, and November 11, 1918, at any time between September 16, 1940, and December 31, 1946, at any time between June 25, 1950, and January 31, 1955, or at any time between February 28, 1961, and May 5, 1975, all dates inclusive; and who did not return to school and complete their education after the war or conflict shall be eligible to receive a diploma. Diplomas may be issued posthumously. Upon approval of an application, the department shall issue an honorary high school diploma for an eligible veteran. The diploma shall indicate the veteran's school of attendance. The department of education and the ~~commission~~ department of veterans affairs shall work together to provide school districts, schools, communities, and county commissions of veteran affairs with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the veteran or, if the veteran is deceased, to the veteran's family.

Sec. 30. Section 303.2, subsection 2, paragraph k, Code 2005, is amended to read as follows:

k. Administer, preserve, and interpret the battle flag collection assembled by the state in

consultation and coordination with the ~~commission~~ department of veterans affairs and the department of administrative services. A portion of the battle flag collection shall be on display at the state capitol and the state historical building at all times, unless on loan approved by the department of cultural affairs.

Sec. 31. Section 331.608, subsection 6, paragraph e, Code 2005, is amended to read as follows:

e. When otherwise required by a department or agency of the federal or state government or a political subdivision. The recorder shall make these records available to the ~~commission~~ department of veterans affairs. The ~~commission~~ department of veterans affairs and its employees shall be subject to the same state and federal confidentiality restrictions and requirements that are imposed on the recorder.

Sec. 32. Section 426A.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. For purposes of this chapter, unless the context otherwise requires, "veteran" also means a resident of this state who is a former member of the armed forces of the United States and who served for a minimum aggregate of three years and who was discharged under honorable conditions.

Sec. 33. Section 426A.12, Code 2005, is amended to read as follows:

426A.12 EXEMPTIONS TO RELATIVES.

In case any person in the foregoing classifications does not claim the exemption from taxation, it shall be allowed in the name of the person to the same extent on the property of any one of the following persons in the order named:

1. The spouse, or surviving spouse remaining unmarried, of a veteran, as defined in this chapter or in section 35.1, where they are living together or were living together at the time of the death of the veteran.

2. The parent whose spouse is deceased and who remains unmarried, of a veteran, as defined in this chapter or in section 35.1, whether living or deceased, where the parent is, or was at the time of death of the veteran, dependent on the veteran for support.

3. The minor child, or children owning property as tenants in common, of a deceased veteran, as defined in this chapter or in section 35.1.

No more than one tax exemption shall be allowed under this section or section 426A.11 in the name of a veteran, as defined in this chapter or in section 35.1.

Sec. 34. Section 426A.13, unnumbered paragraphs 1 and 2, Code 2005, are amended to read as follows:

A person named in section 426A.11, who is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to the exemption, to be made from any property owned by the person or owned by a family farm corporation of which the person is a shareholder and who occupies the property and so designated by proceeding as provided in the section. To be eligible to receive the exemption the person claiming it shall have recorded in the office of the county recorder of the county in which is located the property designated for the exemption, evidence of property ownership by that person or the family farm corporation of which the person is a shareholder and the military certificate of satisfactory service, order transferring to inactive status, reserve, retirement, order of separation from service, honorable discharge or a copy of any of these documents of the person claiming or through whom is claimed the exemption. In the case of a person claiming the exemption as a veteran described in section 35.1, subsection 2, paragraph "b", subparagraph (6) or (7), the person shall file the statement required by section 35.2.

The person shall file with the appropriate assessor on forms obtained from the assessor the claim for exemption for the year for which the person is first claiming the exemption. The claim shall be filed not later than July 1 of the year for which the person is claiming the exemption. The claim shall set out the fact that the person is a resident of and domiciled in the state

of Iowa, and a person within the terms of section 426A.11, and shall give the volume and page on which the certificate of satisfactory service, order of separation, retirement, furlough to reserve, inactive status, or honorable discharge or certified copy thereof is recorded in the office of the county recorder, and may include the designation of the property from which the exemption is to be made, and shall further state that the claimant is the equitable or legal owner of the property designated or if the property is owned by a family farm corporation, that the person is a shareholder of that corporation and that the person occupies the property. In the case of a person claiming the exemption as a veteran described in section 35.1, subsection 2, paragraph "b", subparagraph (6) or (7), the person shall file the statement required by section 35.2.

Sec. 35. Section 483A.24, subsection 13, Code 2005, is amended to read as follows:

13. Upon payment of the fee of thirty dollars for a lifetime hunting and fishing combined license, the department shall issue a hunting and fishing combined license to a resident of Iowa who ~~is a veteran, as defined in section 35.1,~~ served in the armed forces of the United States for a minimum aggregate of ninety days of active federal service and who was disabled or was a prisoner of war during that veteran's military service. The department shall prepare an application to be used by a person requesting a hunting and fishing combined license under this subsection. The ~~commission~~ department of veterans affairs shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, "disabled" means entitled to compensation under the United States Code, Title 38, ch. 11.

Sec. 36. Section 669.2, subsection 4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

"Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections, and employees of the ~~commission~~ department of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, and persons supervising those inmates under and according to the terms of the chapter 28E agreement, are to be considered employees of the state.

Sec. 37. 2003 Iowa Acts, chapter 179, section 21, subsections 2 and 5, as enacted by 2005 Iowa Acts, Senate File 75,[1] section 1, are amended to read as follows:

2. Of the funds appropriated in this section, $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, whether or not employed by the state, who are members of the national guard or reservists and who are assigned to active duty service in the armed forces of the United States 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.

5. The remainder of the funds appropriated in this section are transferred to the Iowa finance authority to be used for a home ownership assistance program for persons who are eligible members of the armed forces of the United States. In the event an eligible member is deceased, the surviving spouse of the eligible member shall be eligible for a loan under the program, subject to the surviving spouse meeting the program's eligibility requirements other than the military service requirement. For the purposes of this subsection, "eligible member

[1] Chapter 161 herein

of the armed forces of the United States" means a resident of this state who is or was a member of the national guard, reserve, or regular component of the armed forces of the United States who has served at least ninety days of active duty service during the period beginning September 11, 2001, and ending June 30, 2006.

Sec. 38. VETERANS HEPATITIS C AWARENESS PROGRAM REPORT. The Iowa department of public health shall submit a report to the members of the general assembly by January 1, 2007, regarding the development and distribution of the information required by the section of this Act enacting section 135.20 and any resulting impact.

Sec. 39. STATE FUNDING. The military service tax credits and exemptions provided pursuant to this Act shall be funded pursuant to chapter 426A and section 25B.7, subsection 2.

Sec. 40. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 41. APPLICABILITY DATES.

1. The section of this Act amending 2003 Iowa Acts, chapter 179, is retroactively applicable to May 17, 2004.

2. The sections of this Act relating to military service tax credits and exemptions apply to military service tax credits and exemptions for taxes due and payable for fiscal years beginning on or after July 1, 2005.

Approved May 5, 2005

CHAPTER 116

SOIL AND WATER CONSERVATION DISTRICTS — ASSESSMENTS AND TAXES

H.F. 438

AN ACT relating to assessments associated with soil and water conservation districts, by providing for the deposit of moneys in a fund established by a district's commissioners.

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

Section 1. Section 161A.20, unnumbered paragraph 5, Code 2005, is amended to read as follows:

The special tax ~~so~~ levied under this section shall be collected in the same manner as other taxes with ~~like~~ a penalty for delinquency~~, with the proceeds therefrom to be kept in~~. The moneys collected from the special tax and any delinquency penalty shall be deposited in a fund established by the governing body as provided by a resolution adopted by the governing body and delivered for filing with each appropriate county treasurer. Moneys earned as income from moneys in the fund, including as interest, shall remain in the fund until expended by the governing body according to procedures specified in the resolution. If the governing body does not adopt a resolution or deliver the resolution to the county treasurer, the moneys shall be deposited into a separate account in the county's general fund by ~~the appropriate~~ that coun-

ty treasurer ~~or treasurers~~. The account shall be identified by the official name of the subdistrict and expenditures ~~therefrom~~ from the account shall be made on requisition of the chairperson and secretary of the governing body of the subdistrict.

Sec. 2. Section 161A.33, Code 2005, is amended to read as follows:

161A.33 ASSESSMENTS TRANSMITTED.

1. The governing body upon receiving the reports from three appointed appraisers and after holding the hearings shall transmit and certify the amounts of assessments to the respective boards of supervisors which upon receipt of certification from the governing body of the district, make the necessary levy of such assessments as fixed by the governing body upon the land within such subdistrict ~~and all~~. The assessments shall be levied at that time as a tax and shall bear interest at a rate not exceeding that permitted by chapter 74A from that date payable annually except as hereafter provided as to cash payments therefor within a specified time.

2. The assessment ~~so~~ levied under this section together with any accrued interest or delinquency penalty as provided in this chapter shall be ~~kept in~~ deposited in a fund established by the governing body as provided by a resolution adopted by the governing body and delivered for filing with each appropriate county treasurer. Moneys earned as income from moneys in the fund, including as interest, shall remain in the fund until expended by the governing body according to procedures specified in the resolution. If the governing body does not adopt a resolution or deliver the resolution to the county treasurer, the moneys shall be deposited into a separate account in the county's general fund by ~~the appropriate~~ that county treasurer ~~or treasurers,~~. The account shall be identified by the official name of the subdistrict and expenditures ~~therefrom~~ from the account shall be made on requisition of the chairperson and secretary of the governing body of the subdistrict.

3. At no time ~~will~~ shall an assessment be made where the benefits accrued to the subdistrict do not exceed the cost of the improvements within the ~~said~~ subdistrict.

Sec. 3. Section 161A.34, Code 2005, is amended to read as follows:

161A.34 PAYMENT TO COUNTY TREASURER.

1. All assessments for benefits shall be levied at one time against the property benefited and when levied and certified by the board or boards of supervisors shall be paid at the office of the county treasurer. Each person ~~or corporation~~ shall have the right within twenty days after the levy of assessments to pay the person's ~~or corporation's~~ assessment in full without interest. The county treasurer shall pay the collected moneys into a fund established by the governing body or an account of the county's general fund as provided in section 161A.33.

2. If any levy of assessments is not sufficient to meet the cost and expenses of organizing and construction apportioned to each owner upon each forty-acre tract or less, additional assessments may be made on the same classification as the previous ones.

Approved May 5, 2005

CHAPTER 117

CHILDREN WITH MENTAL HEALTH,
BEHAVIORAL, OR EMOTIONAL DISORDERS

H.F. 538

AN ACT revising child welfare requirements involving children with mental health, behavioral, or emotional disorders and providing a contingent effective date.

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

Section 1. Section 135H.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a child has an emotional, behavioral, or mental health disorder, the psychiatric institution does not require court proceedings to be initiated or that a child's parent, guardian, or custodian must terminate parental rights over or transfer legal custody of the child for the purpose of obtaining treatment from the psychiatric institution for the child. Relinquishment of a child's custody shall not be a condition of the child receiving services.

Sec. 2. Section 232.2, subsection 6, paragraph f, Code 2005, is amended to read as follows:

f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling ~~or unable~~ to provide such treatment.

Sec. 3. Section 234.7, Code 2005, is amended to read as follows:

234.7 DEPARTMENT DUTIES.

1. The department of human services shall comply with the following requirement associated with child foster care licensees under chapter 237:

The department shall include a child's foster parent in, and provide timely notice of, planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

2. a. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to provide coverage under the medical assistance program for not more than three hundred children at any one time who are described by both of the following:

(1) The child needs behavioral health care services and qualifies for the care level provided by a psychiatric medical institution for children licensed under chapter 135H.

(2) The child is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unable to provide such treatment.

b. The waiver request shall provide for appropriately addressing the needs of children described in paragraph "a" by implementing any of the following options: using a wraparound services approach, renegotiating the medical assistance program contract provisions for behavioral health services, or applying another approach for appropriately meeting the children's needs.

c. If federal approval of the waiver request is not received, the department shall submit options to the governor and general assembly to meet the needs of such children through a state-funded program.

Sec. 4. CONTINGENT EFFECTIVE DATE.

1. The section of this Act amending section 232.2, subsection 6, paragraph "f", shall take

effect on the initial implementation date of either of the following contingencies, providing one of the contingencies is implemented:

a. Federal approval is received for the waiver request submitted by the department of human services pursuant to section 234.7, subsection 2, paragraph "a", as enacted by this Act.

b. A state-funded program is implemented in lieu of the federal waiver, as described in section 234.7, subsection 2, paragraph "b", as enacted by this Act.

2. The department of human services shall notify the Code editor if either of the contingencies in subsection 1 occurs.

3. If federal approval is received for the waiver request described in subsection 1, paragraph "a", the department of human services shall convene a review committee to advise the department regarding the waiver's implementation. The committee membership may include but is not limited to juvenile judges, parents of children participating in the waiver, service providers, departmental staff, at least two members of the general assembly, and others with knowledge concerning the waiver. The committee shall be convened when there are a sufficient number of children participating in the waiver for there to be implementation issues to consider or six months following the commencement date of the waiver, whichever is sooner.

4. If federal approval is received for the waiver request described in subsection 1, paragraph "a", the child or family receiving services under the waiver shall have access to case management or another form of service coordination function.

Approved May 5, 2005

CHAPTER 118

VOLUNTEER HEALTH CARE PROVIDER PROGRAM

H.F. 620

AN ACT relating to the volunteer health care provider program and providing an effective date.

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

Section 1. Section 135.24, subsection 1, Code 2005, is amended to read as follows:

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, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, and emergency medical care 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.

Sec. 2. Section 135.24, subsection 2, paragraphs a, c, and d, Code 2005, are amended to read as follows:

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, 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, the board of optometry examiners, the board of podiatry examiners, the board of physical and occupational therapy examiners, the state board for respiratory care, and the Iowa department of public health, as applicable.

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, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services through the volunteer health care provider program. A free clinic, a 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.

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, dental services provided under chapter 153, or other services provided under chapter 147A, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 154, 154B, 154C, 154D, or 155A.

Sec. 3. Section 135.24, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. Provided medical, dental, ~~or~~ chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care 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.

Sec. 4. Section 135.24, subsection 4, Code 2005, is amended to read as follows:

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 or from the provision of free care by a health care provider who is covered by adequate medical malpractice insurance as determined by the department, if the free clinic has registered with the department pursuant to subsection 1.

Sec. 5. Section 135.24, subsections 5 and 6, Code 2005, are amended to read as follows:

~~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.~~

~~6.~~ 5. For the purposes of this section:

a. "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, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services to children and to serve as a funding mechanism for provision of chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services, including but not limited to immunizations, to children in this state.

~~a.~~ b. "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.~~ c. "Health care provider" means a physician licensed under chapter 148, 150, or 150A, ~~or~~ a chiropractor licensed under chapter 151, a physical therapist licensed pursuant to chapter 148A, an occupational therapist licensed pursuant to chapter 148B, a podiatrist licensed pursuant to chapter 149, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E, a respiratory therapist licensed pursuant to chapter 152B, a dentist, dental hygienist, or dental assistant registered or licensed to practice under chapter 153, an optometrist licensed pursuant to chapter 154, a psychologist licensed pursuant to chapter 154B, a social worker licensed pursuant to chapter 154C, a mental health counselor or a marital and family therapist licensed pursuant to chapter 154D, ~~or~~ a pharmacist licensed pursuant to chapter 155A, or an emergency medical care provider certified pursuant to chapter 147A.

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

Approved May 5, 2005

CHAPTER 119

STATE SECURITY AND EMERGENCY MANAGEMENT

H.F. 716

AN ACT relating to the military division and the homeland security and emergency management division of the department of public defense concerning the activation and use of the civil air patrol, the authority of the adjutant general to enter into interstate agreements for use of national guard personnel, and the use of the national incident management system for state emergencies.

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

Section 1. Section 29A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Civil air patrol" means the civilian auxiliary of the United States air force established by the United States Congress in 36 U.S.C. § 40301 et seq., and 10 U.S.C. § 9441 et seq.

Sec. 2. NEW SECTION. 29A.3A CIVIL AIR PATROL.

1. The civil air patrol may be used to support national guard missions in support of civil authorities as described in section 29C.5 or in support of noncombat national guard missions under section 29A.8 or 29A.8A.

2. Requests for activation of the civil air patrol shall be made to the commander of the Iowa wing of the civil air patrol. Missions shall be in accordance with laws and regulations applicable to the United States air force and the civil air patrol. Prior to activation of the civil air patrol, the adjutant general or the Iowa civil air patrol wing commander shall apply to the air force rescue coordination center, the air force national security emergency preparedness agency, or the civil air patrol national operations center for federal mission status and funding.

3. If an operation or mission of the civil air patrol is granted federal mission status and assigned an accompanying federal mission number, the following shall apply:

a. The operation or mission shall be funded by the federal government.

b. When training or operating pursuant to a federal mission number, members of the civil air patrol shall be considered federal employees for the purposes of tort claims arising from the performance of the mission or any actions incident to the performance of the mission.

4. If an operation or mission of the civil air patrol is not granted federal mission status and is not assigned an accompanying federal mission number, the following shall apply:

a. Operations and administration of the civil air patrol relating to missions not qualifying for federal mission status shall be funded by the state from moneys appropriated to the homeland security and emergency management division of the department of public defense for that purpose.

b. When performing a mission that does not qualify for federal mission status, members of the civil air patrol shall be considered state employees for purposes of the Iowa tort claims Act, as provided in chapter 669, and for purposes of workers' compensation, as provided in chapter 85.

Sec. 3. Section 29A.12, Code 2005, is amended to read as follows:

29A.12 POWERS AND DUTIES.

1. The adjutant general shall have command and control of the military division, and perform such duties as pertain to the office of the adjutant general under law and regulations, pursuant to the authority vested in the adjutant general by the governor. The adjutant general shall superintend the preparation of all letters and reports required by the United States from the state, and perform all the duties prescribed by law. The adjutant general shall have charge of the state military reservations, and all other property of the state kept or used for military purposes. The adjutant general shall cause an inventory to be taken at least once each year of all military stores, property and funds under the adjutant general's jurisdiction. In each year preceding a regular session of the general assembly the adjutant general shall prepare a detailed report of the transactions of that office, its expenses, and other matters required by the governor for the period since the last preceding report, and the governor may at any time require a similar report.

2. The adjutant general may enter into an agreement with the secretary of defense to operate the water plant at Camp Dodge for the use and benefit of the United States, and the state of Iowa upon terms and conditions as approved by the governor. The adjutant general may also enter into an agreement with the national guard of another state for the use of Iowa national guard personnel and equipment.

3. The adjutant general may request activation of the civil air patrol to provide assistance to the national guard in accordance with section 29A.3A. The adjutant general is authorized to provide suitable space in national guard facilities to support the civil air patrol.

Sec. 4. Section 29C.5, Code 2005, is amended to read as follows:

29C.5 HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION.

A homeland security and emergency management division is created within the department of public defense. The homeland security and emergency management division shall be responsible for the administration of emergency planning matters, including emergency resource planning in this state, cooperation with, ~~and~~ support of, funding for, and tasking of the civil air patrol for missions not qualifying for federal mission status as described in section 29A.3A in accordance with operational and funding criteria developed with the adjutant general and coordinated with the civil air patrol, homeland security activities, and coordination of available services in the event of a disaster.

Sec. 5. Section 29C.8, subsection 3, paragraph g, Code 2005, is amended to read as follows:

g. ~~Develop, implement,~~ Implement and support ~~a uniform~~ the national incident ~~command~~ management system as established by the United States department of homeland security to

be used by state agencies and local and tribal governments 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.~~

Approved May 5, 2005

CHAPTER 120

MEDICAL ASSISTANCE ADVISORY COUNCIL

S.F. 272

AN ACT relating to the council with which the director of human services consults regarding the medical assistance program.

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

Section 1. Section 217.3, subsection 4, Code 2005, is amended to read as follows:

4. Approve the budget of the department of human services prior to submission to the governor. Prior to approval of the budget, the council shall publicize and hold a public hearing to provide explanations and hear questions, opinions, and suggestions regarding the budget. Invitations to the hearing shall be extended to the governor, the governor-elect, the director of the department of management, and other persons deemed by the council as integral to the budget process. The budget materials submitted to the governor shall include a review of options for revising the medical assistance program made available by federal action or by actions implemented by other states as identified by the department, the medical assistance advisory council and the executive committee of the medical assistance advisory council created in section ~~249A.4, subsection 8~~ 249A.4B, and by county representatives. The review shall address what potential revisions could be made in this state and how the changes would be beneficial to Iowans.

Sec. 2. Section 249A.4, subsection 8, Code 2005, is amended by striking the subsection.

Sec. 3. NEW SECTION. 249A.4B MEDICAL ASSISTANCE ADVISORY COUNCIL.

1. A medical assistance advisory council is created to comply with 42 C.F.R. § 431.12 based on section 1902(a)(4) of the federal Social Security Act and to advise the director about health and medical care services under the medical assistance program. The council shall meet no more than quarterly. The director of public health shall serve as chairperson of the council.

2. The council shall include all of the following members:

a. The president, or the president's representative, of each of the following professional or business entities, or a member of each of the following professional or business entities, selected by the entity:

(1) The Iowa medical society.
(2) The Iowa osteopathic medical association.
(3) The Iowa academy of family physicians.
(4) The Iowa chapter of the American academy of pediatrics.
(5) The Iowa physical therapy association.
(6) The Iowa dental association.
(7) The Iowa nurses association.

(8) The Iowa pharmacy association.
(9) The Iowa podiatric medical society.
(10) The Iowa optometric association.
(11) The Iowa association of community providers.
(12) The Iowa psychological association.
(13) The Iowa psychiatric society.
(14) The Iowa chapter of the national association of social workers.
(15) The coalition for family and children's services in Iowa.
(16) The Iowa hospital association.
(17) The Iowa association of rural health clinics.
(18) The Iowa/Nebraska primary care association.
(19) Free clinics of Iowa.
(20) The opticians' association of Iowa, inc.
(21) The Iowa association of hearing health professionals.
(22) The Iowa speech and hearing association.
(23) The Iowa health care association.
(24) The Iowa association of area agencies on aging.
(25) AARP.
(26) The Iowa caregivers association.
(27) The Iowa coalition of home and community-based services for seniors.
(28) The Iowa adult day services association.
(29) The Iowa association of homes and services for the aging.
(30) The Iowa association for home care.
(31) The Iowa council of health care centers.
(32) The Iowa physician assistant society.
(33) The Iowa association of nurse practitioners.
(34) The Iowa nurse practitioner society.
(35) The Iowa occupational therapy association.
(36) The ARC of Iowa, formerly known as the association for retarded citizens of Iowa.
(37) The alliance for the mentally ill of Iowa.
(38) The Iowa state association of counties.
(39) The governor's developmental disabilities council.
(40) The Iowa chiropractic society.

b. Public representatives which may include members of consumer groups, including recipients of medical assistance or their families, consumer organizations, and others, equal in number to the number of representatives of the professional and business entities specifically represented under paragraph "a", appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professional or business entities specifically represented under paragraph "a", and a majority of whom shall be current or former recipients of medical assistance or members of the families of current or former recipients.

c. The director of public health, or the director's designee.

d. The director of the department of elder affairs, or the director's designee.

e. The dean of Des Moines university — osteopathic medical center, or the dean's designee.

f. The dean of the university of Iowa college of medicine, or the dean's designee.

g. The following members of the general assembly, each for a term of two years:

(1) Two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader of the house of representatives from their respective parties.

(2) One member of the senate from each of the two major political parties, appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate.

3. a. An executive committee of the council is created and shall consist of the following members of the council:

(1) Five of the professional or business entity members designated pursuant to subsection 2, paragraph "a", and selected by the members specified under that paragraph.

(2) Five of the public members appointed pursuant to subsection 2, paragraph "b", and selected by the members specified under that paragraph. Of the five public members, at least one member shall be a recipient of medical assistance.

(3) The director of public health, or the director's designee.

b. The executive committee shall meet on a monthly basis. The director of public health shall serve as chairperson of the executive committee.

c. Based upon the deliberations of the council and the executive committee, the executive committee shall make recommendations to the director regarding the budget, policy, and administration of the medical assistance program.

4. For each council meeting, other than those held during the time the general assembly is in session, each legislative member of the council shall be reimbursed for actual travel and other necessary expenses and shall receive a per diem as specified in section 7E.6 for each day in attendance, as shall the members of the council or the executive committee who are recipients or the family members of recipients of medical assistance, regardless of whether the general assembly is in session.

5. The department shall provide staff support and independent technical assistance to the council and the executive committee.

6. The director shall consider the recommendations offered by the council and the executive committee in the director's preparation of medical assistance budget recommendations to the council on human services pursuant to section 217.3 and in implementation of medical assistance program policies.

Sec. 4. Section 249A.34, subsection 1, paragraph h, Code 2005, is amended to read as follows:

h. A representative of the medical assistance advisory council executive committee established pursuant to section ~~249A.4, subsection 8~~ 249A.4B.

Approved May 12, 2005

CHAPTER 121

OFFICIAL AUDITS, REPORTS, REGISTRIES, AND AGREEMENTS

S.F. 343

AN ACT relating to governmental services involving audit reports, child abuse reporting and registry requirements, and the family investment program.

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

Section 1. Section 11.28, Code 2005, is amended to read as follows:

11.28 INDIVIDUAL AUDIT REPORTS — COPIES.

1. The individual audit reports shall include exhibits and schedules to report data similar to that ~~now~~ required by section 11.4~~, and~~. The reports shall as nearly as possible correspond and be prepared similar in form to the audit reports rendered by certified public accountants~~, and such~~. The reports shall include information as to the assets and liabilities of the various departments and institutions audited as of the beginning and close of the fiscal year audited, the receipts and expenditures of cash, the disposition of materials and other properties, and

the net income and net operating cost. ~~These~~ The reports shall also set forth the ~~cost as to each inmate, member, or student~~ average cost per year for the inmates, members, clients, patients, and students served in the various classifications of expenses~~, and~~. The reports shall make comparisons ~~thereof~~ of the average costs and classifications, and shall give such other information, suggestions, and recommendations as may be deemed of advantage and to the best interests of the taxpayers of the state~~; provided, that the~~.

2. The daily audit report of the state treasury shall be submitted to the director of the department of administrative services and the director of the department of management~~; provided, further, that copies~~. Copies of all individual audit reports of all state departments and establishments shall be transmitted to the directors' offices after the completion of each audit, and ~~that~~ copies of all local government audits shall, until otherwise provided, be also supplied to the directors' offices~~; provided, further, that copies~~. Copies of ~~such~~ the local government audit reports shall also be supplied to the officers of the counties, schools, and cities, as ~~now~~ provided by law~~; and, provided further, that summaries~~. Summaries of the findings, recommendations, and comparisons, together with any other information deemed essential, shall be printed and distributed to members of the general assembly.

Sec. 2. Section 232.69, subsection 1, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (13) An employee or operator of a provider of services to children funded under a federally approved medical assistance home and community-based services waiver.

Sec. 3. Section 232.71D, subsection 3, paragraph i, Code 2005, is amended by striking the paragraph.

Sec. 4. Section 235A.15, subsection 2, paragraph b, subparagraph (9), Code 2005, is amended by striking the subparagraph.

Sec. 5. Section 235A.15, subsection 2, paragraph c, Code 2005, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (12) To an area education agency or other person responsible for providing early intervention services to children that is funded under part C of the federal Individuals with Disabilities Education Act.

NEW SUBPARAGRAPH. (13) To a federal, state, or local governmental unit, or agent of the unit, that has a need for the information in order to carry out its responsibilities under law to protect children from abuse and neglect.

Sec. 6. Section 235A.15, subsection 2, paragraph e, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (18) To a person or agency responsible for the care or supervision of a child named in a report as an alleged victim of abuse or a person named in a report as having allegedly abused a child, if the juvenile court or department deems access to report data and disposition data by the person or agency to be necessary.

Sec. 7. Section 235A.15, subsection 3, paragraphs b and c, Code 2005, are amended to read as follows:

b. Persons involved in an assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (3), (4), (6), and (7)~~, and (9)~~.

c. Others identified in subsection 2, paragraph "e", subparagraphs (2), (3), ~~and~~ (6), and (18).

Sec. 8. Section 235A.15, subsection 4, paragraph c, Code 2005, is amended to read as follows:

c. Others identified in subsection 2, paragraph "e", ~~subparagraph~~ subparagraphs (2) and (18).

Sec. 9. Section 235A.19, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) For others identified in section 235A.15, subsection 2, paragraph "d", subparagraph (7), and paragraph "e", subparagraphs (9) and (16).

Sec. 10. Section 239B.8, subsection 7, Code 2005, is amended by striking the subsection.

Approved May 12, 2005

CHAPTER 122

TAXATION OF NURSING FACILITY PROPERTY

H.F. 589

AN ACT relating to the property taxation of nursing facilities and including effective and applicability date provisions.

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

Section 1. Section 427.1, subsection 14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The assessor, in arriving at the valuation of any property of the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased or rented and is used regularly for commercial purposes for a profit to a party or individual. If a portion of the property is used regularly for commercial purposes, an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property. However, the board of trustees or the board of directors of a hospital, as defined in section 135B.1, may permit use of a portion of the hospital for commercial purposes, and the hospital is entitled to full exemption for that portion used for nonprofit health-related purposes, upon compliance with the filing requirements of this subsection. The property of a nursing facility, as defined in section 135C.1, subsection 13, which is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and otherwise qualified, is entitled to the full exemption of the property regardless of the proportion of residents of the facility for whom the cost of care is privately paid or paid under Title XIX of the federal Social Security Act, upon compliance with the filing requirements of this subsection.

Sec. 2. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies to property taxes due and payable in fiscal years beginning on or after July 1, 2005.

Approved May 12, 2005

CHAPTER 123

REGULATION OF ELECTRONIC MAIL AND INTERNET DRUG SALES

H.F. 610

AN ACT relating to the transmission of electronic mail including the transmission of unsolicited bulk electronic mail, and the sale or offer for direct sale of prescription drugs and the sale of adulterated or misbranded drugs through the use of electronic mail or the internet, and providing for penalties.

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

Section 1. NEW SECTION. 716A.1 DEFINITIONS.

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

1. "Computer" means the same as defined in section 702.1A.

2. "Computer data" means the same as defined in section 702.1A.

3. "Computer network" means the same as defined in section 702.1A.

4. "Computer operation" means arithmetic, logical, monitoring, storage, or retrieval functions, or any combination thereof, and includes, but is not limited to, communication with, storage of data to, or retrieval of data from any device or human hand manipulation of electronic or magnetic impulses. "Computer operation" for a particular computer may also mean any function for which the computer was generally designed.

5. "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to perform one or more computer operations.

6. "Computer services" means computer time or services, including data processing services, internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

7. "Computer software" means a set of computer programs, procedures, and associated documentation concerned with computer data or with computer operation, a computer program, or a computer network.

8. "Electronic mail service provider" means a person who does either of the following:

a. Is an intermediary in sending or receiving electronic mail.

b. Provides to end users of electronic mail services the ability to send or receive electronic mail.

9. "Encryption" means the enciphering of intelligible data into unintelligible form or the deciphering of unintelligible data into intelligible form.

10. "Owner" means an owner or lessee of a computer or a computer network or an owner, lessee, or licensee of computer data, a computer program, or computer software.

11. "Person" means the same as defined in section 4.1.

12. "Property" means all of the following:

a. Real property.

b. Computers, computer equipment, computer networks, and computer services.

c. Financial instruments, computer data, computer programs, computer software, and all other personal property regardless of whether they are any of the following:

(1) Tangible or intangible.

(2) In a format readable by humans or by a computer.

(3) In transit between computers or within a computer network or between any devices which comprise a computer.

(4) Located on any paper or in any device on which it is stored by a computer or by a person.

13. "Uses" means, when referring to a computer or computer network, causing or attempting to cause any of the following:

a. A computer or computer network to perform or to stop performing computer operations.

b. The withholding or denial of the use of a computer, computer network, computer program, computer data, or computer software to another user.

c. A person to put false information into a computer.

Sec. 2. NEW SECTION. 716A.2 TRANSMISSION OF UNSOLICITED BULK ELECTRONIC MAIL — CRIMINAL PENALTIES.

1. A person who does any of the following is guilty of an aggravated misdemeanor:

a. Uses a computer or computer network with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

b. Knowingly sells, gives, or otherwise distributes or possesses with the intent to sell, give, or otherwise distribute computer software that does any of the following:

(1) Is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Is marketed by that person acting alone or with another for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

2. A person is guilty of a class "D" felony for committing a violation of subsection 1 when either of the following apply:

a. The volume of unsolicited bulk electronic mail transmitted exceeds ten thousand attempted recipients in any twenty-four-hour period, one hundred thousand attempted recipients in any thirty-day time period, or one million attempted recipients in any twelve-month time period.

b. The revenue generated from a specific unsolicited bulk electronic mail transmission exceeds one thousand dollars or the total revenue generated from all unsolicited bulk electronic mail transmitted to any electronic mail service provider by the person exceeds fifty thousand dollars.

3. A person is guilty of a class "D" felony if the person knowingly hires, employs, uses, or permits a person less than eighteen years of age to assist in the transmission of unsolicited bulk electronic mail in violation of subsection 2.

4. Transmission of electronic mail from an organization to a member of the organization shall not be a violation of this section.

Sec. 3. NEW SECTION. 716A.3 SALE OR OFFER FOR DIRECT SALE OF PRESCRIPTION DRUGS — CRIMINAL PENALTIES.

1. The retail sale or offer of direct retail sale of a prescription drug, as defined in section 155A.3, through the use of electronic mail or the internet by a person other than a licensed pharmacist, physician, dentist, optometrist, podiatric physician, or veterinarian, is prohibited. A person who violates this subsection is guilty of a simple misdemeanor.

2. A person who knowingly sells an adulterated or misbranded drug through the use of electronic mail or the internet is guilty of a class "D" felony. However, if the death of a person occurs as the result of consuming a drug, as defined in section 155A.3, sold in violation of this section, the violation is a class "B" felony.

Sec. 4. NEW SECTION. 716A.4 USE OF ENCRYPTION — CRIMINAL PENALTY.

A person who willfully uses encryption to further a violation of this chapter is guilty of an offense which is separate and distinct from the predicate criminal activity and punishable as an aggravated misdemeanor.

Sec. 5. NEW SECTION. 716A.5 VENUE FOR CRIMINAL VIOLATIONS.

For the purpose of venue, a violation of this chapter shall be considered to have been committed in any county in which any of the following apply:

1. An act was performed in furtherance of any course of conduct which violated this chapter.
2. The owner has a place of business in the state.
3. An offender has control or possession of any proceeds of the violation, or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects used in furtherance of the violation.
4. Access to a computer or computer network was made by wires, electromagnetic waves, microwaves, or any other means of communication.
5. The offender resides.
6. A computer which is an object or an instrument of the violation is located at the time of the alleged offense.

Sec. 6. NEW SECTION. 716A.6 CIVIL RELIEF — DAMAGES.

1. A person who is injured by a violation of this chapter may bring a civil action seeking relief from a person whose conduct violated this chapter and recover any damages incurred including loss of profits, attorney fees, and court costs.
2. A person who is injured by the transmission of unsolicited bulk electronic mail in violation of this chapter, may elect, in lieu of actual damages, to recover either of the following:
a. The lesser of ten dollars for each unsolicited bulk electronic mail message transmitted in violation of this chapter, or twenty-five thousand dollars per day the messages are transmitted by the violator.
b. One dollar for each intended recipient of an unsolicited bulk electronic mail message where the intended recipient is an end user of the electronic mail service provider, or twenty-five thousand dollars for each day an attempt is made to transmit an unsolicited bulk electronic mail message to an end user of the electronic mail service provider.
3. a. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a". All the powers conferred upon the attorney general to accomplish the objectives and carry out the duties prescribed pursuant to section 714.16 are also conferred upon the attorney general to enforce this chapter, including, but not limited to, the power to issue subpoenas, adopt rules which shall have the force of law, and seek injunctive relief and civil penalties.
b. In seeking reimbursement pursuant to section 714.16, subsection 7, from a person who has committed a violation of this chapter, the attorney general may seek an order from the court that the person pay to the attorney general on behalf of consumers the amounts for which the person would be liable under subsection 1 or 2, for each consumer who has a cause of action pursuant to this section. Section 714.16, as it relates to consumer reimbursement, shall apply to consumer reimbursement pursuant to this section.
4. At the request of any party to an action brought pursuant to this section, the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved in order to prevent possible recurrence of the same or a similar act by another person, and to protect any trade secrets of any party and in such a way as to protect the privacy of nonparties who complain about violations pursuant to this section.
5. This section shall not be construed to limit a person's right to pursue any additional civil remedy otherwise allowed by law.
6. An action brought pursuant to this section shall be commenced before the earlier of five years after the last act in the course of conduct constituting a violation of this chapter or two years after the injured person discovers or reasonably should have discovered the last act in the course of conduct constituting a violation of this chapter.
7. Personal jurisdiction may be exercised over any person who engages in any conduct in this state governed by this chapter.
8. The injured person shall not have a cause of action against the electronic mail service provider that merely transmits the unsolicited bulk electronic mail over its computer network.

Sec. 7. NEW SECTION. 716A.7 FORFEITURES FOR VIOLATIONS OF THIS CHAPTER.

All property, including all income or proceeds earned but not yet received from a third party

as a result of a violation of this chapter, used in connection with a violation of this chapter, known by the owner thereof to have been used in violation of this chapter, shall be subject to seizure and forfeiture pursuant to chapter 809A.

Sec. 8. Chapter 714E, Code 2005, is repealed.

Approved May 12, 2005

CHAPTER 124

SAFETY-RELATED INFORMATION
CONCERNING CHILDREN — DISSEMINATION

H.F. 753

AN ACT requiring certain safety-related information concerning a child to be provided to a parent, guardian, or foster parent or other custodian of a child.

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

Section 1. Section 232.2, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. If it is part of the child's records or it is otherwise known that the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, that information shall be addressed in the plan and shall be provided to the child's parent, guardian, or foster parent or other person with custody of the child. The information shall be provided whether the child's placement is voluntary or made pursuant to a court determination. The information shall be provided at the time it is learned by the department or agency developing the plan and, if possible, at the time of the child's placement. The information shall only be withheld if ordered by the court or it is determined by the department or agency developing the plan that providing the information would be detrimental to the child or to the family with whom the child is living. In determining whether providing the information would be detrimental, the court, department, or agency shall consider any history of abuse within the child's family or toward the child.

Sec. 2. Section 232.48, subsection 4, Code 2005, is amended to read as follows:

4. A predisposition report shall not be disclosed except as provided in this section and in division VIII of this chapter. The court shall permit the child's attorney to inspect the predisposition report prior to consideration by the court. The court may order counsel not to disclose parts of the report to the child, or to the child's parent, guardian, guardian ad litem, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the child. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

Sec. 3. Section 232.49, subsection 1, Code 2005, is amended to read as follows:

1. Following the entry of an order of adjudication under section 232.47 the court may, after a hearing which may be simultaneous with the adjudicatory hearing, order a physical or mental examination of the child if it finds that an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination. If the examination indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

Sec. 4. Section 232.97, subsection 3, Code 2005, is amended to read as follows:

3. The social report shall not be disclosed except as provided in this section and except as otherwise provided in this chapter. Prior to the hearing at which the disposition is determined, the court shall permit counsel for the child, counsel for the child's parent, guardian, or custodian, and the guardian ad litem to inspect any social report to be considered by the court. The court may in its discretion order counsel not to disclose parts of the report to the child, or to the parent, guardian, or custodian if disclosure would seriously harm the treatment or rehabilitation of the child or would violate a promise of confidentiality given to a source of information. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

Sec. 5. Section 232.181, Code 2005, is amended to read as follows:

232.181 SOCIAL HISTORY REPORT.

Upon the filing of a petition, the department shall submit a social history report regarding the child and the child's family. The report shall include a description of the child's disability and resultant functional limitations, the case permanency plan, a description of the proposed foster care placement, and a description of family participation in developing the child's case permanency plan and the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the plan. If the report indicates the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court, the child's parent, guardian, or foster parent or other person with custody of the child shall be provided with that information.

Approved May 12, 2005

CHAPTER 125

BOARD OF SUPERVISORS MEMBERSHIP
— PETITION AND VOTE REQUIREMENTS

H.F. 774

AN ACT relating to the petition and vote requirements for increasing or reducing board of supervisors membership in certain counties.

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

Section 1. Section 331.205, Code 2005, is repealed.

Approved May 12, 2005

CHAPTER 126

BUSINESSES AND ACTIVITIES IN HEALTH CARE FACILITIES

H.F. 786

AN ACT relating to the operating or providing of another business or activity in a health care facility.

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

Section 1. Section 135C.5, Code 2005, is amended to read as follows:

135C.5 LIMITATIONS ON USE.

Another business or activity serving persons other than the residents of a health care facility ~~shall not~~ may be ~~carried on in a health care facility, or in~~ operated or provided in a designated part of the ~~same~~ physical structure ~~with a~~ of the health care facility, ~~unless such business or activity is under the control of and is directly related to and incidental to the operation of the health care facility or unless the business or activity is approved by the department and the state fire marshal~~ if the other business or activity meets the requirements of applicable state and federal laws, administrative rules, and federal regulations. ~~A~~ The department shall not limit the ability of a health care facility to operate or provide another business or activity ~~which is operated within the limitations of this section shall~~ in the designated part of the facility if the business or activity does not interfere ~~in any manner~~ with the use of the facility by the residents or with the services provided to the residents, and ~~shall~~ is not ~~be~~ disturbing to ~~them~~ the residents. In denying the ability of a health care facility to operate or provide another business or activity under this section, the burden of proof shall be on the department to demonstrate that the other business or activity substantially interferes with the use of the facility by the residents or the services provided to the residents, or is disturbing to the residents. The ~~department and the~~ state fire marshal, in accordance with chapter 17A, shall adopt rules which establish criteria for approval of a business or activity to be ~~carried on in a health care facility or~~ operated or provided in a designated part of the ~~same~~ physical structure ~~with~~ of a health care facility. For the purposes of this section, "another business or activity" shall not include laboratory services with the exception of laboratory services for which a waiver from regulatory oversight has been obtained under the federal Clinical Laboratory Improvement Amendments of

1988, Pub. L. No. 100-578, as amended, radiological services, anesthesiology services, obstetrical services, surgical services, or emergency room services provided by hospitals licensed under chapter 135B.

Approved May 12, 2005

CHAPTER 127

INDIVIDUAL INCOME TAX COMPUTATION
— HUMAN ORGAN DONATION EXPENSES

H.F. 801

AN ACT providing a deduction in computing the individual income tax for certain unreimbursed expenses relating to a human organ transplant and including a retroactive applicability date.

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

Section 1. Section 422.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 44. a. If the taxpayer, while living, donates one or more of the taxpayer's human organs to another human being for immediate human organ transplantation during the tax year, subtract, to the extent not otherwise excluded, the following unreimbursed expenses incurred by the taxpayer and related to the taxpayer's organ donation:

(1) Travel expenses.

(2) Lodging expenses.

(3) Lost wages.

b. The maximum amount that may be deducted under paragraph "a" is ten thousand dollars. A taxpayer shall only take the deduction under this subsection once. If a deduction is taken under this subsection, the amount of expenses shall not be considered medical care expenses under section 213 of the Internal Revenue Code for state tax purposes.

c. For purposes of this subsection, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow.

Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies retroactively to January 1, 2005, for tax years beginning on or after that date.

Approved May 12, 2005

CHAPTER 128

REGULATION OF CEMETERIES

H.F. 836

AN ACT relating to cemeteries and cemetery regulation, providing administration and enforcement procedures, establishing requirements for interment rights agreements and reporting, establishing and appropriating fees, and providing penalties.

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

Section 1. Section 331.325, subsections 2 and 3, Code 2005, are amended to read as follows:

2. Each county board of supervisors may adopt an ordinance assuming jurisdiction and control of pioneer cemeteries in the county. The board shall exercise the powers and duties of township trustees relating to the maintenance and repair of cemeteries in the county as provided in sections 359.28 through ~~359.41~~ 359.40 except that the board shall not certify a tax levy pursuant to section 359.30 or 359.33 and except that the maintenance and repair of all cemeteries under the jurisdiction of the county including pioneer cemeteries shall be paid from the county general fund. The maintenance and improvement program for a pioneer cemetery may include restoration and management of native prairie grasses and wildflowers.

3. In lieu of management of the cemeteries, the board of supervisors may create, by ordinance, a cemetery commission to assume jurisdiction and management of the pioneer cemeteries in the county. The ordinance shall delineate the number of commissioners, the appointing authority, the term of office, officers, employees, organizational matters, rules of procedure, compensation and expenses, and other matters deemed pertinent by the board. The board may delegate any power and duties relating to cemeteries which may otherwise be exercised by township trustees pursuant to sections 359.28 through ~~359.41~~ 359.40 to the cemetery commission except the commission shall not certify a tax levy pursuant to section 359.30 or 359.33 and except that the expenses of the cemetery commission shall be paid from the county general fund.

Sec. 2. Section 331.502, subsection 34, Code 2005, is amended to read as follows:

34. Serve as a trustee for funds of a cemetery association as provided in ~~sections 566.12 and 566.13~~ section 523I.505.

Sec. 3. Section 523A.203, subsection 6, paragraph b, Code 2005, is amended to read as follows:

b. Use any funds required to be held in trust under this chapter ~~or chapter 566A~~ to purchase an interest in any contract or agreement to which a seller is a party.

Sec. 4. Section 523A.812, Code 2005, is amended to read as follows:

523A.812 INSURANCE DIVISION REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. The commissioner shall allocate annually from the fees paid pursuant to section 523A.204, two dollars for each purchase agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.204 shall be deposited into the general fund of the state. The commissioner shall also allocate annually the audit fees paid pursuant to section 523A.814 for deposit to the regulatory fund. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit expenses, investigative expenses, the expenses of mediation ordered by the commissioner, consumer education expenses, the expenses of a toll-free telephone line to receive consumer complaints, and the expenses of receiv-

erships established under section 523A.811. An annual allocation to the regulatory fund shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 5. NEW SECTION. 523A.814 AUDIT FEE.

In addition to the filing fee paid pursuant to section 523A.204, subsection 5, an establishment filing an annual report shall pay an audit fee in the amount of five dollars for each purchase agreement subject to a filing fee that is sold between July 1, 2005, and December 31, 2007.

SUBCHAPTER 1
SHORT TITLE, DEFINITIONS, AND APPLICABILITY

Sec. 6. NEW SECTION. 523I.101 SHORT TITLE.

This chapter may be cited as the "Iowa Cemetery Act".

Sec. 7. NEW SECTION. 523I.102 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Authorized to do business within this state" means a person licensed, registered, or subject to regulation by an agency of the state of Iowa or who has filed a consent to service of process with the commissioner for purposes of this chapter.

2. "Burial site" means any area, except a cemetery, that is used to inter or scatter remains.

3. "Capital gains" means appreciation in the value of trust assets for which a market value may be determined with reasonable certainty after deduction of investment losses, taxes, expenses incurred in the sale of trust assets, any costs of the operation of the trust, and any annual audit fees.

4. "Care fund" means funds set aside for the care of a perpetual care cemetery, including all of the following:

a. Money or real or personal property impressed with a trust by the terms of this chapter.

b. Contributions in the form of a gift, grant, or bequest.

c. Any accumulated income that the trustee of the fund or the cemetery allocates to principal.

5. "Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material and ornamented and lined with fabric.

6. "Cemetery" means any area that is or was open to use by the public in general or any segment thereof and is used or is intended to be used to inter or scatter remains. "Cemetery" does not include the following:

a. A private burial site where use is restricted to members of a family, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.

b. A private burial site where use is restricted to a narrow segment of the public, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.

c. A pioneer cemetery.

7. "Columbarium" means a structure, room, or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

8. "Commissioner" means the commissioner of insurance or the deputy administrator authorized in section 523A.801 to the extent the commissioner delegates functions to the deputy administrator.

9. "Common business enterprise" means a group of two or more business entities that share common ownership in excess of fifty percent.

10. "Disinterment" means to remove human remains from their place of final disposition.

11. "Doing business in this state" means issuing or performing wholly or in part any term of an interment rights agreement executed within the state of Iowa.

12. "Financial institution" means a state or federally insured bank, savings and loan associa-

tion, credit union, trust department thereof, or a trust company that is authorized to do business within this state, that has been granted trust powers under the laws of this state or the United States, and that holds funds under a trust agreement. "Financial institution" does not include a cemetery or any person employed by or directly involved with a cemetery.

13. "Garden" means an area within a cemetery established by the cemetery as a subdivision for organizational purposes, not for sale purposes.

14. "Grave space" means a space of ground in a cemetery that is used or intended to be used for an in-ground burial.

15. "Gross selling price" means the aggregate amount a purchaser is obligated to pay for interment rights, exclusive of finance charges.

16. "Inactive cemetery" means a cemetery that is not operating on a regular basis, is not offering to sell or provide interments or other services reasonably necessary for interment, and does not provide or permit reasonable ingress or egress for the purposes of visiting interment spaces.

17. "Income" means the return in money or property derived from the use of trust principal after deduction of investment losses, taxes, and expenses incurred in the sale of trust assets, any cost of the operation of the trust, and any annual audit fees. "Income" includes but is not limited to:

a. Rent of real or personal property, including sums received for cancellation or renewal of a lease and any royalties.

b. Interest on money lent, including sums received as consideration for prepayment of principal.

c. Cash dividends paid on corporate stock.

d. Interest paid on deposit funds or debt obligations.

e. Gain realized from the sale of trust assets.

18. "Insolvent" means the inability to pay debts as they become due in the usual course of business.

19. "Interment rights" means the rights to place remains in a specific location for use as a final resting place or memorial.

20. "Interment rights agreement" means an agreement to furnish memorials, memorialization, opening and closing services, or interment rights.

21. "Interment space" means a space used or intended to be used for the interment of remains including, but not limited to, a grave space, lawn crypt, mausoleum crypt, and niche.

22. "Lawn crypt" means a preplaced enclosed chamber, which is usually constructed of reinforced concrete and poured in place, or a precast unit installed in quantity, either side-by-side or at multiple depths, and covered by earth or sod.

23. "Lot" means an area in a cemetery containing more than one interment space which is uniquely identified by an alphabetical, numeric, or alphanumerical identification system.

24. "Maintenance fund" means funds set aside for the maintenance of a nonperpetual care cemetery, including all of the following:

a. Money or real or personal property impressed with a trust by the terms of this chapter.

b. Contributions in the form of a gift, grant or bequest.

c. Any accumulated income that the trustee of the fund or the cemetery allocates to principal.

25. "Mausoleum" means an aboveground structure designed for the entombment of human remains.

26. "Mausoleum crypt" means a chamber in a mausoleum of sufficient size to contain casketed human remains.

27. "Memorial" means any product, including any foundation other than a mausoleum or columbarium, used for identifying an interment space or for commemoration of the life, deeds, or career of a decedent including, but not limited to, a monument, marker, niche plate, urn garden plaque, crypt plate, cenotaph, marker bench, and vase.

28. "Memorial care" means any care provided or to be provided for the general maintenance of memorials including foundation repair or replacement, resetting or straightening tipped

memorials, repairing or replacing inadvertently damaged memorials and any other care clearly specified in the purchase agreement.

29. "Memorial dealer" means any person offering or selling memorials retail to the public.

30. "Memorialization" means any permanent system designed to mark or record the name and other data pertaining to a decedent.

31. "Merchandise" means any personal property offered or sold for use in connection with the funeral, final disposition, memorialization, or interment of human remains, but which is exclusive of interment rights.

32. "Neglected cemetery" means a cemetery where there has been a failure to cut grass or weeds or care for graves, memorials or memorialization, walls, fences, driveways, and buildings, or for which proper records of interments have not been maintained.

33. "Niche" means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

34. "Opening and closing services" means one or more services necessarily or customarily provided in connection with the interment or entombment of human remains or a combination thereof.

35. "Operating a cemetery" means offering to sell or selling interment rights, or any service or merchandise necessarily or customarily provided for a funeral, or for the entombment or cremation of a dead human, or any combination thereof, including but not limited to opening and closing services, caskets, memorials, vaults, urns, and interment receptacles.

36. "Outer burial container" means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

37. "Perpetual care cemetery" includes all of the following:

a. Any cemetery that was organized or commenced business in this state on or after July 1, 1995.

b. Any cemetery that has established a care fund in compliance with section 523I.810.

c. Any cemetery that represents that it is a perpetual care cemetery in its interment rights agreement.

d. Any cemetery that represents in any other manner that the cemetery provides perpetual, permanent, or guaranteed care.

38. "Person" means an individual, firm, corporation, partnership, joint venture, limited liability company, association, trustee, government or governmental subdivision, agency, or other entity, or any combination thereof.

39. "Pioneer cemetery" means a cemetery where there were six or fewer burials in the preceding fifty years.

40. "Purchaser" means a person who purchases memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof. A purchaser need not be a beneficiary of the interment rights agreement.

41. "Relative" means a great-grandparent, grandparent, father, mother, spouse, child, brother, sister, nephew, niece, uncle, aunt, first cousin, second cousin, third cousin, or grandchild connected to a person by either blood or affinity.

42. "Religious cemetery" means a cemetery that is owned, operated, or controlled by a recognized church or denomination, or a cemetery designated as such in the Official Catholic Directory on file with the insurance division or in a similar publication of a recognized church or denomination, or a cemetery that the commissioner determines is operating as a religious cemetery upon review of an application by the cemetery that includes a description of the cemetery's affiliation with a recognized church or denomination, the extent to which the affiliate organization is responsible for the financial and contractual obligations of the cemetery, or the provision of the Internal Revenue Code, if any, that exempts the cemetery from the payment of federal income tax.

43. "Relocation" means the act of taking remains from the place of interment or the place where the remains are being held to another designated place.

44. "Remains" means the body of a deceased human or a body part, or limb that has been

removed from a living human, including a body, body part, or limb in any stage of decomposition, or cremated remains.

45. "Scattering services provider" means a person in the business of scattering human cremated remains.

46. "Seller" means a person doing business within this state, including a person doing business within this state who advertises, sells, promotes, or offers to furnish memorials, memorialization, opening and closing services, scattering services or interment rights, or a combination thereof, whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce.

47. "Special care" means any care provided or to be provided that supplements or exceeds the requirements of this chapter in accordance with the specific directions of any donor of funds for such purposes.

48. "Undeveloped space" means a designated area or building within a cemetery that has been mapped and planned for future development but is not yet fully developed.

Sec. 8. NEW SECTION. 523I.103 APPLICABILITY OF CHAPTER.

1. This chapter applies to all of the following:

a. All cemeteries, except religious cemeteries that commenced business prior to July 1, 2005.

b. All persons advertising or offering memorials, memorialization, opening and closing services, scattering services at a cemetery, interment rights, or a combination thereof for sale.

c. Interments made in areas not dedicated as a cemetery, by a person other than the state archaeologist.

2. This chapter applies when a purchase agreement is executed within this state or an advertisement, promotion, or offer to furnish memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof is made or accepted within this state. An offer to furnish memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof is made within this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received by the offeree in this state through the mail, over the telephone, by the internet, or through any other means of commerce.

3. If a foreign person does not have a registered agent or agents in the state of Iowa, doing business within this state shall constitute the person's appointment of the secretary of state of the state of Iowa to be its true and lawful attorney upon whom may be served all lawful process of original notice in actions or proceedings arising or growing out of any contract or tort.

SUBCHAPTER 2
ADMINISTRATION AND ENFORCEMENT

Sec. 9. NEW SECTION. 523I.201 ADMINISTRATION.

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section 523A.801 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administrative staff. In the absence of the commissioner, whether because of vacancy in the office due to absence, physical disability, or other cause, the deputy administrator shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner in this chapter. The deputy administrator shall employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

2. It is unlawful for the commissioner or any administrative staff to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. This chapter does not authorize the commissioner or any staff member to disclose any such information except among themselves or to other cemetery and funeral administrators,

regulatory authorities, or governmental agencies, or when necessary and appropriate in a proceeding or investigation under this chapter or as required by chapter 22. This chapter neither creates nor derogates any privileges that exist at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any administrative staff.

Sec. 10. NEW SECTION. 523I.202 INVESTIGATIONS AND SUBPOENAS.

1. The commissioner may, for the purpose of discovering a violation of this chapter, or implementing rules or orders issued under this chapter do any of the following:

a. Make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate this chapter, or implementing rules or orders issued under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules and forms under this chapter.

b. Require or permit any person to file a statement in writing, under oath or otherwise as the commissioner or attorney general determines, as to all the facts and circumstances concerning the matter being investigated.

c. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, 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 administrators, regulatory authorities, or governmental agencies, or may publish information concerning a violation of this chapter, or implementing rules or orders issued under this chapter.

d. Investigate a cemetery and examine the books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records of the cemetery.

e. Administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the commissioner deems relevant or material to any investigation or proceeding under this chapter and implement rules, all of which may be enforced under chapter 17A.

f. Apply to the district court for an order requiring a person's appearance before the commissioner or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the commissioner or attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. Failure to obey a court order under this subsection constitutes contempt of court.

2. The commissioner may issue and bring an action in district court to enforce subpoenas within this state at the request of an agency or administrator of another state, if the activity constituting an alleged violation for which the information is sought would be a violation of this chapter had the activity occurred in this state.

Sec. 11. NEW SECTION. 523I.203 CEASE AND DESIST ORDERS — INJUNCTIONS.

If it appears to the commissioner that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or implementing rules or orders issued under this chapter, the commissioner or the attorney general may do any of the following:

1. Issue a summary order directed to the person that requires the person to cease and desist from engaging in such an act or practice. A person may request a hearing within thirty days of issuance of the summary order. If a hearing is not timely requested, the summary order shall become final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer following a request for hearing. Section 17A.18A is inapplicable to summary cease and desist orders issued under this section.

2. Bring an action in the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices deemed contrary to the public interest. In any proceeding for an injunction, the commissioner or attorney general may apply to the court for a subpoena

to require the appearance of a defendant and the defendant's agents, employees, or associates and for the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records germane to the hearing upon the petition for an injunction. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The commissioner or attorney general shall not be required to post a bond.

Sec. 12. NEW SECTION. 523I.204 COURT ACTION FOR FAILURE TO COOPERATE.

1. If a person fails or refuses to file a statement or report or to produce any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records, or to obey a subpoena issued by the commissioner, the commissioner may refer the matter to the attorney general, who may apply to a district court to enforce compliance. The court may order any or all of the following:

a. Injunctive relief restricting or prohibiting the offer or sale of memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof.

b. Production of documents or records including but not limited to books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records.

c. Such other relief as may be required.

2. A court order issued pursuant to subsection 1 is effective until the person files the statement or report or produces the documents requested, or obeys the subpoena.

Sec. 13. NEW SECTION. 523I.205 PROSECUTION FOR VIOLATIONS OF LAW — CIVIL PENALTIES.

1. A violation of this chapter or rules adopted or orders issued under this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and penalties, apply to violations of this chapter.

2. If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, so that the attorney general or the county attorney may proceed with the matter as deemed appropriate. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county attorney's county.

3. A person who violates a provision of this chapter or rules adopted or orders issued under this chapter may be subject to civil penalties in addition to criminal penalties. The commissioner may impose, assess, and collect a civil penalty not exceeding ten thousand dollars for each violation. For the purposes of computing the amount of each civil penalty, each day of a continuing violation constitutes a separate violation. All civil penalties collected pursuant to this section shall be deposited in the general fund of the state.

Sec. 14. NEW SECTION. 523I.206 COOPERATION WITH OTHER AGENCIES.

1. The commissioner may cooperate with any governmental law enforcement or regulatory agency to encourage uniform interpretation and administration of this chapter and effective enforcement of this chapter and effective regulation of the sale of memorials, memorialization, and cemeteries.

2. Cooperation with other agencies may include but is not limited to:

a. Making a joint examination or investigation.

b. Holding a joint administrative hearing.

c. Filing and prosecuting a joint civil or administrative proceeding.

d. Sharing and exchanging personnel.

e. Sharing and exchanging relevant information and documents.

f. Formulating, in accordance with chapter 17A, rules or proposed rules on matters such as statements of policy, regulatory standards, guidelines, and interpretive opinions.

Sec. 15. NEW SECTION. 523I.207 RULES, FORMS, AND ORDERS.

1. Under chapter 17A, the commissioner may from time to time make, amend, and rescind such rules, forms, and orders as are necessary or appropriate for the protection of purchasers and the public and to administer the provisions of this chapter, its implementing rules, and orders issued under this chapter.

2. A rule, form, or order shall not be made, amended, or rescinded unless the commissioner finds that the action is necessary or appropriate to protect purchasers and the public and is consistent with the policies and provisions of this chapter, its implementing rules, and orders issued under this chapter.

3. A provision of this chapter imposing any liability does not apply to an act done or omitted in good faith in conformity with any rule, form, or order of the commissioner.

Sec. 16. NEW SECTION. 523I.208 DATE OF FILING — INTERPRETIVE OPINIONS.

1. A document is filed when it is received by the commissioner.

2. Requests for interpretive opinions may be granted in the commissioner's discretion.

Sec. 17. NEW SECTION. 523I.209 MISLEADING FILINGS.

It is unlawful for a person to make or cause to be made, in any document filed with the commissioner, or in any proceeding under this chapter, any statement of material fact which is, at the time and in the light of the circumstances under which it is made, false or misleading, or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Sec. 18. NEW SECTION. 523I.210 MISREPRESENTATIONS OF GOVERNMENT APPROVAL.

It is unlawful for a seller under this chapter to represent or imply in any manner that the seller has been sponsored, recommended, or approved, or that the seller's abilities or qualifications have in any respect been passed upon by the commissioner.

Sec. 19. NEW SECTION. 523I.211 FRAUDULENT PRACTICES.

A person who commits any of the following acts commits a fraudulent practice which is punishable as provided in chapter 714:

1. Knowingly fails to comply with any requirement of this chapter.

2. Knowingly makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, or implementing rules or orders, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.

3. Conspires to defraud in connection with the sale of memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof under this chapter.

4. Fails to deposit funds under this chapter or withdraws funds in a manner inconsistent with this chapter.

5. Knowingly sells memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof without the permits required under this chapter.

6. Deliberately misrepresents or omits a material fact relative to the sale of memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof.

Sec. 20. NEW SECTION. 523I.212 RECEIVERSHIPS.

1. The commissioner shall notify the attorney general of the potential need for establishment of a receivership if the commissioner finds that a cemetery subject to this chapter meets one or more of the following conditions:

a. Is insolvent.

b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter.

c. The amount held in trust in a maintenance fund or care fund is less than the amount required by this chapter.

2. The commissioner or attorney general may apply to the district court in any county of the state for the establishment of a receivership. Upon proof that any of the conditions described in this section have occurred, the court may grant a receivership.

Sec. 21. NEW SECTION. 523I.213 INSURANCE DIVISION'S ENFORCEMENT FUND.

A special revenue fund in the state treasury, to be known as the insurance division's enforcement fund, is created under the authority of the commissioner. The commissioner shall allocate annually from the audit fees paid pursuant to section 523I.808, an amount not exceeding fifty thousand dollars, for deposit to the insurance division's enforcement fund. The moneys in the enforcement fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, shall be used to pay auditors, audit expenses, investigative expenses, the expenses of consumer education, compliance, and education programs for filers and other regulated persons, and educational or compliance program materials, the expenses of a toll-free telephone line for consumer complaints, and the expenses of receiverships of perpetual care cemeteries established under section 523I.212.

Sec. 22. NEW SECTION. 523I.214 VIOLATIONS OF LAW — REFERRALS TO THE DEPARTMENT OF PUBLIC HEALTH.

If the commissioner discovers a violation of a provision of this chapter or any other state law or rule concerning the disposal or transportation of human remains, the commissioner shall forward all evidence in the possession of the commissioner concerning such a violation to the department of public health for such proceedings as the department of public health deems appropriate.

SUBCHAPTER 3
CEMETERY MANAGEMENT

Sec. 23. NEW SECTION. 523I.301 DISCLOSURE REQUIREMENTS — PRICES AND FEES.

1. A cemetery shall disclose, prior to the sale of interment rights, whether opening and closing of the interment space is included in the purchase of the interment rights. If opening and closing services are not included in the sale and the cemetery offers opening and closing services, the cemetery must disclose that the price for this service is subject to change and disclose the current prices for opening and closing services provided by the cemetery.

2. The cemetery shall fully disclose all fees required for interment, entombment, or inurnment of human remains.

3. A person owning interment rights may sell those rights to third parties. The cemetery shall fully disclose, in the cemetery's rules, any requirements necessary to transfer title of interment rights to a third party.

Sec. 24. NEW SECTION. 523I.302 INSTALLATION OF OUTER BURIAL CONTAINERS.

A cemetery shall provide services necessary for the installation of outer burial containers or other similar merchandise sold by the cemetery. This section shall not require the cemetery to provide for opening and closing of interment or entombment space, unless an agreement executed by the cemetery expressly provides otherwise.

Sec. 25. NEW SECTION. 523I.303 ACCESS BY FUNERAL DIRECTORS.

A cemetery shall not deny access to a licensed funeral director who is conducting funeral services or supervising the interment or disinterment of human remains.

Sec. 26. NEW SECTION. 523I.304 RULEMAKING AND ENFORCEMENT.

1. A cemetery may adopt, amend, and enforce rules for the use, care, control, management, restriction, and protection of the cemetery, as necessary for the proper conduct of the business of the cemetery, including, but not limited to, the use, care, and transfer of any interment space or right of interment.

2. A cemetery may restrict and limit the use of all property within the cemetery by rules that do, but are not limited to doing, all of the following:

a. Prohibit the placement of memorials or memorialization, buildings, or other types of structures within any portion of the cemetery.

b. Regulate the uniformity, class, and kind of memorials and memorialization and structures within the cemetery.

c. Regulate the scattering or placement of cremated remains within the cemetery.

d. Prohibit or regulate the placement of nonhuman remains within the cemetery.

e. Prohibit or regulate the introduction or care of trees, shrubs, and other types of plants within the cemetery.

f. Regulate the right of third parties to open, prepare for interment, and close interment spaces.

g. Prohibit interment in any part of the cemetery not designated as an interment space.

h. Prevent the use of space for any purpose inconsistent with the use of the property as a cemetery.

3. A cemetery shall not adopt or enforce a rule that prohibits interment because of the race, color, or national origin of a decedent. A provision of a contract or a certificate of ownership or other instrument conveying interment rights that prohibits interment in a cemetery because of the race, color, or national origin of a decedent is void.

4. A cemetery's rules shall be plainly printed or typewritten and maintained for inspection in the office of the cemetery or, if the cemetery does not have an office, in another suitable place within the cemetery. The cemetery's rules shall be provided to owners of interment spaces upon request.

5. A cemetery's rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorialization are damaged or defaced by acts of vandalism. The rules may specify a multiyear restoration of an interment space, or a memorial or memorialization when the damage is extensive or when money available from the cemetery's trust fund is inadequate to complete repairs immediately. The owner of an interment space, or a memorial or memorialization that has been damaged or defaced shall be notified by the cemetery by restricted certified mail at the owner's last known address within sixty days of the discovery of the damage or defacement. The rules shall specify whether the owner is liable, in whole or in part, for the cost to repair or replace an interment space or a damaged or defaced memorial or memorialization.

6. The cemetery shall not approve any rule which unreasonably restricts competition, or which unreasonably increases the cost to the owner of interment rights in exercising these rights.

Sec. 27. NEW SECTION. 523I.305 MEMORIALS AND MEMORIALIZATION.

1. AUTHORIZATION. A cemetery is entitled to determine whether a person requesting installation of a memorial is authorized to do so, to the extent that this can be determined from the records of the cemetery, as is consistent with the cemetery's rules. The owner of an interment space or the owner's agent may authorize a memorial dealer or independent third party to perform all necessary work related to preparation and installation of a memorial.

2. CONFORMITY WITH CEMETERY RULES. A person selling a memorial shall review the rules of the cemetery where the memorial is to be installed to ensure that the memorial will comply with those rules prior to ordering or manufacturing the memorial.

3. SPECIFICATIONS. Upon request, a cemetery shall provide reasonable written specifications and instructions governing installation of memorials, which shall apply to all installations whether performed by the cemetery or another person. The written specifications shall

include provisions governing hours of installation or any other relevant administrative requirements of the cemetery. A copy of these specifications and instructions shall be provided upon request, without charge, to the owner of the interment space, next of kin, or a personal representative or agent of the owner, including the person installing the memorial. The person installing the memorial shall comply with the cemetery's written installation specifications and instructions. A cemetery shall not adopt or enforce any rule prohibiting the installation of a memorial by a memorial dealer or independent third party, unless the rule is adopted and enforced uniformly for all memorials installed in the cemetery.

4. WRITTEN NOTICE. A memorial dealer or independent third party shall provide the cemetery with at least seven business days' prior written notice of intent to install a memorial at the cemetery, or such lesser notice as the cemetery deems acceptable. The notice shall contain the full name, address, and relationship of the memorial's purchaser to the person interred in the interment space or the owner of the interment space, if different. The notice shall also contain the color, type, and size of the memorial, the material, the inscription, and the full name and interment date of the person interred in the interment space.

5. PREPARATION AND INSTALLATION.

a. A person installing a memorial shall be responsible to the cemetery for any damage caused to the cemetery grounds, including roadways, other than normal use during installation of the memorial.

b. Installation work shall cease during any nearby funeral procession or committal service.

c. Installation work shall be done during the cemetery's normal weekday hours or at such other times as may be arranged with the cemetery.

d. A memorial must comply with the cemetery's rules. In the event of noncompliance, the person installing a memorial is responsible for removal of the memorial and shall pay any reasonable expenses incurred by the cemetery in connection with the memorial's removal.

e. The cemetery shall, without charge, provide information as described on the cemetery's map or plat necessary to locate the place where a memorial is to be installed and any other essential information the person installing the memorial needs to locate the proper interment space.

f. A person installing a memorial shall follow the cemetery's instructions regarding the positioning of the memorial.

g. During the excavation, all sod and dirt shall be carefully removed with no sod or dirt left on the interment space except the amount needed to fill the space between the memorial and the adjacent lawn.

h. A person installing a memorial shall carefully fill in any areas around the memorial with topsoil or sand, in accordance with the cemetery's written instructions.

i. A person installing a memorial shall remove all equipment and any debris which has accumulated during installation of the memorial.

j. A person installing a memorial shall check to see if any adjacent memorials have become soiled or dirty during installation of the memorial and, if so, clean the adjacent memorials.

k. If the person who is installing a memorial damages any cemetery property, the person shall notify the cemetery immediately. The person installing the memorial shall then repair the damage as soon as possible, upon approval by the cemetery. The cemetery may require a person installing a memorial to provide current proof of workers' compensation insurance as required by state law and current proof of liability insurance, sufficient to indemnify the cemetery against claims resulting from installation of the memorial. Proof of liability insurance in an amount of one million dollars or more shall preclude the cemetery from requiring a person installing a memorial to obtain a performance bond.

l. If a cemetery has an office, a person installing a memorial shall immediately leave notice at the cemetery office when the memorial has been installed and all work related to the installation is complete.

6. INSPECTION. A cemetery may inspect the installation site of a memorial at any time. If the cemetery determines that cemetery rules are not being followed during the installation,

the cemetery may order the installation to stop until the infraction is corrected. The cemetery shall provide written notice to the installer as soon as possible if the cemetery believes that any of the following have occurred:

a. The memorial has not been installed correctly.

b. The person installing the memorial has damaged property at the cemetery.

c. Other cemetery requirements for installation have not been met, such as removal of debris or equipment.

7. LOCATION AND SERVICE CHARGE. A cemetery may charge a reasonable service charge for allowing the installation of a memorial purchased or obtained from and installed by a person other than the cemetery or its agents. This service charge shall be based on the cemetery's actual labor costs, including fringe benefits, of those employees whose normal duty is to inspect the installation of memorials, in accordance with generally accepted accounting practices. General administrative and overhead costs and any other functions not related to actual inspection time shall be excluded from the service charge.

8. FAULTY INSTALLATION. If a memorial sinks, tilts, or becomes misaligned within twelve months of its installation and the cemetery believes the cause is faulty installation, the cemetery shall notify the person who installed the memorial in writing and the person who installed the memorial shall be responsible to correct the damage, unless the damage is caused by inadequate written specifications and instructions from the cemetery or acts of the cemetery and its agents or employees, including but not limited to running a backhoe over the memorial, carrying a vault or other heavy equipment over the memorial, or opening or closing an interment space adjacent to the memorial.

9. PERPETUAL CARE. A cemetery may require contributions from the purchaser of a memorial for perpetual care, if a perpetual care fund deposit is uniformly charged on every memorial installed in the cemetery.

Sec. 28. NEW SECTION. 523I.306 COMMISSION OR BONUS UNLAWFUL.

It shall be unlawful for any organization subject to the provisions of this chapter to pay or offer to pay to, or for any person, firm, or corporation to receive directly or indirectly a commission or bonus or rebate or other thing of value, for or in connection with the sale of any interment space, lot, or part thereof, in any cemetery. The provisions of this section shall not apply to a person regularly employed and supervised by such organization or to a person, firm, corporation, or other entity licensed under chapter 523A that contracts with the cemetery to sell interment spaces or lots. The conduct of any person, firm, corporation, or other entity described in this section is the direct responsibility of the cemetery.

Sec. 29. NEW SECTION. 523I.307 DISCRIMINATION PROHIBITED.

It shall be unlawful for any organization subject to the provisions of this chapter to deny the privilege of interment of the remains of any deceased person in any cemetery solely because of the race, color, or national origin of such deceased person. Any contract, agreement, deed, covenant, restriction, or charter provision at any time entered into, or bylaw, rule, or regulation adopted or put in force, either subsequent or prior to July 4, 1953, authorizing, permitting, or requiring any organization subject to the provisions of this chapter to deny such privilege of interment because of race, color, or national origin of such deceased person is hereby declared to be null and void and in conflict with the public policy of this state. An organization subject to the provisions of this chapter or any director, officer, agent, employee, or trustee thereof, shall not be liable for damages or other relief, or be subjected to any action in any court of competent jurisdiction for refusing to commit any act unlawful under this chapter.

Sec. 30. NEW SECTION. 523I.308 SPECULATION PROHIBITED.

A cemetery or any person representing a cemetery in a sales capacity shall not advertise or represent, in connection with the sale or attempted sale of any interment space, that the same is or will be a desirable speculative investment for resale purposes.

Sec. 31. NEW SECTION. 523I.309 INTERMENT, RELOCATION, OR DISINTERMENT OF REMAINS.

1. Any available member of the following classes of persons, in the priority listed, shall have the right to control the interment, relocation, or disinterment of a decedent's remains within or from a cemetery:

a. The attorney in fact of the decedent pursuant to a durable power of attorney for health care.

b. The surviving spouse of the decedent.

c. The decedent's surviving adult children. If there is more than one surviving adult child, any adult child who can confirm, in writing, that all other adult children have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult child of the decedent.

d. A surviving parent of the decedent.

e. A surviving adult sibling of the decedent.

f. A surviving grandparent of the decedent.

g. The legal guardian of the decedent at the time of the decedent's death.

2. A person who represents that the person knows the identity of a decedent and, in order to procure the interment, relocation, or disinterment of the decedent's remains, signs an order or statement, other than a death certificate, that warrants the identity of the decedent is liable for all damages that result, directly or indirectly, from that representation.

3. A person may provide written directions for the interment, relocation, or disinterment of the person's own remains in a prepaid funeral or cemetery contract, or written instrument signed and acknowledged by the person. The directions may govern the inscription to be placed on a grave marker attached to any interment space in which the decedent had the right of interment at the time of death and in which interment space the decedent is subsequently interred. The directions may be modified or revoked only by a subsequent writing signed and acknowledged by the person. A person other than a decedent who is entitled to control the interment, relocation, or disinterment of a decedent's remains under this section shall faithfully carry out the directions of the decedent to the extent that the decedent's estate or the person controlling the interment, relocation, or disinterment is financially able to do so.

4. A cemetery shall not be liable for carrying out the written directions of a decedent or the directions of any person entitled to control the interment, relocation, or disinterment of the decedent's remains.

5. In the event of a dispute concerning the right to control the interment, relocation, or disinterment of a decedent's remains, the dispute may be resolved by a court of competent jurisdiction. A cemetery shall not be liable for refusing to accept the decedent's remains, relocate or disinter, inter or otherwise dispose of the decedent's remains, until the cemetery receives a court order or other suitable confirmation that the dispute has been resolved or settled.

6. a. If good cause exists to relocate or disinter remains interred in a cemetery, the remains may be removed from the cemetery pursuant to a disinterment permit as required under section 144.34, with the written consent of the cemetery, the current interment rights owner and the person entitled by this section to control the interment, relocation, or disinterment of the decedent's remains.

b. If the consent required by this subsection cannot be obtained, the remains may be relocated by permission of the district court of the county in which the cemetery is located. Before the date of application to the court for permission to relocate remains under this subsection, notice must be given to the cemetery in which the remains are interred, each person whose consent is required for relocation of the remains under subsection 1, and any other person that the court requires to be served.

c. For the purposes of this subsection, personal notice must be given not later than the eleventh day before the date of application to the court for permission to relocate or disinter the

remains, or notice by certified mail or restricted certified mail must be given not later than the sixteenth day before the date of application.

d. This subsection does not apply to the removal of remains from one interment space to another interment space in the same cemetery to correct an error, or relocation of the remains by the cemetery from an interment space for which the purchase price is past due and unpaid, to another suitable interment space.

7. A person who removes remains from a cemetery shall keep a record of the removal, and provide a copy to the cemetery, that includes all of the following:

a. The date the remains are removed.

b. The name of the decedent and age at death if those facts can be conveniently obtained.

c. The place to which the remains are removed.

d. The name of the cemetery and the location of the interment space from which the remains are removed.

8. A cemetery may disinter and relocate remains interred in the cemetery for the purpose of correcting an error made by the cemetery after obtaining a disinterment permit as required by section 144.34. The cemetery shall provide written notice describing the error to the commissioner and to the person who has the right to control the interment, relocation, or disinterment of the remains erroneously interred, by restricted certified mail at the person's last known address and sixty days prior to the disinterment. The notice shall include the location where the disinterment will occur and the location of the new interment space. A cemetery is not civilly or criminally liable for an erroneously made interment that is corrected in compliance with this subsection unless the error was the result of gross negligence or intentional misconduct.

9. Relocations and disinterments of human remains shall be done in compliance with sections 144.32 and 144.34.

Sec. 32. NEW SECTION. 523I.310 SALE OF INTERMENT RIGHTS.

1. For sales or transfers of interment rights made on or after July 1, 2005, a cemetery shall issue a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price.

2. The interment rights in an interment space that is conveyed by a certificate of ownership or other instrument shall not be divided without the consent of the cemetery.

3. A conveyance of exclusive rights of interment shall be filed and recorded in the cemetery office. Any transfer of the ownership of interment rights shall be filed and recorded in the cemetery office. The cemetery may charge a reasonable recording fee to record the transfer of interment rights.

Sec. 33. NEW SECTION. 523I.311 RECORDS OF INTERMENT RIGHTS AND INTERMENT.

1. For sales or transfers of interment rights made on or after July 1, 2005, a cemetery shall keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

a. The name and last known address of each owner or previous owner of interment rights.

b. The date of each purchase or transfer of interment rights.

c. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. For interments made on or after July 1, 2005, a cemetery shall keep a record of each interment in a cemetery. The records shall include all of the following:

a. The date the remains are interred.

b. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.

c. A unique numeric or alphanumeric identifier that identifies the location of the interment space where the remains are interred.

Sec. 34. NEW SECTION. 523I.312 DISCLOSURE REQUIREMENTS — INTERMENT AGREEMENTS.

1. Each nonperpetual care cemetery shall have printed or stamped at the head of all of its contracts, deeds, statements, letterheads, and advertising material, the legend: "This is a nonperpetual care cemetery", and shall not sell any lot or interment space in the cemetery unless the purchaser of the interment space is informed that the cemetery is a nonperpetual care cemetery.

2. An agreement for interment rights under this chapter shall be written in clear, understandable language and do all of the following:

a. Identify the seller and purchaser.

b. Identify the salesperson.

c. Specify the interment rights to be provided and the cost of each item.

d. State clearly the conditions on which substitution will be allowed.

e. Set forth the total purchase price and the terms under which it is to be paid.

f. State clearly whether the agreement is revocable or irrevocable, and if revocable, which parties have the authority to revoke the agreement.

g. State the amount or percentage of money to be placed in the cemetery's care or maintenance fund.

h. If the cemetery has a care fund, set forth an explanation that the care fund is an irrevocable trust, that deposits cannot be withdrawn even in the event of cancellation, and that the trust's income shall be used by the cemetery for its care.

i. Set forth an explanation of any fees or expenses that may be charged.

j. Set forth an explanation of whether amounts for perpetual care will be deposited in trust upon payment in full or on an allocable basis as payments are made.

k. Set forth an explanation of whether initial payments on agreements for multiple items of funeral and cemetery merchandise or services, or both, will be allocated first to the purchase of an interment space. If such an allocation is to be made, the agreement shall provide for the immediate transfer of such interment rights upon payment in full and prominently state that any applicable trust deposits under chapter 523A will not be made until the cemetery has received payment in full for the interment rights. The transfer of an undeveloped interment space may be deferred until the interment space is ready for interment.

l. If the transfer of an undeveloped interment space will be deferred until the interment space is ready for interment as permitted in paragraph "k", the agreement shall provide for some form of written acknowledgement upon payment in full, specify a reasonable time period for development of the interment space, describe what happens in the event of a death prior to development of the interment space, and provide for the immediate transfer of the interment rights when development of the interment space is complete.

m. Specify the purchaser's right to cancel and the damages payable for cancellation, if any.

n. State the name and address of the commissioner.

Sec. 35. NEW SECTION. 523I.313 NEW CEMETERIES AND GARDENS AND CEMETERY REGISTRY.

1. A person that dedicates property for a new cemetery on or after July 1, 2005, and a cemetery that dedicates an additional garden on or after July 1, 2005, shall:

a. In the case of land, survey and subdivide the property into gardens with descriptive names or numbers and make a map or plat of the cemetery or garden.

b. In the case of a mausoleum or a columbarium, make a map or plat of the property delineating sections or other divisions with descriptive names and numbers.

c. File the map or plat with the commissioner, including a written certificate or declaration of dedication of the property delineated by the map or plat, dedicating the property for cemetery purposes.

2. A map or plat and a certificate or declaration of dedication that is filed pursuant to this section dedicates the property for cemetery purposes and constitutes constructive notice of that dedication.

3. The commissioner shall maintain a registry of perpetual care and nonperpetual care cemeteries, to the extent that information is available. A cemetery selling interment rights on or after July 1, 2005, shall file a written notice with the commissioner that includes the legal description of the property with boundary lines of the land, the name of the cemetery, the status of the cemetery as either perpetual care or nonperpetual care, the status of the cemetery as either religious or nonreligious, and the cemetery's ownership in a form approved by the commissioner. A cemetery shall notify the commissioner of any changes in this information within sixty days of the change.

Sec. 36. NEW SECTION. 523I.314 NEW CONSTRUCTION.

1. A person shall not offer to sell interment rights in a mausoleum or columbarium that will be built or completed in the future unless the person has notified the commissioner of the offer to sell on a form prescribed by the commissioner.

2. The notice of an offer to sell interment rights in such a mausoleum or columbarium shall include the following information:

a. A description of the new facility or the proposed expansion, including a description of the interment rights to be offered to prospective purchasers.

b. A statement of the financial resources available for the project.

c. A copy of the proposed interment rights agreement to be used, which shall include the following:

(1) That purchase payments will be held in trust in accordance with the requirements of chapter 523A until construction of the mausoleum or columbarium is complete.

(2) That the purchaser may request a refund of the purchase amount, if construction does not begin within five years of the purchaser's first payment.

(3) That the new facility will operate as a perpetual care cemetery in compliance with this chapter, even if the facility is located at a nonperpetual care cemetery.

(4) That the purchaser will receive an ownership certificate upon payment in full or, if later, when construction is complete.

3. Unless financing has been secured that is adequate in amount and terms to complete the facility proposed, new construction of a mausoleum or columbarium shall not begin until the notice required by this section has been approved by the commissioner.

Sec. 37. NEW SECTION. 523I.315 UNPAID CARE ASSESSMENTS AND UNOCCUPIED INTERMENT SPACES.

1. FORECLOSURE — UNPAID ASSESSMENTS. Unpaid care assessments for an unoccupied interment space not under perpetual care shall create a lien by the cemetery against the applicable interment space. The cemetery may, following notice, foreclose on the interment space if the amount of the lien exceeds the amount paid for the interment space. If the lien is not paid within one year from the date that notice of foreclosure is served on the owner of record or the owner of record's heirs, the ownership in or right to the unoccupied interment space shall revert to the cemetery that owns the cemetery in which the unoccupied interment space is located.

2. ABANDONMENT — QUIET TITLE ACTION. A cemetery may file an action to quiet title to determine whether an interment space has been abandoned if the interment space is unoccupied and has not been occupied in the preceding seventy-five years. An action to quiet title shall commence when the cemetery serves notice on the owner of record or the owner of record's heirs declaring that the interment space is considered to be abandoned. If the owner of record or the owner of record's heirs do not respond within three years from the date that notice is served, the abandonment is considered to be complete. The ownership in or right to an abandoned interment space shall revert to the cemetery in which the abandoned interment space is located and the cemetery may sell and convey title to the interment space.

3. SERVICE OF NOTICE. Notice under this section shall be served personally on the owner of record or the owner of record's heirs, or may be served by mailing notice by certified mail to the owner of record or to the owner of record's heirs at the last known address. If the address

of the owner of record or the owner of record's heirs cannot be ascertained, notice of abandonment shall be given by one publication of the notice in the official newspaper of the county in which the cemetery is located.

Sec. 38. NEW SECTION. 523I.316 PROTECTION OF CEMETERIES AND BURIAL SITES.

1. EXISTENCE OF CEMETERY OR BURIAL SITE — NOTIFICATION. If a governmental subdivision is notified of the existence of a cemetery, or a marked burial site that is not located in a dedicated cemetery, within its jurisdiction and the cemetery or burial site is not otherwise provided for under this chapter, the governmental subdivision shall, as soon as is practicable, notify the owner of the land upon which the cemetery or burial site is located of the cemetery's or burial site's existence and location. The notification shall include an explanation of the provisions of this section. If there is a basis to believe that interment may have occurred more than one hundred fifty years earlier, the governmental subdivision shall also notify the state archaeologist.

2. DISTURBANCE OF INTERMENT SPACES — PENALTY. A person who knowingly and without authorization damages, defaces, destroys, or otherwise disturbs an interment space commits criminal mischief in the third degree. Criminal mischief in the third degree is an aggravated misdemeanor.

3. DUTY TO PRESERVE AND PROTECT. A governmental subdivision having a cemetery, or a burial site that is not located within a dedicated cemetery, within its jurisdiction, for which preservation is not otherwise provided, shall preserve and protect the cemetery or burial site as necessary to restore or maintain its physical integrity as a cemetery or burial site. The governmental subdivision may enter into an agreement to delegate the responsibility for the preservation and protection of the cemetery or burial site to a private organization interested in historical preservation.

4. CONFISCATION AND RETURN OF MEMORIALS. A law enforcement officer having reason to believe that a memorial or memorialization is in the possession of a person without authorization or right to possess the memorial or memorialization may take possession of the memorial or memorialization from that person and turn it over to the officer's law enforcement agency. If a law enforcement agency determines that a memorial or memorialization the agency has taken possession of rightfully belongs on an interment space, the agency shall return the memorial or memorialization to the interment space, or make arrangements with the person having jurisdiction over the interment space for its return.

5. BURIAL SITES LOCATED ON PRIVATE PROPERTY. If a person notifies a governmental subdivision that a burial site of the person's relative is located on property owned by another person within the jurisdiction of the governmental subdivision, the governmental subdivision shall notify the property owner of the location of the burial site and that the property owner is required to permit the person reasonable ingress and egress for the purposes of visiting the burial site of the person's relative.

6. DISCOVERY OF HUMAN REMAINS. Any person discovering human remains shall notify the county or state medical examiner or a city, county, or state law enforcement agency as soon as is reasonably possible unless the person knows or has good reason to believe that such notice has already been given or the discovery occurs in a cemetery. If there is reason to believe that interment may have occurred more than one hundred fifty years earlier, the governmental subdivision notified shall also notify the state archaeologist. A person who does not provide notice required pursuant to this subsection commits a serious misdemeanor.

SUBCHAPTER 4
COUNTY CEMETERY COMMISSIONS AND NEGLECTED CEMETERIES

Sec. 39. NEW SECTION. 523I.401 NEGLECTED CEMETERIES.

The commissioner shall create a form that interested persons may use to report neglected cemeteries to the commissioner. The commissioner shall catalog and review the neglected

cemetery reports received on or before December 31, 2007, conduct site visits as warranted to determine the nature or extent of any neglect, and publish a report of findings on or before December 31, 2008.

Sec. 40. NEW SECTION. 523I.402 REMOVAL OF REMAINS.

1. Upon a showing of good cause, a county cemetery commission may file suit in the district court in that county to have remains interred in a cemetery owned and operated by the commission removed to another cemetery. All persons in interest, known or unknown, other than the plaintiffs, shall be made defendants to the suit. If any parties are unknown, notice may be given by publication. After hearing and a showing of good cause for the removal, the court may order the removal of the remains and the remains shall be properly interred in another cemetery, at the expense of the county. The removal and reinterment of the remains shall be done pursuant to a disinterment permit issued under section 144.34 with due care and decency. In deciding whether to order the removal of interred remains, a court shall consider present or future access to the cemetery, the historical significance of the cemetery, and the wishes of the parties concerned if they are brought to the court's attention, including the desire of any beneficiaries to reserve their rights to waive a reservation of rights in favor of removal, and shall exercise the court's sound discretion in granting or refusing the removal of interred remains.

2. Any heir at law or descendent of a deceased person interred in a neglected cemetery may file suit in the district court in the county where the cemetery is located, to have the deceased person's remains interred in the cemetery removed to another cemetery. The owner of the land, any beneficiaries of any reservation of rights, and any other persons in interest, known or unknown, other than the plaintiffs shall be made defendants. If any parties are unknown, notice may be given by publication. After hearing and upon a showing of good cause, the court may order removal and the proper interment of the remains in another cemetery, at the expense of the petitioner. The removal and reinterment shall be done with due care and decency.

SUBCHAPTER 5
GOVERNMENTAL SUBDIVISIONS

Sec. 41. NEW SECTION. 523I.501 CEMETERY AUTHORIZED.

The governing body of a governmental subdivision may purchase, establish, operate, enclose, improve, or regulate a cemetery. A cemetery owned or operated by a governmental subdivision may sell interment rights subject to the provisions of this chapter.

Sec. 42. NEW SECTION. 523I.502 TRUST FOR CEMETERY.

1. A governmental subdivision that owns or operates a cemetery or has control of cemetery property may act as a permanent trustee for the perpetual maintenance of interment spaces in the cemetery.

2. To act as a trustee, a majority of the governmental subdivision's governing body must adopt an ordinance or resolution stating the governmental subdivision's willingness and intention to act as a trustee for the perpetual maintenance of cemetery property. When the ordinance or resolution is adopted and the trust is accepted, the trust is perpetual.

Sec. 43. NEW SECTION. 523I.503 AUTHORITY TO RECEIVE GIFTS AND DEPOSITS FOR CARE — CERTIFICATES.

1. A governmental subdivision that is a trustee for the perpetual maintenance of a cemetery may adopt reasonable rules governing the receipt of a gift or grant from any source.

2. A governmental subdivision that is a trustee for a person shall accept the amount the governmental subdivision requires for permanent maintenance of an interment space on behalf of that person or a decedent.

3. A governmental subdivision's acceptance of a deposit for permanent maintenance of an interment space constitutes a perpetual trust for the designated interment space.

4. Upon acceptance of a deposit, a governmental subdivision's secretary, clerk, or mayor

shall issue a certificate in the name of the governmental subdivision to the trustee or depositor. The certificate shall state all of the following:

a. The depositor's name.

b. The amount and purpose of the deposit.

c. The location, with as much specificity as possible, of the interment space to be maintained.

d. Other information required by the governmental subdivision.

5. An individual, association, foundation, or corporation that is interested in the maintenance of a neglected cemetery in a governmental subdivision's possession and control may donate funds to the cemetery's perpetual trust fund to beautify and maintain the entire cemetery or burial grounds generally.

Sec. 44. NEW SECTION. 523I.504 APPOINTMENT OF SUCCESSOR TRUSTEE.

A district judge of a county in which a cemetery is located shall appoint a suitable successor or trustee to faithfully execute a trust in accordance with this subchapter if a governmental subdivision renounces a trust assumed under this subchapter, fails to act as its trustee, a vacancy occurs, or the appointment of a successor or trustee is otherwise necessary.

Sec. 45. NEW SECTION. 523I.505 COUNTY AUDITOR AS TRUSTEE.

1. In the absence of a trustee for care funds, unless otherwise provided by law, the care funds shall be placed in the hands of the county auditor, who shall provide a receipt for, loan, and make annual reports of the care funds.

2. The county auditor shall not be required to post a bond.

3. The county auditor shall serve without compensation, but may, out of the income received, pay all proper items of expense incurred in the performance of the auditor's duties as trustee, if any.

4. The county auditor shall make a full report of the trustee's actions and trust funds annually in January. The net proceeds for care funds received by the county auditor as trustee shall be apportioned and credited to each of any separate care funds assigned to the auditor.

5. The county auditor shall turn over the accrued income from each care fund annually to the person having control of the cemetery.

Sec. 46. NEW SECTION. 523I.506 COMMINGLING OF CARE FUNDS BY GOVERNMENTAL SUBDIVISIONS.

A governmental subdivision subject to this section may commingle care funds for more than one cemetery for the purposes of investment and administration and may file a single report, if each cemetery is appropriately identified and separate records are maintained for each cemetery.

Sec. 47. NEW SECTION. 523I.507 INVESTMENT OF CARE FUNDS BY GOVERNMENTAL SUBDIVISIONS.

Notwithstanding section 12B.10, a perpetual care cemetery owned by a governmental subdivision may invest and reinvest deposits pursuant to the requirements of this chapter. The trustee shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of the trust funds has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the trust fund.

Sec. 48. NEW SECTION. 523I.508 MANAGEMENT BY GOVERNMENTAL SUBDIVISIONS.

1. POLITICAL SUBDIVISIONS AS TRUSTEES. Counties, cities, irrespective of their form

of government, boards of trustees of cities to whom the management of municipal cemeteries has been transferred by ordinance, and civil townships wholly outside of any city, are trustees in perpetuity, and are required to accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund for which there is no other acting trustee, shall be used in caring for the property of the donor or lot owner who by purchase or otherwise has provided for the perpetual care of an interment space in any cemetery, or in accordance with the terms of the donation, bequest, or agreement for sale and purchase of an interment space, and the money or property thus received shall be used for no other purpose.

2. AUTHORITY TO INVEST FUNDS — CURRENT CARE CHARGE PAYMENTS. The board of supervisors, mayor and council, or other elected governmental body, as the case may be, may receive and invest all moneys and property, donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against cemetery lots which have been set aside in a perpetual care fund, and in so investing, shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of the trust funds has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the trust fund. The income from the investment shall be used in caring for the property of the donor in any cemetery, or as provided in the terms of the gift or donations or agreement for sale and purchase of a cemetery lot.

All current care charge payments received shall be allocated to the perpetual care fund or to the fund paying the costs of cemetery operations. Care charge payments received one year or more after the date they were incurred shall be used to fund the cost of operating the cemetery. Care charge payments received one year or more in advance of their due date shall be deposited in the perpetual care fund. Interest from the perpetual care fund shall be used for the maintenance of both occupied and unoccupied lots or spaces. Any remaining interest may be used for costs of access roads and paths, fencing, and general maintenance of the cemetery. Lots under perpetual care shall be maintained in accordance with the cemetery covenants of sale.

3. RESOLUTION OF ACCEPTANCE — INTEREST. Before any part of the principal may be invested or used, the county, city, board of trustees of a city to whom the management of a municipal cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the moneys described in subsection 1 and, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space.

If there is no person in charge of the cemetery, the income from the fund shall be expended under the direction of the board of supervisors, city council, board of trustees, or civil township trustees, as the case may be, in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space.

4. DELEGATES TO CONVENTIONS. A township having one or more cemeteries under its control may designate, not to exceed two, officials from each cemetery as delegates to attend meetings of cemetery officials, and certain expenses, including association dues, not to exceed twenty-five dollars, of the delegates may be paid out of the cemetery fund of the township.

5. SUBSCRIBING TO PUBLICATIONS. The cemetery officials of every township having a cemetery under its control may subscribe to one or more publications devoted exclusively to cemetery management, and the subscriptions may be paid out of the cemetery fund of the township.

SUBCHAPTER 6
GENERAL PROVISIONS

Sec. 49. NEW SECTION. 523I.601 SETTLEMENT OF ESTATES — MAINTENANCE FUND.

The court in which the estate of a deceased person is administered, before final distribution, may allow and set apart from the estate a sum sufficient to provide an income adequate to pay for the perpetual care and upkeep of the interment spaces upon which the body of the deceased is buried, except where perpetual care has otherwise been provided for. The sum so allowed and set apart shall be paid to a trustee as provided by this chapter.

Sec. 50. NEW SECTION. 523I.602 MANAGEMENT BY TRUSTEE.

1. TRUSTEE APPOINTED — TRUST FUNDS. The owners of, or any party interested in, a cemetery may, by petition presented to the district court of the county where the cemetery is situated, have a trustee appointed with authority to receive any and all moneys or property that may be donated for and on account of the cemetery and to invest, manage, and control the moneys or property under the direction of the court. However, the trustee shall not be authorized to receive any gift, except with the understanding that the principal sum is to be a permanent fund, and only the net proceeds therefrom shall be used in carrying out the purpose of the trust created, and all such funds shall be exempt from taxation.

2. REQUISITES OF PETITION. The petition shall state the amount proposed to be placed in such trust fund, the manner of investment thereof, and the provisions made for the disposition of any surplus income not required for the care and upkeep of the property described in such petition.

3. APPROVAL OF COURT — SURPLUS FUND. Such provisions shall be subject to the approval of the court and when so approved the trust fund and the trustee thereof shall, at all times, be subject to the orders and control of the court and such surplus arising from the trust fund shall not be used except for charitable, eleemosynary, or public purposes under the direction of the court.

4. RECEIPT — CEMETERY RECORD. Every such trustee shall execute and deliver to the donor a receipt showing the amount of money or other property received, and the use to be made of the net proceeds from the same, duly attested by the clerk of the court granting letters of trusteeship, and a copy thereof, signed by the trustee and so attested, shall be filed with and recorded by the clerk in a book to be known as the cemetery record, in which shall be recorded all reports and other papers, including orders made by the court relative to cemetery matters.

5. INVESTMENTS. Any such trustee may receive and invest all moneys and property, so donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against interment spaces which has been set aside in a perpetual care fund, in such authorized investments and in the manner prescribed in section 636.23.

6. BOND — APPROVAL — OATH. Every such trustee before entering upon the discharge of the trustee's duties or at any time thereafter when required by the court shall give a bond in an amount as may be required by the court, approved by the clerk, and conditioned for the faithful discharge of the trustee's duties, and take and subscribe an oath the same in substance as the condition of the bond, which bond and oath must be filed with the clerk.

7. CLERK — DUTY OF. At the time of filing each bond and oath the clerk shall at once advise the court as to the amount of the principal fund in the hands of such trustee, the amount of the bond filed, and whether it is good and sufficient for the amount given.

8. COMPENSATION — COSTS. Such trustee shall serve without compensation, but may, out of the income received, pay all proper items of expense incurred in the performance of the trustee's duties, including cost of the bond, if any.

9. ANNUAL REPORT. Such trustee shall make a full report of the trustee's doings in the month of January following appointment and in January of each successive year. In each report the trustee shall apportion the net proceeds received from the sum total of the permanent funds assigned to the trustee in trust.

10. REMOVAL — VACANCY FILLED. Any such trustee may be removed by the court at any time for cause, and in the event of removal or death, the court shall appoint a new trustee and require the new trustee's predecessor or the predecessor's personal representative to make a full accounting.

Sec. 51. NEW SECTION. 523I.603 OWNERS OF INTERMENT RIGHTS.

1. An interment space in which exclusive rights of interment are conveyed is presumed to be the separate property of the person named as grantee in the certificate of interment rights or other instrument of conveyance.

2. Two or more owners of interment rights may designate a person to represent the interment space and file notice of the designation of a representative with the cemetery. If notice is not filed, the cemetery may inter or permit an interment in the interment space at the request or direction of a registered co-owner of the interment space.

Sec. 52. NEW SECTION. 523I.604 LIEN AGAINST CEMETERY PROPERTY.

1. A cemetery, by contract, may incur indebtedness as necessary to conduct its business and may secure the indebtedness by mortgage, deed of trust, or other lien against its property.

2. A mortgage, deed of trust, or other lien placed on dedicated cemetery property, or on cemetery property that is later dedicated with the consent of the holder of the lien, does not affect the dedication and is subject to the dedication. A sale on foreclosure of the lien is subject to the dedication of the property for cemetery purposes.

Sec. 53. NEW SECTION. 523I.605 PRIVATE CARE OF GRAVES.

This subchapter does not affect the right of a person who has an interest in an interment space, or who is a relative of a decedent interred in a cemetery, to beautify or maintain an interment space individually or at the person's own expense in accordance with reasonable rules established by the cemetery.

SUBCHAPTER 7
LAWN CRYPTS

Sec. 54. NEW SECTION. 523I.701 REQUIREMENTS FOR LAWN CRYPTS.

A lawn crypt shall not be installed unless all of the following apply:

1. The lawn crypt is constructed of concrete and reinforced steel or other comparable durable material.

2. The lawn crypt is installed on not less than six inches of rock, gravel, or other drainage material.

3. The lawn crypt provides a method to drain water out of the lawn crypt.

4. The lawn crypt is capable of withstanding the weight of the soil and sod above the top surface and the weight of machinery and equipment normally used in the maintenance of the cemetery.

5. Except as provided by section 523I.702, the lawn crypt is installed in multiple units of ten or more.

6. The lawn crypt shall be installed in compliance with any applicable law or rule adopted by the department of public health.

Sec. 55. NEW SECTION. 523I.702 REQUEST TO INSTALL LAWN CRYPTS IN FEWER THAN TEN UNITS.

1. A lawn crypt may be installed in fewer than ten units if it is installed in an interment space pursuant to a written request to the commissioner signed by the owner or owners of the interment space.

2. The written request shall be filed on a form prescribed by the commissioner and shall contain substantially all of the following information:

a. The owner's name and address.

b. The name of the cemetery and the owner of the cemetery.

c. The number of lawn crypt units to be installed.

d. A description of the interment spaces.

e. A statement that the lawn crypt meets the requirements of section 523I.701, including all of the following:

(1) A statement that the lawn crypt will be constructed of concrete and reinforced steel or other comparable durable materials.

(2) A statement that the lawn crypt will be installed on not less than six inches of rock, gravel, or other drainage material.

(3) A statement that the lawn crypt will provide a method to drain water out of the lawn crypt.

(4) A statement that the outside top surface of the lawn crypt at the time of installation will be capable of withstanding the weight of the soil and sod above the top surface and the weight of machinery and equipment normally used in the maintenance of the cemetery.

f. A statement that the space in which the lawn crypt is to be installed is located in a garden.

g. The date on which a representative of the cemetery signed the form.

SUBCHAPTER 8
PERPETUAL CARE CEMETERIES — REQUIREMENTS

Sec. 56. NEW SECTION. 523I.801 APPLICABILITY AND CONVERSION BY NONPERPETUAL CARE CEMETERIES.

1. All cemeteries are designated as either "perpetual care cemeteries" or "nonperpetual care cemeteries" for the purposes of this chapter. A cemetery that represents that it is offering perpetual care on or after July 1, 2005, is subject to this subchapter.

2. A cemetery that operates a nonperpetual care cemetery may elect to become a perpetual care cemetery if at all times subsequent to the date of the election, the cemetery complies with the other requirements of this subchapter except section 523I.805.

Sec. 57. NEW SECTION. 523I.802 ADVERTISING.

1. A cemetery shall not advertise, represent, guarantee, promise, or contract to provide or offer perpetual care or use terms or phrases like permanent care, permanent maintenance, care forever, continuous care, eternal care, or everlasting care to imply that a certain level of care and financial security will be furnished or is guaranteed except in compliance with the provisions of this subchapter.

2. A cemetery or person advertising or selling interment rights shall not represent that the purchase of the interment rights is or will be a desirable speculative investment for resale purposes.

Sec. 58. NEW SECTION. 523I.803 PERPETUAL CARE REGISTRY.

1. A cemetery that operates a perpetual care cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of this subchapter.

2. The registry shall include the amount deposited in trust for each interment rights agreement entered into on or after July 1, 1995.

Sec. 59. NEW SECTION. 523I.804 USE OF GIFT FOR SPECIAL CARE.

A trustee may accept and hold money or property transferred to the trustee in trust for the purpose of applying the principal or income of the money or property transferred for a purpose consistent with the purpose of a perpetual care cemetery, including the following:

1. Improvement or embellishment of any part of the cemetery.

2. Erection, renewal, repair, or preservation of a monument, fence, building, or other structure in the cemetery.

3. Planting or cultivation of plants in or around the cemetery.

4. Special care of or embellishment of an interment space, section, or building in the cemetery.

Sec. 60. NEW SECTION. 523I.805 INITIAL DEPOSIT.

1. A cemetery owned or operated by a political subdivision of this state is not required to make a minimum initial deposit in a care fund. Any other cemetery commencing business in this state on or after July 1, 2005, shall not sell interment spaces unless the cemetery has a care fund of at least twenty-five thousand dollars in cash.

2. If an initial deposit is made by a cemetery to satisfy subsection 1, the initial twenty-five thousand dollar deposit may be withdrawn by the cemetery when the care fund balance reaches one hundred thousand dollars. An affidavit shall be filed with the commissioner providing prior notice of the intended withdrawal of the initial deposit and attesting that the money has not previously been withdrawn. Upon a showing by the cemetery that the initial deposit has not previously been withdrawn, the commissioner shall approve withdrawal of the money and the withdrawal shall take place within one year after the care fund balance reaches one hundred thousand dollars.

Sec. 61. NEW SECTION. 523I.806 IRREVOCABLE TRUST.

1. A perpetual care cemetery shall establish a care fund as an irrevocable trust to provide for the care of the cemetery, which shall provide for the appointment of a trustee, with perpetual succession.

2. The care fund shall be administered under the jurisdiction of the district court of the county where the cemetery is located. Notwithstanding chapter 633, annual reports shall not be required unless specifically required by the district court. Reports shall be filed with the court when necessary to receive approval of appointments of trustees, trust agreements and amendments, changes in fees or expenses, and other matters within the court's jurisdiction. A court having jurisdiction over a care fund shall have full jurisdiction to approve the appointment of trustees, the amount of surety bond required, if any, and investment of funds.

Sec. 62. NEW SECTION. 523I.807 CARE FUND DEPOSITS.

1. To continue to operate as a perpetual care cemetery, a cemetery shall set aside and deposit in the care fund an amount equal to or greater than fifty dollars or twenty percent of the gross selling price received by the cemetery for each sale of interment rights, whichever is more.

2. A cemetery may require a contribution to the care fund for perpetual care of a memorial or memorialization placed in the cemetery. A cemetery may establish a separate care fund for this purpose. The contributions shall be nonrefundable and shall not be withdrawn from the trust fund once deposited. The amount charged shall be uniformly charged on every installation of a memorial, based on the height and width of the memorial or the size of the ground surface area used for the memorial. A fee for special care of a memorial may be collected if the terms of the special care items and arrangements are clearly specified in the interment rights agreement. Except as otherwise provided in an interment rights agreement, a cemetery is not liable for repair or maintenance of memorials or vandalism. A cemetery may use income from a care fund to repair or replace memorials or interment spaces damaged by vandalism or acts of God.

3. Moneys shall be deposited in the care fund no later than the fifteenth day after the close of the month when the cemetery receives the final payment from a purchaser of interment rights.

Sec. 63. NEW SECTION. 523I.808 AUDIT FEE.

An audit fee shall be submitted with the cemetery's annual report in an amount equal to five dollars for each certificate of interment rights issued during the fiscal year covered by the report. The cemetery may charge the audit fee directly to the purchaser of the interment rights.

Sec. 64. NEW SECTION. 523I.809 TRUST AGREEMENT PROVISIONS.

1. A trust agreement shall provide for the appointment of at least one trustee, with perpetual

succession, in case the cemetery is dissolved or ceases to be responsible for the cemetery's care.

2. A cemetery and the trustee or trustees of the care fund may, by agreement, amend the instrument that established the fund to include any provision that is necessary to comply with the requirements of this chapter.

3. A cemetery is responsible for the deposit of all moneys required to be placed in a care fund.

4. The commissioner may require the amending of a trust agreement that is not in accord with the provisions of this chapter.

Sec. 65. NEW SECTION. 523I.810 CARE FUNDS.

1. A trustee of a care fund shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of a care fund has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the care fund.

a. A financial institution may serve as a trustee if granted those powers under the laws of this state or of the United States. A financial institution acting as a trustee of a care fund under this chapter shall invest the funds in accordance with applicable law.

b. A financial institution acting as a trustee of a care fund under this chapter has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the financial institution. The commissioner may take enforcement action against a financial institution in its capacity as trustee for a breach of fiduciary duty under this chapter.

c. Care fund moneys may be deposited pursuant to a master trust agreement, if each care fund is treated as a separate beneficiary of the trust and each care fund is separable. The master trust shall maintain a separate accounting of principal and income for each care fund. Moneys deposited under a master trust agreement may be commingled by the financial institution for investment purposes.

d. Subject to a master trust agreement, the cemetery may appoint an independent investment advisor to advise the financial institution about investment of the care fund.

e. Subject to an agreement between the cemetery and the financial institution, the financial institution may receive a reasonable fee from the care fund for services rendered as trustee.

f. If the amount of a care fund exceeds two hundred thousand dollars, the cemetery or any officer, director, agent, employee, or affiliate of the cemetery shall not serve as trustee unless the cemetery is a cemetery owned or operated by a governmental subdivision of this state. A financial institution holding care funds shall not do any of the following:

(1) Be owned, under the control of, or affiliated with the cemetery.

(2) Use any funds required to be held in trust under this chapter to purchase an interest in a contract or agreement to which the cemetery is a party.

(3) Otherwise invest care funds, directly or indirectly, in the cemetery's business operations.

2. All moneys required to be deposited in the care fund shall be deposited in the name of the trustee, as trustee, under the terms of a trust agreement and the trustee may invest, reinvest, exchange, retain, sell, and otherwise manage the care fund trust for the benefit and protection of the cemetery.

3. This section does not prohibit a cemetery from moving care funds from one financial institution to another.

4. A care fund may receive and hold as part of the care fund or as an incident to the care fund any property contributed to the care fund.

5. A contribution to a care fund is considered to be for charitable purposes if the care financed by the care fund is for the following purposes:

a. The discharge of a duty due from the cemetery to persons interred and to be interred in the cemetery.

b. The benefit and protection of the public by preserving and keeping the cemetery in a dignified condition so that the cemetery does not become a nuisance or a place of disorder, reproach, and desolation in the community in which the cemetery is located.

6. A contribution to a care fund is not invalid because of the following:

a. Indefiniteness or uncertainty as to the person designated as a beneficiary in the instrument establishing the care fund.

b. A violation of the law against perpetuities or the law against the suspension of the power of alienation of title to or use of property.

7. A care fund shall pay the fund's operation costs and any annual audit fees. The principal of a care fund is intended to remain available perpetually as a funding source for care of the cemetery. The principal of a care fund shall not be reduced voluntarily and shall remain inviolable, except as provided in this section. The trustee or trustees of a care fund shall maintain the principal of the care fund separate from all operating funds of the cemetery.

8. In establishing a care fund, the cemetery may adopt plans for the care of the cemetery and installed memorials and memorialization.

9. A cemetery may, by resolution adopted by a vote of at least two-thirds of the members of its board at any authorized meeting of the board, authorize the withdrawal and use of not more than twenty percent of the principal of the care fund to acquire additional land for cemetery purposes, to repair a mausoleum or other building or structure intended for cemetery purposes, or to build, improve, or repair roads and walkways in the cemetery. The resolution shall establish a reasonable repayment schedule, not to exceed five years, and provide for interest in an amount comparable to the care fund's current rate of return on its investments. However, the care fund shall not be diminished below an amount equal to the greater of twenty-five thousand dollars or five thousand dollars per acre of land in the cemetery. The resolution, and either a bond or proof of insurance to guarantee replenishment of the care fund, shall be filed with the commissioner thirty days prior to the withdrawal of funds.

Sec. 66. NEW SECTION. 523I.811 USE OF DISTRIBUTIONS FROM CARE FUND.

1. Care fund distributions may be used in any manner determined to be in the best interests of the cemetery if authorized by a resolution, bylaw, or other action or instrument establishing the care fund, including but not limited to the general care of memorials, memorialization, and any of the following:

a. Cutting and trimming lawns, shrubs, and trees at reasonable intervals.

b. Maintaining drains, water lines, roads, buildings, fences, and other structures.

c. Maintaining machinery, tools, and equipment.

d. Compensating maintenance employees, paying insurance premiums, and making payments to employees' pension and benefit plans.

e. Paying overhead expenses incidental to such purposes.

f. Paying expenses necessary to maintain ownership, transfer, and interment records of the cemetery.

2. The commissioner may, by rule, establish terms and conditions under which a cemetery may withdraw capital gains from the care fund.

Sec. 67. NEW SECTION. 523I.812 SUIT BY COMMISSIONER.

1. If the person or persons in control of a cemetery do not care for and maintain the cemetery, the district court of the county in which the cemetery is located may do the following:

a. By injunction compel the cemetery to expend the net income of the care fund as required by this chapter.

b. Appoint a receiver to take charge of the care fund and expend the net income of the care fund as required by this chapter.

c. Grant relief on a petition for relief filed pursuant to this section by the commissioner.

2. Inadequate care and maintenance of a cemetery includes but is not limited to the following:

a. Failure to adequately mow grass.

b. Failure to adequately edge and trim bushes, trees, and memorials.
c. Failure to keep walkways and sidewalks free of obstructions.
d. Failure to adequately maintain the cemetery's equipment and fixtures.
This subsection is not intended to prevent the establishment of a cemetery as a nature park or preserve.

Sec. 68. NEW SECTION. 523I.813 ANNUAL REPORT BY PERPETUAL CARE CEMETERIES.
1. A perpetual care cemetery shall file a written report at the end of each fiscal year of the cemetery that includes all of the following:
a. The name and address of the cemetery.
b. The name and address of the corporation that owns the cemetery, if any.
c. A description of any common business enterprise or parent company that owns the cemetery, if any.
d. The name and address of any owner, officer, or other official of the cemetery, including, when relevant, the chief executive officer and the members of the board of directors.
e. The name and address of any trustee holding trust funds for the cemetery, including the name and location of the applicable trust account.
f. An affidavit that the cemetery is in compliance with this chapter.
g. Copies of all sales agreement forms used by the cemetery.
h. The amount of the principal of the cemetery's care funds or maintenance funds, if any, at the end of the fiscal year.
2. The report shall be filed with the commissioner within four months following the end of the cemetery's fiscal year in the form required by the commissioner.

Sec. 69. NEW SECTION. 523I.814 UNIFIED ANNUAL REPORTS.
The commissioner shall permit the filing of a unified report in the event of commonly owned or affiliated cemeteries if each cemetery is separately identified and separate records are maintained for each cemetery.

Sec. 70. Section 602.8102, subsection 81, Code 2005, is amended to read as follows:
81. Carry out duties relating to cemeteries as provided in ~~sections 566.4, 566.7, and 566.8~~ section 523I.602.

Sec. 71. Section 602.8104, subsection 2, paragraph h, Code 2005, is amended to read as follows:
h. A cemetery record as provided in section ~~566.4~~ 523I.602.

Sec. 72. Section 636.23, subsection 14, Code 2005, is amended to read as follows:
14. LIMITATION AS TO COURT-APPROVED INVESTMENTS. This section does not prohibit investment of such funds in a savings account or time certificate of deposit of a bank or savings and loan association, located within the city or its county of this state and when first approved by the court. However, a city that is the trustee of a cemetery as provided in section ~~566.14~~ 523I.508 may invest perpetual care funds in a savings account or certificates of deposit at a bank or savings and loan association, located in this state without court approval.

Sec. 73. Section 359.41, Code 2005, is repealed.

Sec. 74. Chapters 523I, 566, and 566A, Code 2005, are repealed.

Approved May 12, 2005

CHAPTER 129

STATE GOVERNMENT FINANCE INITIATIVES

H.F. 837

AN ACT relating to state government financial matters concerning charter agencies, the state appeal board, and reinvention initiatives of the department of management, and making appropriations.

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

Section 1. Section 7J.1, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. For the fiscal period beginning July 1, 2003, and ending June 30, ~~2005~~ 2006, a charter agency is not subject to a uniform reduction ordered by the governor in accordance with section 8.31.

Sec. 2. Section 7J.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. APPEAL BOARD FLEXIBILITY. Notwithstanding any provision of law to the contrary, a charter agency shall not be required to obtain state appeal board approval for payment of prior year claims from funds other than the general fund of the state.

Sec. 3. 2004 Iowa Acts, chapter 1175, section 213, is amended to read as follows:

SEC. 213. STATE APPEAL BOARD STREAMLINING. For the fiscal ~~year~~ period beginning July 1, 2004, and ending June 30, 2007, the state appeal board may pay out of any moneys in the state treasury not otherwise appropriated for costs associated with streamlining and improving the state appeal board process.

Sec. 4. 2004 Iowa Acts, chapter 1175, section 272, is amended to read as follows:

SEC. 272. Notwithstanding section 8.33, moneys appropriated in 2003 Iowa Acts, chapter 178, section 62, and 2003 Iowa Acts, chapter 181, section 11, subsection 3, which remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2003, shall not revert but shall remain available for expenditure for the purposes for which they were appropriated for the fiscal ~~year~~ period beginning July 1, 2004, and ending June 30, 2007.

Approved May 12, 2005

CHAPTER 130

ENTERPRISE ZONES — ELIGIBLE HOUSING BUSINESSES

H.F. 857

AN ACT relating to eligible housing businesses under the enterprise zone program.

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

Section 1. Section 15E.193B, subsection 8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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. The tax credit certificate shall be transferable if the housing development is located in a brownfield site as defined in section 15.291, if the housing development is located in a blighted area as defined in section 403.17, or 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. Not more than three million dollars worth of tax credits for housing developments that are located in a brownfield site as defined in section 15.291 or housing developments located in a blighted area as defined in section 403.17 shall be transferred in one calendar year. The three million dollar annual limit does not apply to tax credits awarded to an eligible housing business having low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development. The department may approve an application for tax credit certificates for transfer from an eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 that would result in the issuance of more than three million dollars of tax credit certificates for transfer provided the department, through negotiation with the eligible business, allocates those tax credit certificates for transfer over more than one calendar year. The department shall not issue more than one million five hundred thousand dollars in tax credit certificates for transfer to any one eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 in a calendar year. If three million dollars in tax credit certificates for transfer have not been issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued in advance to an eligible housing business scheduled to receive a tax credit certificate for transfer in a later calendar year. Any time the department issues a tax credit certificate for transfer which has not been allocated at the end of a calendar year, the department may prorate the remaining certificates to more than one eligible applicant. If the entire three million dollars of tax credit certificates for transfer is not issued in a given calendar year, the remaining amount may be carried over to a succeeding calendar year. 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. 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.

Sec. 2. APPLICABILITY. This Act shall apply to transfers of tax credit certificates for projects that begin on or after July 1, 2005.

Approved May 12, 2005

CHAPTER 131

MOTOR VEHICLE FINANCIAL RESPONSIBILITY
— SPECIAL MOBILE EQUIPMENT

H.F. 870

AN ACT relating to the applicability of motor vehicle financial responsibility provisions to special mobile equipment and providing an effective date.

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

Section 1. Section 321A.1, subsections 3 and 5, Code 2005, are amended to read as follows:

3. JUDGMENT. A judgment which has become final by expiration without appeal during the time within which an appeal might have been perfected, or a judgment if an appeal from the judgment has been perfected, which has not been stayed by the execution, filing and approval of a bond as provided in rule of appellate procedure 6.7(1), or a judgment which has become final by affirmation on appeal, rendered by a court of competent jurisdiction of a state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of a motor vehicle, as defined in this section, for damages, including damages for care and loss of services, because of bodily injury to or death of a person, or for damages because of injury to or destruction of property, including the loss of use of property, or upon a cause of action on an agreement of settlement for such damages.

5. MOTOR VEHICLE. "Motor vehicle" means every vehicle which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires~~, but~~ and not operated upon rails. The term "car" or "automobile" shall be synonymous with the term "motor vehicle". "Motor vehicle" does not include special mobile equipment as defined in this section.

Sec. 2. Section 321A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. SPECIAL MOBILE EQUIPMENT. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and implements of husbandry as defined in section 321.1, subsection 32. This description does not exclude other vehicles which are within the general terms of this subsection.

Sec. 3. Section 321A.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. To the operator or owner of special mobile equipment.

Sec. 4. IMPLEMENTATION. The department may adopt rules pursuant to chapter 17A as necessary to implement and administer this Act.

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

Approved May 12, 2005

CHAPTER 132

FINGERPRINTING OF CHILDREN

H.F. 685

AN ACT establishing the child identification and protection Act, which prohibits the fingerprinting of children, and providing for exceptions.

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

Section 1. NEW SECTION. 726.21 SHORT TITLE.

This division shall be known as and may be cited as the "Child Identification and Protection Act".

Sec. 2. NEW SECTION. 726.22 DEFINITIONS.

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

1. "Child" means any person under eighteen years of age.

2. "Governmental unit" means the state, or any county, municipality, or other political subdivision of the state, or any department, board, division, or other agency of any of these entities; an authorized representative of the state, or any county, municipality, or other political subdivision of the state, or of a department, board, division, or other agency of any of these entities; or a school district or an authorized representative of a school district.

Sec. 3. NEW SECTION. 726.23 FINGERPRINTING OF CHILDREN PROHIBITED — EXCEPTION — CONDITIONS.

1. Except as provided in subsection 2, a governmental unit shall not fingerprint a child.

2. A governmental unit may fingerprint a child if one or more of the following conditions apply:

a. A parent or guardian has given written authorization for the taking of the fingerprints for use in the future in case the child becomes a runaway or a missing child. Only one set of prints shall be taken and the fingerprint cards shall be given to the parent or guardian. The fingerprints, written authorizations for fingerprinting, or notice of the fingerprints' existence shall not be recorded, stored, or kept in any manner by a law enforcement agency, except as provided in this division or except at the request of the parent or guardian if the child becomes a runaway or a missing child. When the child is located or the case is otherwise disposed of, the fingerprint cards shall be returned to the parents or guardian.

b. Fingerprints are required to be taken pursuant to section 232.148, 690.2, or 690.4.

c. Fingerprints are required by court order.

d. Fingerprints are voluntarily given with the written permission of the child and parent or guardian, upon request of a law enforcement officer, to aid in a specific criminal investigation. Only one set of prints shall be taken and, upon completion of the investigation, the law enforcement agency shall return the fingerprint cards to the parent or guardian of the child.

Approved May 20, 2005

CHAPTER 133

MOTOR VEHICLE REGISTRATION FEE REFUNDS
— FORMER RESIDENTS

H.F. 718

AN ACT allowing a refund of unexpired motor vehicle registration fees to a vehicle owner who moves out of state.

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

Section 1. Section 321.126, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. If the owner of the motor vehicle moves out of state, the owner may make a claim for a refund by returning the Iowa registration plates, along with evidence of the vehicle's registration in another jurisdiction, to the county treasurer of the county in which the motor vehicle was registered within six months of the out-of-state registration. For purposes of section 321.127, the unexpired months remaining in the registration year shall be calculated on the basis of the effective date of the out-of-state registration. However, for the purpose of timely issuance of the refund, the claim for a refund under this subsection is considered to be filed on the date the registration documents are received by the county treasurer.

Approved May 20, 2005

CHAPTER 134

SALES AND USE TAX — LOW-INCOME HOUSING PROJECTS
OF NONPROFIT ORGANIZATIONS

H.F. 856

AN ACT providing a sales and use tax exemption for certain nonprofit organizations that build or repair low-income dwellings.

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

Section 1. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 85. The sales price from the sale of building materials, supplies, goods, wares, or merchandise sold to a nonprofit Iowa affiliate of a nonprofit international organization whose primary activity is the promotion of the construction, remodeling, or rehabilitation of one-family or two-family dwellings for use by low-income families and where the building materials, supplies, goods, wares, or merchandise are used in the construction, remodeling, or rehabilitation of such dwellings.

Sec. 2. Section 423.4, subsection 1, Code 2005, is amended to read as follows:

1. A private nonprofit educational institution in this state, nonprofit Iowa affiliate of a nonprofit international organization whose primary activity is the promotion of the construction, remodeling, or rehabilitation of one-family or two-family dwellings for low-income families, 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, a nonprofit Iowa affiliate described in this subsection, 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, becomes part of a low-income one-family or two-family dwelling in the state, 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, nonprofit Iowa affiliate, 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, nonprofit Iowa affiliate, or nonprofit private museum before final settlement is made.

b. Such governmental unit, educational institution, nonprofit Iowa affiliate, 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, nonprofit Iowa affiliate, 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.

Approved May 20, 2005

CHAPTER 135

COOPERATIVES

H.F. 859

AN ACT relating to the establishment of a form of business association referred to as a cooperative, and providing for fees and tax credits, providing penalties, and providing an effective date.

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

DIVISION I
ENACTMENT OF IOWA COOPERATIVE ASSOCIATIONS ACT
SUBCHAPTER 1
GENERAL PROVISIONS

Section 1. NEW SECTION. 501A.101 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Cooperative Associations Act".

Sec. 2. NEW SECTION. 501A.102 DEFINITIONS.

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

1. "Address" means mailing address, including a zip code. In the case of a registered address, the term means the mailing address and the actual office location, which shall not be a post office box.

2. "Alternative ballot" means a method of voting for a candidate or issue prescribed by the board in advance of the vote, and may include voting by electronic, telephonic, internet, or other means that reasonably allow members the opportunity to vote.

3. "Articles" means the articles of organization of a cooperative as originally filed or subsequently amended as provided in this chapter.

4. "Association" means a business entity on a cooperative plan and organized under the laws of this state or another state or that is chartered to conduct business under the laws of another state.

5. "Board" means the board of directors of a cooperative.

6. "Business entity" means a person organized under statute or common law in this state or another jurisdiction for purposes of engaging in a commercial activity on a profit, cooperative, or not-for-profit basis, including but not limited to a corporation or entity taxed as a corporation under the Internal Revenue Code, nonprofit corporation, cooperative or cooperative association, partnership, limited partnership, limited liability company, limited liability partnership, investment company, joint stock company, joint stock association, or trust, including but not limited to a business trust.

7. "Cooperative" means a business association organized under this chapter.

8. "Crop" means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

9. "Domestic business entity" means a business entity organized under the laws of this state, including but not limited to a corporation organized pursuant to chapter 490; a nonprofit corporation organized under chapter 504; a limited liability company as defined in section 490A.102; a partnership, limited partnership, limited liability partnership, or limited liability limited partnership as provided in chapter 486A, 487, or 488; or a cooperative association or other cooperative organized under this chapter or chapter 497, 498, 499, or 501.

10. "Domestic cooperative" means a cooperative association or other cooperative organized under this chapter or chapter 497, 498, 499, or 501.

11. "Foreign business entity" means a business entity that is not a domestic business entity.

12. "Foreign cooperative" means a foreign business entity organized to conduct business consistent with this chapter or chapter 497, 498, or 499.

13. "Iowa limited liability company" means a limited liability company governed by chapter 490A.

14. "Livestock" means the same as defined in section 717.1.

15. "Member" means a person or entity reflected on the books of a cooperative as the owner of governance rights of a membership interest of the cooperative and includes patron and nonpatron members.

16. "Member control agreement" means an instrument which controls the investment or governance of nonpatron members, which may be executed by the board and one or more nonpatron members and which may provide for their individual or collective rights to elect directors or to participate in the distribution or allocation of profits or losses.

17. "Membership interest" means a member's interest in a cooperative consisting of a member's financial rights, a member's right to assign financial rights, a member's governance rights, and a member's right to assign governance rights. "Membership interest" includes patron membership interests and nonpatron membership interests.

18. "Members' meeting" means a regular or special members' meeting.

19. "Nonpatron member" means a member who holds a nonpatron membership interest.

20. "Nonpatron membership interest" means a membership interest that does not require the holder to conduct patronage for or with the cooperative to receive financial rights or distributions.

21. "Patron" means a person or entity who conducts patronage with the cooperative, regardless of whether the person is a member.

22. "Patronage" means business, transactions, or services done for or with the cooperative as defined by the cooperative.

23. "Patron member" means a member holding a patron membership interest.

24. "Patron membership interest" means the membership interest requiring the holder to conduct patronage for or with the cooperative, as specified by the cooperative to receive financial rights or distributions.

25. "Secretary" means the secretary of state.

26. "Traditional cooperative" means a cooperative or cooperative association organized under chapter 497, 498, 499, or 501.

Sec. 3. NEW SECTION. 501A.103 REQUIREMENTS FOR DOCUMENTS — FILING AND SIGNATURES.

A document is signed when a person has written on a document. A person authorized to do so by this chapter, the articles or bylaws, or by a resolution approved by the directors or the members must sign the document. A signature on a document may be a facsimile affixed, engraved, printed, placed, stamped with indelible ink, transmitted by facsimile or electronically, or in any other manner reproduced on the document.

SUBCHAPTER 2
FILING
PART A
GENERAL REQUIREMENTS

Sec. 4. NEW SECTION. 501A.201 GENERAL FILING REQUIREMENTS.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

2. The document must be one that this chapter requires or permits to be filed with the secretary.

3. The document must contain the information required by this chapter. The document may contain other information as well.

4. The document must be typewritten or printed. The typewritten or printed portion shall be in black ink. Manually signed photocopies, or other reproduced copies, including facsimiles and other electronically or computer-generated copies of typewritten or printed documents may be filed.

5. The document must be in the English language. A cooperative's name need not be in English if written in English letters or Arabic or Roman numerals. The articles, duly authenticated by the official having custody of the applicable records in the state or country under whose law the cooperative is formed, which are required of cooperatives, need not be in English if accompanied by a reasonably authenticated English translation.

6. The document must be executed by one of the following persons:

a. An officer of the cooperative, or if no officer has been selected, by any patron member of the cooperative.

b. If the cooperative has not been organized, by the organizers of the cooperative as provided in subchapter 5.

c. If the cooperative is in the hands of a receiver, trustee, or other court-appointed fiduciary, that fiduciary.

7. The person executing the document shall sign the document and state beneath or opposite the person's signature, the person's name, and the capacity in which the person signs.

8. If, pursuant to any provision of this chapter, the secretary has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

9. The document must be delivered to the secretary for filing and must be accompanied by the correct filing fee as provided in this subchapter.

Sec. 5. NEW SECTION. 501A.202 FILING DUTY OF SECRETARY OF STATE.

1. If a document delivered to the secretary for filing satisfies the requirements of section 501A.201, the secretary shall file it and issue any necessary certificate.

2. The secretary files a document by recording it as filed on the date and at the time of receipt. After filing a document, and except as provided in section 501A.204, the secretary shall deliver the document, and an acknowledgement of the date and time of filing to the domestic cooperative or foreign cooperative or its representative.

3. If the secretary refuses to file a document, the secretary shall return it to the domestic cooperative or foreign cooperative or its representative within ten days after the document was received by the secretary, together with a brief, written explanation of the reason for the refusal.

4. The secretary's duty to file documents under this section is ministerial. Filing or refusing to file a document does not do any of the following:

a. Affect the validity or invalidity of the document in whole or in part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Sec. 6. NEW SECTION. 501A.203 EFFECTIVE TIME AND DATE OF DOCUMENTS.

1. Except as provided in subsection 2 and section 501A.204, subsection 3, a document accepted for filing is effective at the later of the following times:

a. At the time of filing on the date the document is filed, as evidenced by the secretary's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date the document is filed.

2. A document may specify a delayed effective time and date, and if the document does so, the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date the document is filed.

Sec. 7. NEW SECTION. 501A.204 CORRECTING FILED DOCUMENTS.

1. A domestic cooperative or foreign cooperative may correct a document filed by the secretary if the document satisfies any of the following requirements:

a. Contains an incorrect statement.

b. Was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with all of the following:

a. By preparing articles of correction that satisfy all of the following requirements:

(1) Describe the document, including its filing date, or attach a copy of the document to the articles.

(2) Specify the incorrect statement and the reason the statement is incorrect or the manner in which the execution was defective.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles of correction to the secretary for filing.

3. Articles of correction are effective on the effective date of the document the articles correct, except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 8. NEW SECTION. 501A.205 FEES.

1. The secretary shall collect the following fees when documents described in this subsection are delivered to the secretary's office for filing:

a. Articles of organization ..... $ 50
b. Application for use of indistinguishable name ..... $ 10
c. Application for reserved name ..... $ 10
d. Notice of transfer of reserved name ..... $ 10
e. Application for registered name per month or part thereof ..... $ 2
f. Application for renewal of registered name ..... $ 20
g. Statement of change of registered agent or registered office or both ..... No fee
h. Agent's statement of change of registered office for each affected cooperative ..... No fee
i. Agent's statement of resignation ..... No fee
j. Amendment of articles of organization ..... $ 50
k. Restatement of articles of organization with amendment of articles ..... $ 50
l. Articles of merger ..... $ 50
m. Articles of dissolution ..... $ 5
n. Articles of revocation of dissolution ..... $ 5
o. Certificate of administrative dissolution ..... No fee
p. Application for reinstatement following administrative dissolution ..... $ 5
q. Certificate of reinstatement ..... No fee
r. Certificate of judicial dissolution ..... No fee
s. Application for certificate of authority ..... $ 100
t. Application for amended certificate of authority ..... $ 100
u. Application for certificate of cancellation ..... $ 10
v. Certificate of revocation of authority to transact business ..... No fee
w. Articles of correction ..... $ 5
x. Application for certificate of existence or authorization ..... $ 5
y. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic cooperative or foreign cooperative:

a. One dollar a page for copying.

b. Five dollars for the certificate.

Sec. 9. NEW SECTION. 501A.206 FORMS.

1. The secretary may prescribe and furnish on request forms, including but not limited to the following:

a. An application for a certificate of existence.

b. A foreign cooperative's application for a certificate of authority to transact business in this state.

c. A foreign cooperative's application for a certificate of withdrawal.

If the secretary so requires, use of these listed forms prescribed by the secretary is mandatory.

2. The secretary may prescribe and furnish on request forms, for other documents required or permitted to be filed by this chapter but their use is not mandatory.

Sec. 10. NEW SECTION. 501A.207 APPEAL FROM SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT.

1. If the secretary refuses to file a document delivered to the secretary's office for filing, the domestic cooperative or foreign cooperative may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the cooperative's principal office or, if none in this state, where its registered office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary's explanation of the refusal to file.

2. The court may summarily order the secretary to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

Sec. 11. NEW SECTION. 501A.208 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate attached to a copy of a document filed by the secretary, bearing the secretary's signature, which may be in facsimile, and the seal of the secretary, is conclusive evidence that the original document is on file with the secretary.

Sec. 12. NEW SECTION. 501A.209 CERTIFICATE OF EXISTENCE.

1. Anyone may apply to the secretary to furnish a certificate of existence for a domestic cooperative or a certificate of authorization for a foreign cooperative.

2. A certificate of existence or certificate of authorization must set forth all of the following:

a. The domestic cooperative's name or the foreign cooperative's name used in this state.

b. That one of the following applies:

(1) If it is a domestic cooperative, that it is duly organized under the law of this state, the date of its organization, and the period of its duration.

(2) If it is a foreign cooperative, that it is authorized to transact business in this state.

c. That all fees required by this subchapter have been paid.

d. If it is a domestic cooperative, that articles of dissolution have not been filed.

e. Other facts of record in the office of the secretary that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or certificate of authorization issued by the secretary may be relied upon as conclusive evidence that the domestic cooperative or foreign cooperative is in existence or is authorized to transact business in this state.

Sec. 13. NEW SECTION. 501A.210 PENALTY FOR SIGNING FALSE DOCUMENT.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

Sec. 14. NEW SECTION. 501A.211 SECRETARY OF STATE — POWERS.

The secretary has the power reasonably necessary to perform the duties required of the secretary by this chapter.

PART B
FOREIGN COOPERATIVES

Sec. 15. NEW SECTION. 501A.221 CERTIFICATE OF AUTHORITY.

A foreign cooperative may apply for a certificate of authority to transact business in this state by delivering an application to the secretary for filing. An application for registration as a foreign cooperative shall set forth all of the following:

1. The name of the foreign cooperative and, if different, the name under which the foreign cooperative proposes to register and transact business in this state.

2. The state or other jurisdiction in which the foreign cooperative was formed and the date of its formation.

3. The street address of the registered office of the foreign cooperative in this state and the name of the registered agent at the office.

4. The address of the principal office, which is the office where the principal executive offices are located.

5. A certificate of existence or a document of similar import duly authenticated by the proper office of the state or other jurisdiction of its formation which is dated no earlier than ninety days prior to the date that the application is filed with the secretary.

Sec. 16. NEW SECTION. 501A.222 CANCELLATION OF CERTIFICATE OF AUTHORITY.

1. A foreign cooperative may cancel its certificate of authority by delivering to the secretary for filing a certificate of cancellation which shall set forth all of the following:

a. The name of the foreign cooperative and the name of the state or other jurisdiction under whose jurisdiction the foreign cooperative was formed.

b. That the foreign cooperative is not transacting business in this state and that the foreign cooperative surrenders its registration to transact business in this state.

c. That the foreign cooperative revokes the authority of its registered agent to accept service on its behalf and appoints the secretary as its agent for service of process in any proceeding based on a cause of action arising during the time the foreign cooperative was authorized to transact business in this state.

d. A mailing address to which the secretary may mail a copy of any process served on the secretary under paragraph "c".

e. A commitment to notify the secretary in the future of any change in the mailing address of the foreign cooperative.

2. The certificate of authority shall be canceled upon the filing of the certificate of cancellation by the secretary.

PART C
REPORTS

Sec. 17. NEW SECTION. 501A.231 BIENNIAL REPORT FOR SECRETARY OF STATE.

1. A cooperative authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

a. The name of the cooperative.

b. The address of its registered office and the name of its registered agent at that office in this state, together with the consent of any new registered agent.

c. The address of its principal office.

d. The names and addresses of the president, secretary, treasurer, and one member of the board of directors.

2. Information in the biennial report must be current as of the first day of January of the year in which the report is due. The report shall be executed on behalf of the cooperative and signed as provided in section 501A.103 or by any other person authorized by the board of directors of the cooperative.

3. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a cooperative is organized. Subsequent biennial reports shall be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state.

4. If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting cooperative in writing and return the report to the cooperative for correction.

5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required by section 501A.402. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section 501.402[1] for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 501A.203, before returning the biennial report to the cooperative as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

SUBCHAPTER 3
NAMES

Sec. 18. NEW SECTION. 501A.301 NAME.

1. A cooperative name must contain the word "cooperative", "coop", or the abbreviation "CP".

2. Except as authorized by subsections 3 and 4, a cooperative name must be distinguishable upon the records of the secretary from all of the following:

a. The name of a domestic cooperative, limited liability company, limited partnership, or corporation organized under the laws of this state or registered as a foreign cooperative, foreign limited liability company, foreign limited partnership, or foreign corporation in this state.

b. A name reserved in the manner provided under the laws of this state.

c. The fictitious name adopted by a foreign cooperative, foreign limited liability company, foreign limited partnership, or foreign corporation authorized to transact business in this state because its real name is unavailable.

d. The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state.

3. A cooperative may apply to the secretary for authorization to use a name that is not distinguishable upon the secretary's records from one or more of the names described in subsection 2. The secretary shall authorize use of the name applied for if one of the following conditions applies:

a. The other entity consents to the use in writing and submits an undertaking in a form satisfactory to the secretary to change the entity's name to a name that is distinguishable upon the records of the secretary from the name of the applying cooperative.

b. The applicant delivers to the secretary a certified copy of the final judgment of a court of

[1] See chapter 179, §133 herein

competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A cooperative may use the name, including the fictitious name, of another business entity that is used in this state if the other business entity is formed under the laws of this state or is authorized to transact business in this state and the proposed user cooperative meets one of the following conditions:

a. Has merged with the other business entity.

b. Has been formed by reorganization of the other business entity.

c. Has acquired all or substantially all of the assets, including the name, of the other business entity.

5. This chapter does not control the use of fictitious names; however, if a cooperative uses a fictitious name in this state, the cooperative shall deliver to the secretary for filing a certified copy of the resolution of the cooperative adopting the fictitious name.

Sec. 19. NEW SECTION. 501A.302 RESERVED NAME.

1. A person may reserve the exclusive use of a cooperative name, including a fictitious name for a foreign cooperative whose cooperative name is not available, by delivering an application to the secretary for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary finds that the cooperative name applied for is available, the secretary shall reserve the name for the applicant's exclusive use for a nonrenewable one-hundred-twenty-day period.

2. The owner of a reserved cooperative name may transfer the reservation to another person by delivering to the secretary a signed notice of the transfer that states the name and address of the transferee.

SUBCHAPTER 4
REGISTERED OFFICE AND AGENT

Sec. 20. NEW SECTION. 501A.401 REGISTERED OFFICE AND REGISTERED AGENT.

A cooperative must continuously maintain in this state each of the following:

1. A registered office that may be the same as any of its places of business.

2. A registered agent who may be any of the following:

a. An individual who is a resident of this state and whose business office is identical with the registered office.

b. A cooperative, domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign cooperative, foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 21. NEW SECTION. 501A.402 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. A cooperative may change its registered office or registered agent by delivering to the secretary for filing a statement of change that sets forth the following:

a. The name of the domestic cooperative or foreign cooperative.

b. If the current registered office is to be changed, the street address of the new registered office.

c. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent either on the statement or attached to the statement, to the appointment.

d. That after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical.

2. A statement of change shall forthwith be filed in the office of the secretary by a cooperative whenever its registered agent dies, resigns, or ceases to satisfy the requirements of section 501A.401.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 1 for each cooperative, or a single statement for all cooperatives named in the notice, except that the statement need be signed only by the registered agent and need not be responsive to subsection 1, paragraph "c", and must recite that a copy of the statement has been mailed to each cooperative named in the notice.

4. The change of address of a registered office or the change of registered agent becomes effective upon the filing of such statement by the secretary.

Sec. 22. NEW SECTION. 501A.403 RESIGNATION OF REGISTERED AGENT — DISCONTINUANCE OF REGISTERED OFFICE — STATEMENT.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary for filing an original statement of resignation. The statement may include a statement that the registered office is also discontinued. The registered agent shall send a copy of the statement of resignation to the registered office, if not discontinued, and to the cooperative at its principal office. The agent shall certify to the secretary that the copy has been sent to the cooperative, including the date the copy was sent.

2. The agency appointment is terminated, and the registered office discontinued if so provided, on the date on which the statement is filed by the secretary.

Sec. 23. NEW SECTION. 501A.404 SERVICE ON DOMESTIC COOPERATIVES.

1. A domestic cooperative's registered agent is the cooperative's agent for service of process, notice, or demand required or permitted by law to be served on the cooperative.

2. If a cooperative has no registered agent, or the agent cannot with reasonable diligence be served, the cooperative may be served by registered mail or certified mail, return receipt requested, and addressed to the cooperative at its principal office. Service is perfected under this subsection at the earliest of any of the following:

a. The date the cooperative receives the mail.

b. The date shown on the return receipt for the registered mail or certified mail, return receipt requested, if signed on behalf of the cooperative.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a domestic cooperative or foreign cooperative.

Sec. 24. NEW SECTION. 501A.405 SERVICE ON FOREIGN COOPERATIVE.

1. The registered agent of a foreign cooperative authorized to transact business in this state is the foreign cooperative's agent for service of process, notice, or demand required or permitted by law to be served on the foreign cooperative.

2. A foreign cooperative may be served by certified mail or restricted certified mail addressed to the foreign cooperative at its principal office shown in its application for a certificate of authority if the foreign cooperative meets any of the following conditions:

a. Has no registered agent or its registered agent cannot with reasonable diligence be served.

b. Has withdrawn from transacting business in this state.

c. Has had its certificate of authority revoked.

3. Service is perfected under subsection 2 at the earliest of any of the following:

a. The date the foreign cooperative receives the mail.

b. The date shown on the return receipt for the restricted certified mail, if signed on behalf of the foreign cooperative.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. A foreign cooperative may also be served in any other manner permitted by law.

SUBCHAPTER 5
ORGANIZATION

Sec. 25. NEW SECTION. 501A.501 ORGANIZATIONAL PURPOSE.

A cooperative may be formed and organized for any lawful purpose for the benefit of its members, including but not limited to any of the following purposes:

1. To store or market agricultural commodities, including crops and livestock.

2. To market, process, or otherwise change the form or marketability of agricultural commodities. The cooperative may provide for the manufacturing or processing of those commodities into products.

3. To accomplish other purposes that are necessary or convenient to facilitate the production or marketing of agricultural commodities or agricultural products by patron members, other patrons, and other persons, and for other purposes that are related to the business of the cooperative.

4. To provide products, supplies, and services to its patron members, other patrons, and others.

5. For any other purpose that a cooperative is authorized by law under chapter 499 or 501.

Sec. 26. NEW SECTION. 501A.502 ORGANIZERS.

1. QUALIFICATION. A cooperative may be organized by one or more organizers who shall be adult natural persons, and who may act for themselves as individuals or as the agents of other entities. The organizers forming the cooperative need not be members of the cooperative.

2. ROLE OF ORGANIZERS. If the first board of directors is not named in the articles of organization, the organizers may elect the first board or may act as directors with all of the powers, rights, duties, and liabilities of directors, until directors are elected or until a contribution is accepted, whichever occurs first.

3. MEETING. After the filing of articles of organization, the organizers or the directors named in the articles of organization shall either hold an organizational meeting at the call of a majority of the organizers or of the directors named in the articles, or take written action for the purposes of transacting business and taking actions necessary or appropriate to complete the organization of the cooperative, including but not limited to all of the following:

a. Amending the articles.

b. Electing directors.

c. Adopting bylaws.

d. Authorizing or ratifying the purchase, lease, or other acquisition of suitable space, furniture, furnishings, supplies, or materials.

e. Adopting a fiscal year.

f. Contracting to receive and accept contributions.

g. Making appropriate tax elections.

If a meeting is held, the person or persons calling the meeting shall give at least three days' notice of the meeting to each organizer or director named, stating the date, time, and place of the meeting. Organizers and directors may waive notice of an organizational meeting in the same manner that a director may waive notice of meetings of the board.

Sec. 27. NEW SECTION. 501A.503 ARTICLES OF ORGANIZATION.

1. a. The articles of organization for the cooperative shall include all of the following:

(1) The name of the cooperative.

(2) The purpose of the cooperative.

(3) The name and address of each organizer.

(4) The period of duration for the cooperative, if the duration is not to be perpetual.

(5) The street address of the cooperative's initial registered office and the name of its registered agent at that office.

b. The articles may contain any other lawful provision.

2. EFFECT OF FILING. When the articles of organization or an application for a certificate of authority has been filed pursuant to subchapter 2 and the required fee has been paid to the secretary under section 501A.205, all of the following shall be presumed:

a. All conditions precedent that are required to be performed by the organizers have been complied with.

b. The organization of the cooperative has been organized under the laws of this state as a separate legal entity.

c. The secretary shall issue an acknowledgment to the cooperative.

Sec. 28. NEW SECTION. 501A.504 AMENDMENT OF ARTICLES.

1. a. The articles of organization of a cooperative shall be amended only as follows:

(1) The board, by majority vote, must pass a resolution stating the text of the proposed amendment. The text of the proposed amendment and an attached mail or alternative ballot, if the board has provided for a mail or alternative ballot in the resolution or alternative method approved by the board and stated in the resolution, shall be mailed or otherwise distributed with a regular or special meeting notice to each member. The notice shall designate the time and place of the meeting for the proposed amendment to be considered and voted on.

(2) If a quorum of the members is registered as being present or represented by alternative vote at the meeting, the proposed amendment is adopted if any of the following occurs:

(a) If approved by a majority of the votes cast.

(b) For a cooperative with articles or bylaws requiring more than majority approval or other conditions for approval, the amendment is approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

b. After an amendment has been adopted by the members, the amendment must be signed by the chairperson, vice chairperson, records officer, or assistant records officer and a copy of the amendment filed in the office of the secretary.

2. CERTIFIED STATEMENT.

a. The board shall prepare a certified statement affirming that all of the following are true:

(1) The vote and meeting of the board adopting a resolution of the proposed amendment.

(2) The notice given to members of the meeting at which the amendment was adopted.

(3) The quorum registered at the meeting.

(4) The vote cast adopting the amendment.

b. The certified statement shall be signed by the chairperson, vice chairperson, records officer, or financial officer and filed with the records of the cooperative.

3. AMENDMENT BY DIRECTORS. A majority of directors may amend the articles if the cooperative does not have any members with voting rights.

4. FILING. An amendment of the articles shall be filed with the secretary as required in section 501A.503. The amendment is effective as provided in subchapter 2. After an amendment to the articles of organization has been adopted and approved in the manner required by this chapter and by the articles of organization, the cooperative shall deliver to the secretary of state for filing articles of amendment which shall set forth all of the following:

a. The name of the cooperative.

b. The text of each amendment adopted.

c. The date of each amendment's adoption.

d. If the amendment was adopted by the directors or members and that members' adoption was not required.

e. If an amendment required adoption by the members, a statement that the amendment was duly adopted by the members in the manner required by this chapter and by the articles of organization.

Sec. 29. NEW SECTION. 501A.505 EXISTENCE.

1. COMMENCEMENT. The existence of a cooperative shall commence on or after the filing of articles of organization as provided in section 501A.503.

2. DURATION. A cooperative shall have a perpetual duration unless the cooperative provides for a limited period of duration in the articles or the cooperative is dissolved as provided in subchapter 12.

Sec. 30. NEW SECTION. 501A.506 BYLAWS.

1. REQUIRED. A cooperative shall have bylaws governing the cooperative's business affairs, structure, the qualifications, classification, rights and obligations of members, and the classifications, allocations, and distributions of membership interests, which are not otherwise provided in the articles or by this chapter.

2. CONTENTS.

a. If not stated in the articles, a cooperative's bylaws must state all of the following:

(1) The purpose of the cooperative.

(2) The capital structure of the cooperative to the extent not stated in the articles, including a statement of the classes and relative rights, preferences, and restrictions granted to or imposed upon each class of member interests, the rights to share in profits or distributions of the cooperative, and the authority to issue membership interests, which may be designated to be determined by the board.

(3) A provision designating the voting and governance rights, to the extent not stated in the articles, including which membership interests have voting power and any limitations or restrictions on the voting power, which shall be in accordance with the provisions of this chapter.

(4) A statement that patron membership interests with voting power shall be restricted to one vote for each member regardless of the amount of patron membership interests held in the affairs of the cooperative or a statement describing the allocation of voting power allocated as prescribed in this chapter.

(5) A statement that membership interests held by a member are transferable only with the approval of the board or as provided in the bylaws.

(6) If nonpatron membership interests are authorized, all of the following:

(a) A statement as to how profits and losses will be allocated and cash will be distributed between patron membership interests collectively and nonpatron membership interests collectively to the extent not stated in the articles.

(b) A statement that net income allocated to a patron membership interest as determined by the board in excess of dividends and additions to reserves shall be distributed on the basis of patronage.

(c) A statement that the records of the cooperative shall include patron membership interests and, if authorized, nonpatron membership interests, which may be further described in the bylaws of any classes and in the reserves.

b. The bylaws may contain any provision relating to the management or regulation of the affairs of the cooperative that are not inconsistent with law or the articles, and shall include all of the following:

(1) The number of directors and the qualifications, manner of election, powers, duties, and compensation, if any, of directors.

(2) The qualifications of members and any limitations on their number.

(3) The manner of admission, withdrawal, suspension, and expulsion of members.

(4) Generally, the governance rights, financial rights, assignability of governance and financial rights, and other rights, privileges, and obligations of members and their membership interests, which may be further described in member control agreements.

(5) Any provisions required by the articles to be in the bylaws.

3. ADOPTION.

a. Bylaws shall be adopted before any distributions to members, but if the articles or bylaws provide that rights of contributors to a class of membership interest will be determined in the bylaws, the bylaws must be adopted before the acceptance of any contributions to that class.

b. Subject to subsections 4, 5, and 6, the bylaws of a cooperative may be adopted or amended by the directors, or the members may adopt or amend bylaws at a regular or special members' meeting if all of the following apply:

(1) The notice of the regular or special meeting contains a statement that the bylaws or restated bylaws will be voted upon and copies are included with the notice, or copies are available upon request from the cooperative and a summary statement of the proposed bylaws or amendment is included with the notice.

(2) A quorum is registered as being present or represented by mail or alternative voting method if the mail or alternative voting method is authorized by the board.

(3) The bylaws or amendment is approved by a majority vote cast, or for a cooperative with articles or bylaws requiring more than majority approval or other conditions for approval, the bylaws or amendment is approved by a proportion of the vote cast or a number of the total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

c. Until the next annual or special members' meeting, the majority of directors may adopt and amend bylaws for the cooperative that are consistent with subsections 4, 5, and 6, which may be further amended or repealed by the members at an annual or special members' meeting.

4. AMENDMENT OF BYLAWS BY BOARD OR MEMBERS.

a. The board may amend the bylaws at any time to add, change, or delete a provision, unless any of the following applies:

(1) This chapter, the articles, or the bylaws reserve the power exclusively to the members in whole or in part.

(2) A particular bylaw expressly prohibits the board from doing so.

b. Any amendment of the bylaws adopted by the board must be distributed to the members no later than ten days after adoption and the notice of the annual meeting of the members must contain a notice and summary or the actual amendments to the bylaws adopted by the board.

c. The members may amend the bylaws even though the bylaws may also be amended by the board.

5. BYLAW CHANGING QUORUM OR VOTING REQUIREMENT FOR MEMBERS.

a. (1) The members may amend the bylaws to fix a greater quorum or voting requirement for members, or voting groups of members, than is required under this chapter.

(2) An amendment to the bylaws to add, change, or delete a greater quorum or voting requirement for members shall 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.

b. A bylaw that fixes a greater quorum or voting requirement for members under paragraph "a" shall not be adopted and shall not be amended by the board.

6. BYLAW CHANGING QUORUM OR VOTING REQUIREMENT FOR DIRECTORS.

a. A bylaw that fixes a greater quorum or voting requirement for the board may be amended by any of the following methods:

(1) If adopted by the members, only by the members.

(2) If adopted by the board, either by the members or by the board.

b. A bylaw adopted or amended by the members that fixes a greater quorum or voting requirement for the board may provide that the bylaw may be amended only by a specified vote of either the members or the board, but if the bylaw is to be amended by a specified vote of the members, the bylaw must be adopted by the same specified vote of the members.

c. Action by the board under paragraph "a", subparagraph (2), to adopt or amend a bylaw that changes the quorum or voting requirement for the board shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

7. EMERGENCY BYLAWS.

a. Unless otherwise provided in the articles or bylaws, the board may adopt bylaws to be effective only in an emergency as defined in paragraph "d". The emergency bylaws, which are subject to amendment or repeal by the members, may include all provisions necessary for managing the cooperative during the emergency, including any of the following:

(1) Procedures for calling a meeting of the board.

(2) Quorum requirements for the meeting.

(3) Designation of additional or substitute directors.

b. All provisions of the regular bylaws consistent with the emergency bylaws shall remain in effect during the emergency. The emergency bylaws shall not be effective after the emergency ends.

c. All of the following shall apply to action taken in good faith in accordance with the emergency bylaws:

(1) The action binds the cooperative.

(2) The action shall not be the basis for imposition of liability on any director, officer, employee, or agent of the cooperative on the grounds that the action was not authorized cooperative action.

d. An emergency exists for the purposes of this section, if a quorum of the directors cannot readily be obtained because of some catastrophic event.

Sec. 31. NEW SECTION. 501A.507 COOPERATIVE RECORDS.

1. PERMANENT RECORDS REQUIRED TO BE KEPT. A cooperative shall keep as permanent records minutes of all meetings of its members and of the board, a record of all actions taken by the members or the board without a meeting by a written unanimous consent in lieu of a meeting, and a record of all waivers of notices of meetings of the members and of the board.

2. ACCOUNTING RECORDS. A cooperative shall maintain appropriate accounting records.

3. FORMAT. A cooperative shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

4. COPIES. A cooperative shall keep a copy of each of the following records at its principal office:

a. Its articles and other governing instruments.

b. Its bylaws or other similar instruments.

c. A record of the names and addresses of its members, in a form that allows preparation of an alphabetical list of members with each member's address.

d. The minutes of members' meetings, and records of all actions taken by members without a meeting by unanimous written consent in lieu of a meeting, for the past three years.

e. All written communications within the past three years to members as a group or to any class of members as a group.

f. A list of the names and business addresses of its current board members and officers.

g. All financial statements prepared for periods ending during the last fiscal year.

5. Except as otherwise limited by this chapter, the board of a cooperative shall have discretion to determine what records are appropriate for the purposes of the cooperative, the length of time records are to be retained, and policies relating to the confidentiality, disclosure, inspection, and copying of the records of the cooperative.

SUBCHAPTER 6
POWERS AND AUTHORITIES

Sec. 32. NEW SECTION. 501A.601 POWERS.

1. GENERALLY.

a. In addition to other powers, a cooperative as an agent or otherwise may do any of the following:

(1) Perform every act necessary or proper to the conduct of the cooperative's business or the accomplishment of the purposes of the cooperative.

(2) Enjoy other rights, powers, or privileges granted by the laws of this state to other cooperatives, except those that are inconsistent with the express provisions of this chapter.

(3) Have the powers provided in section 501A.501 and in this section.

b. This section does not give a cooperative the power or authority to exercise the powers of

a credit union under chapter 533, a bank under chapter 524, or a savings and loan association under chapter 534.

2. DEALING IN PRODUCTS. A cooperative may buy, sell, or deal in its own commodities or products or those of another person, including but not limited to those of its members, patrons, or nonmembers; another cooperative organized under this chapter or another cooperative association organized under other law including a traditional cooperative, or members or patrons of such cooperatives or cooperative associations. A cooperative may negotiate the price at which its commodities products may be sold.

3. CONTRACTS WITH MEMBERS. A cooperative may enter into or become a party to a contract or agreement for the cooperative or for the cooperative's members or patrons or between the cooperative and its members or patrons.

4. HOLDING AND TRANSACTIONS OF REAL AND PERSONAL PROPERTY.

a. A cooperative may purchase and hold, lease, mortgage, encumber, sell, exchange, and convey as a legal entity real, personal, and intellectual property, including real estate, buildings, personal property, patents, and copyrights as the business of the cooperative may require, including but not limited to the sale or other disposition of assets required by the business of the cooperative as determined by the board.

b. A cooperative may take, receive, and hold real or personal property, including the principal and interest of money or other negotiable instruments and rights in a contract, in trust for any purpose not inconsistent with the purposes of the cooperative in its articles or bylaws. The cooperative may exercise fiduciary powers in relation to taking, receiving, and holding the real or personal property. However, a cooperative's fiduciary powers do not include trust powers or trust services exercised for its members as provided in section 633.63 or chapter 524.

5. BUILDINGS. A cooperative may erect buildings or other structures or facilities on the cooperative's owned or leased property or on a right-of-way legally acquired by the cooperative.

6. DEBT INSTRUMENTS.

a. A cooperative may issue bonds, debentures, or other evidence of indebtedness, except as provided in subsection 1, paragraph "b". The cooperative shall not issue bonds, debentures, or other evidence of indebtedness to a nonaccredited member, unless prior to issuance the cooperative provides the member with a written disclosure statement which includes a conspicuous notice that moneys are not insured or guaranteed by an agency or instrumentality of the United States government, and that the investment may lose value.

b. A cooperative may borrow money, may secure any of its obligations by mortgage of or creation of a security interest in or other encumbrances or assignment of all or any of its property, franchises, or income, and may issue guarantees for any legal purpose.

c. A cooperative may form special purpose business entities to secure assets of the cooperative.

7. ADVANCES TO PATRONS. A cooperative may make advances to its members or patrons on products delivered by the members or patrons to the cooperative.

8. DEPOSITS. A cooperative may accept donations or deposits of money or real or personal property from other cooperatives or associations from which the cooperative is constituted.

9. BORROWING, INVESTMENT, AND PAYMENT TERMS. A cooperative may borrow money from its members, or cooperatives or associations from which the cooperative is constituted, with security that the cooperative considers sufficient. A cooperative may invest or reinvest its moneys. A cooperative may extend payment terms to its customers not exceeding six months from the date of the sale of the cooperative's goods or services. An extension of payment terms by the cooperative shall not be secured by real property. A cooperative may exercise rights as a lien creditor or judgment creditor to collect any past due or delinquent account which is owed to the cooperative.

10. PENSIONS AND BENEFITS. A cooperative may pay pensions, retirement allowances, and compensation for past services to and for the benefit of, and establish, maintain, continue, and carry out, wholly or partially at the expense of the cooperative, employee, or incentive benefit plans, trusts, and provisions to or for the benefit of any or all of its and its related organi-

zations' officers, managers, directors, governors, employees, and agents; and in the case of a related organization that is a cooperative, members who provide services to the cooperative, and any of their families, dependents, and beneficiaries. A cooperative may indemnify and purchase and maintain insurance for and on behalf of a fiduciary of any of these employee benefit and incentive plans, trusts, and provisions.

11. INSURANCE.

a. A cooperative may purchase and maintain insurance on behalf of a person who is or was a director, officer, employee, or agent of the cooperative and in which the cooperative has an insurable interest. The cooperative may also purchase and maintain insurance on the life of a member for the purpose of acquiring at the death of the member any or all membership interests in the cooperative owned by the member.

b. A cooperative or a foreign cooperative shall not sell, solicit, or negotiate in this state any line of insurance to members or nonmembers.

12. OWNERSHIP INTERESTS IN OTHER ENTITIES.

a. A cooperative may purchase, acquire, hold, or dispose of the ownership interests of another business entity or organize business entities whether organized under the laws of this state or another state or the United States and assume all rights, interests, privileges, responsibilities, and obligations arising out of the ownership interests, including a business entity organized as any of the following:

(1) As a federation of associations.

(2) For the purpose of forming a district, state, or national marketing sales or service agency.

(3) For the purpose of acquiring marketing facilities at terminal or other markets in this state or other states.

b. A cooperative may purchase, own, and hold ownership interests, including stock and other equity interests, memberships, interests in nonstock capital, and evidences of indebtedness of any domestic business entity or foreign business entity.

13. FIDUCIARY POWERS. A cooperative may exercise any and all fiduciary powers in relations with members, cooperatives, or business entities from which the cooperative is constituted. However, these fiduciary powers do not include trust powers or trust services for its members as provided in section 633.63 or chapter 524.

Sec. 33. NEW SECTION. 501A.602 EMERGENCY POWERS.

1. In anticipation of or during an emergency as defined in this section, the board may do any of the following:

a. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent.

b. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

2. During an emergency, unless emergency bylaws provide otherwise, all of the following apply:

a. A notice of a meeting of the board need be given only to those directors to whom it is practicable to reach and may be given in any practicable manner, including by publication or radio.

b. One or more officers of the cooperative present at a meeting of the board may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

3. All of the following apply to cooperative action taken in good faith during an emergency under this section to further the ordinary business affairs of the cooperative:

a. The action binds the cooperative.

b. The action shall not be the basis for the imposition of liability on any director, officer, employee, or agent of the cooperative on the grounds that the action was not an authorized cooperative action.

4. An emergency exists for purposes of this section if a quorum of the directors cannot readily be obtained because of a catastrophic event.

Sec. 34. NEW SECTION. 501A.603 AGRICULTURAL COMMODITIES AND PRODUCTS — MARKETING CONTRACTS.

1. AUTHORITY. A cooperative and its patron member or patron may make and execute a marketing contract, requiring the patron member or patron to sell a specified portion of the patron member's or patron's agricultural commodity or product or specified commodity or product produced from a certain area exclusively to or through the cooperative or facility established by the cooperative.

2. TITLE TO COMMODITIES OR PRODUCTS. If a sale is contracted to the cooperative, the sale shall transfer title to the commodity or product absolutely, except for a recorded lien or security interest against the agricultural commodity or product of the patron member or patron as provided in article 9 of chapter 554, and provisions in Title XIV, subtitle 3, governing agricultural liens, and liens granted against farm products under federal law, to the cooperative on delivery of the commodity or product or at another specified time if expressly provided in the contract. The contract may allow the cooperative to sell or resell the commodity or product of its patron member or patron with or without taking title to the commodity or product, and pay the resale price to the patron member or patron, after deducting all necessary selling, overhead, and other costs and expenses, including other proper reserves and interest.

3. TERM OF CONTRACT. A single term of a marketing contract shall not exceed ten years, but a marketing contract may be made self-renewing for periods not exceeding five years each, subject to the right of either party to terminate by giving written notice of the termination during a period of the current term as specified in the contract.

4. DAMAGES FOR BREACH OF CONTRACT. The cooperative's bylaws or marketing contract in which the cooperative is a party may set a specific sum as liquidated damages to be paid by the patron member or patron to the cooperative for breach of any provision of the marketing contract regarding the sale or delivery or withholding of a commodity or product and may provide that the patron member or patron shall pay the costs, premiums for bonds, expenses, and fees if an action is brought on the contract by the cooperative. The remedies for breach of contract are valid and enforceable in the courts of this state. The provisions shall be enforced as liquidated damages and are not considered a penalty.

5. INJUNCTION AGAINST BREACH OF CONTRACT. If there is a breach or threatened breach of a marketing contract by a patron member or patron, the cooperative is entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action after filing a complaint showing the breach or threatened breach and filing a sufficient bond, the cooperative is entitled to a temporary restraining order and preliminary injunction against the patron member or patron.

6. PENALTIES FOR CONTRACT INTERFERENCE AND FALSE REPORTS. A person who knowingly induces or attempts to induce any member or patron of a cooperative organized under this chapter to breach a marketing contract with the cooperative is guilty of a simple misdemeanor.

7. CIVIL DAMAGES FOR CONTRACT INTERFERENCE AND FALSE REPORTS. In addition to the penalty provided in subsection 6, the person may be liable to the cooperative for civil damages for any violation of that subsection.

SUBCHAPTER 7
DIRECTORS AND OFFICERS

Sec. 35. NEW SECTION. 501A.701 BOARD GOVERNS COOPERATIVE.

A cooperative shall be governed by its board of directors, which shall take all action for and on behalf of the cooperative, except those actions reserved or granted to members. Board action shall be by the affirmative vote of a majority of the directors voting at a duly called meeting unless a greater majority is required by the articles or bylaws. A director individually or collectively with other directors does not have authority to act for or on behalf of the cooperative unless authorized by the board. A director may advocate interests of members or member groups to the board, but the fiduciary duty of each director is to represent the best interests of the cooperative and all members collectively.

Sec. 36. NEW SECTION. 501A.702 NUMBER OF DIRECTORS.

The board shall not have less than five directors, except that a cooperative with fifty or fewer members may have three or more directors as prescribed in the cooperative's articles or bylaws.

Sec. 37. NEW SECTION. 501A.703 ELECTION OF DIRECTORS.

1. FIRST BOARD. The organizers shall elect and obtain the acknowledgment of the first board to serve until directors are elected by members. Until election by members, the first board shall appoint directors to fill any vacancies.

2. GENERALLY.

a. Directors shall be elected for the term, at the time, and in the manner provided in this section and the bylaws.

b. A majority of the directors shall be members and a majority of the directors shall be elected exclusively by the members holding patron membership interests unless otherwise provided in the articles or bylaws.

c. The voting power of the directors may be allocated according to equity classifications or allocation units of the cooperative. If the cooperative authorizes nonpatron membership interests, one of the following must apply:

(1) At least one-half of the voting power on matters of the cooperative that are not specific to equity classifications or allocation units shall be allocated to the directors elected by members holding patron membership interests.

(2) The directors elected by the members holding patron membership interests shall have at least an equal voting power or shall not have a minority voting power on general matters of the cooperative that are not specific to equity classifications or allocation units.

d. A director holds office for the term the director was elected and until a successor is elected and has qualified, or until the earlier death, resignation, removal, or disqualification of the director.

e. The expiration of a director's term with or without election of a qualified successor does not make the prior or subsequent acts of the director or the board void or voidable.

f. Subject to any limitation in the articles or bylaws, the board may set the compensation of directors.

g. Directors may be divided into or designated and elected by class or other distinction as provided in the articles or bylaws.

h. A director may resign by giving written notice to the chairperson of the board or the board. The resignation is effective without acceptance when the notice is given to the chairperson of the board or the board unless a later effective time is specified in the notice.

3. ELECTION AT REGULAR MEETING. Directors shall be elected at the regular members' meeting for the terms of office prescribed in the bylaws. Except for directors elected at district meetings or special meetings to fill a vacancy, all directors shall be elected at the regular members' meeting. There shall be no cumulative voting for directors except as provided in this chapter and the articles or bylaws.

4. DISTRICT OR LOCAL UNIT ELECTION OF DIRECTORS. For a cooperative with districts or other units, members may elect directors on a district or unit basis if provided in the bylaws. The directors may be nominated or elected at district meetings if provided in the bylaws. Directors who are nominated at district meetings shall be elected at the annual regular members' meeting by vote of the entire membership, unless the bylaws provide that directors who are nominated at district meetings are to be elected by vote of the members of the district, at the district meeting, or the annual regular members' meeting.

5. VOTE BY MAIL OR ALTERNATIVE BALLOT. The following shall apply to voting by mail or alternative ballot voting:

a. A member shall not vote for a director other than by being present at a meeting or by mail ballot or alternative ballot authorized by the board.

b. The ballot shall be in a form prescribed by the board.

c. The member shall mark the ballot for the candidate chosen and mail the ballot to the

cooperative in a sealed plain envelope inside another envelope bearing the member's name, or shall vote designating the candidate chosen by alternative ballot in the manner prescribed by the board.

d. If the ballot of the member is received by the cooperative on or before the date of the regular members' meeting or as otherwise prescribed for alternative ballots, the ballot shall be accepted and counted as the vote of the absent member.

6. BUSINESS ENTITY MEMBERS MAY NOMINATE PERSONS FOR DIRECTOR. If a member of a cooperative is not a natural person, and the bylaws do not provide otherwise, the member may appoint or elect one or more natural persons to be eligible for election as a director.

7. TERM. A director holds office for the term the director was elected and until a successor is elected and has qualified, or the earlier death, resignation, removal, or disqualification of the director.

8. ACTS NOT VOID OR VOIDABLE. The expiration of a director's term with or without the election of a qualified successor does not make prior or subsequent acts of the director void or voidable.

9. COMPENSATION. Subject to any limitation in the articles or bylaws, the board may fix the compensation of the directors.

10. CLASSIFICATION. Directors may be divided into classes as provided in the articles or bylaws.

Sec. 38. NEW SECTION. 501A.704 FILLING VACANCIES.

1. PATRON DIRECTORS. If a patron member director's position becomes vacant or a new director position is created for a director that was or is to be elected by patron members, the board, in consultation with the directors elected by patron members, shall appoint a patron member of the cooperative to fill the director's position until the next regular or special members' meeting. If there are no directors elected by patron members on the board at the time of the vacancy, a special patron members' meeting shall be called to fill the patron member director vacancy.

2. NONPATRON DIRECTORS. If the vacating director was not elected by the patron members or a new director position is created, unless otherwise provided in the articles or bylaws, the board shall appoint a director to fill the vacant position by majority vote of the remaining or then serving directors even though less than a quorum. At the next regular or special members' meeting, the members or patron members shall elect a director to fill the unexpired term of the vacant director's position.

Sec. 39. NEW SECTION. 501A.705 REMOVAL OF DIRECTORS.

1. MODIFICATION. The provisions of this section apply unless modified by the articles or the bylaws.

2. REMOVAL OF DIRECTORS. A director may be removed at any time, with or without cause, if all of the following apply:

a. The director was named by the board to fill a vacancy.

b. The members have not elected directors in the interval between the time of the appointment to fill a vacancy and the time of the removal.

c. A majority of the remaining directors present affirmatively vote to remove the director.

3. REMOVAL BY MEMBERS. Any one or all of the directors may be removed at any time, with or without cause, by the affirmative vote of the holders of a majority of the voting power of membership interests entitled to vote at an election of directors, provided that if a director has been elected solely by the patron members or the holders of a class or series of membership interests as stated in the articles or bylaws, then that director may be removed only by the affirmative vote of the holders of a majority of the voting power of the patron members for a director elected by the patron members or of all membership interests of that class or series entitled to vote at an election of that director.

4. ELECTION OF REPLACEMENTS. New directors may be elected at a meeting at which directors are removed.

Sec. 40. NEW SECTION. 501A.706 BOARD OF DIRECTORS' MEETINGS.

1. TIME AND PLACE. Meetings of the board may be held from time to time as provided in the articles or bylaws at any place within or without the state that the board may select or by any means described in subsection 2. If the board fails to select a place for a meeting, the meeting must be held at the principal executive office, unless the articles or bylaws provide otherwise.

2. ELECTRONIC COMMUNICATIONS.

a. A conference among directors by any means of communication through which the directors may simultaneously hear each other during the conference constitutes a board meeting, if the same notice is given of the conference as would be required by subsection 3 for a meeting, and if the number of directors participating in the conference would be sufficient to constitute a quorum at a meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

b. A director may participate in a board meeting not described in paragraph "a" by any means of communication through which the director, other directors so participating, and all directors physically present at the meeting may simultaneously hear each other during the meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

3. CALLING MEETINGS AND NOTICE. Unless the articles or bylaws provide for a different time period, a director may call a board meeting by giving at least ten days' notice or, in the case of organizational meetings, at least three days' notice to all directors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless this chapter, the articles, or the bylaws require it.

4. PREVIOUSLY SCHEDULED MEETINGS. If the day or date, time, and place of a board meeting have been provided in the articles or bylaws, or announced at a previous meeting of the board, no notice is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken.

5. WAIVER OF NOTICE. A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, except where the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

6. ABSENT DIRECTORS. If the articles or bylaws so provide, a director may give advance written consent or opposition to a proposal to be acted on at a board meeting. If the director is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum, but consent or opposition must be counted as the vote of a director present at the meeting in favor of or against the proposal and must be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the director has consented or objected.

Sec. 41. NEW SECTION. 501A.707 QUORUM.

A majority, or a larger or smaller portion or number provided in the articles or bylaws, of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment, even though the withdrawal of a number of directors originally present leaves less than the proportion of number[2] otherwise required for a quorum.

Sec. 42. NEW SECTION. 501A.708 ACT OF BOARD OF DIRECTORS.

1. Except as provided in subsection 2, the board shall only take action at a duly held meeting by the affirmative vote of any of the following:

[2] The phrase "proportion of the number" probably intended

a. A majority of directors present at the meeting.

b. A majority of the directors' voting power present at the meeting.

2. The articles or bylaws may require the affirmative vote of a larger vote than provided in subsection 1. If the articles or bylaws require a larger vote than is required by this chapter for a particular action, the articles or bylaws control.

Sec. 43. NEW SECTION. 501A.709 ACTION WITHOUT A MEETING.

1. METHOD. An action required or permitted to be taken at a board meeting may be taken by written action signed by all of the directors. If the articles or bylaws so provide, any action, other than an action requiring member approval, may be taken by written action signed by the number of directors that would be required to take the same action at a meeting of the board at which all directors were present.

2. EFFECTIVE TIME. The written action is effective when signed by the required number of directors, unless a different effective time is provided in the written action.

3. NOTICE AND LIABILITY. When written action is permitted to be taken by less than all directors, all directors must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A director who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

Sec. 44. NEW SECTION. 501A.710 AUDIT COMMITTEE.

The board shall establish an audit committee to review the financial information and accounting report of the cooperative. The cooperative shall have the financial information audited for presentation to the members unless the cooperative's bylaws allow financial statements that are not audited and the financial statements clearly state that they are not audited and the difference between the financial statements and audited financial statements that are prepared according to generally accepted accounting procedures. The directors shall elect members to the audit committee. The audit committee shall ensure an independent review of the cooperative's finances and audit.

Sec. 45. NEW SECTION. 501A.711 COMMITTEES.

1. GENERALLY. A resolution approved by the affirmative vote of a majority of the board may establish committees having the authority of the board in the management of the business of the cooperative only to the extent provided in the resolution. Committees may include a special litigation committee consisting of one or more independent directors or other independent persons to consider legal rights or remedies of the cooperative and whether those rights and remedies should be pursued. Committees other than special litigation committees are subject at all times to the direction and control of the board.

2. MEMBERSHIP. Committee members must be natural persons. Unless the articles or bylaws provide for a different membership or manner of appointment, a committee consists of one or more persons, who need not be directors, appointed by affirmative vote of a majority of the directors present.

3. PROCEDURE. The procedures for meetings of the board apply to committees and members of committees to the same extent as those sections apply to the board and individual directors.

4. MINUTES. Minutes, if any, of committee meetings must be made available upon request to members of the committee and to any director.

5. STANDARD OF CONDUCT. The establishment of, delegation of authority to, and action by a committee does not alone constitute compliance by a director with the standard of conduct set forth in section 501A.712.

6. COMMITTEE MEMBERS CONSIDERED DIRECTORS. Committee members are considered to be directors for purposes of sections 501A.712, 501A.713, and 501A.715.

Sec. 46. NEW SECTION. 501A.712 STANDARD OF CONDUCT.

1. STANDARD AND LIABILITY. A director shall discharge the duties of the position of

director in good faith, in a manner the director reasonably believes to be in the best interests of the cooperative, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the cooperative.

2. RELIANCE.

a. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the cooperative who the director reasonably believes to be liable and competent in the matters presented.

(2) Counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, duly established by the board, as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

b. Paragraph "a" does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by paragraph "a" unwarranted.

3. PRESUMPTION OF ASSENT AND DISSENT. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless any of the following applies:

a. The director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection, in which case the director is not considered to be present at the meeting for any purpose of this chapter.

b. The director votes against the action at the meeting.

c. The director is prohibited by a conflict of interest from voting on the action.

4. CONSIDERATIONS. In discharging the duties of the position of director, a director may, in considering the best interests of the cooperative, consider the interests of the cooperative's employees, customers, suppliers, and creditors, the economy of the state, and long-term as well as short-term interests of the cooperative and its patron members, including the possibility that these interests may be best served by the continued independence of the cooperative.

Sec. 47. NEW SECTION. 501A.713 DIRECTOR CONFLICTS OF INTEREST.

1. CONFLICT AND PROCEDURE WHEN CONFLICT ARISES.

a. A contract or other transaction between a cooperative and one or more of its directors, or between a cooperative and a business entity in or of which one or more of its directors are governors, directors, managers, officers, or legal representatives or have a material financial interest, is not void or voidable because the director or directors or the other business entities are parties or because the director or directors are present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if any of the following applies:

(1) The contract or transaction was, and the person asserting the validity of the contract or transaction sustains the burden of establishing that the contract or transaction was, fair and reasonable as to the cooperative at the time it was authorized, approved, or ratified and all of the following apply:

(a) The material facts as to the contract or transaction and as to the director's or directors' interest are disclosed or known to the members.

(b) The material facts as to the contract or transaction and as to the director's or directors' interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the board or committee, but the interested director or directors are not counted in determining the presence of a quorum and must not vote.

(2) The contract or transaction is a distribution, contract, or transaction that is made available to all members or patron members as part of the cooperative's business.

b. If a committee is elected or appointed to authorize, ratify, or approve a contract or transaction under this section, the members of the committee must not have a conflict of interest and must be charged with representing the best interests of the cooperative.

2. MATERIAL FINANCIAL INTEREST. For purposes of this section, all of the following apply:

a. A resolution fixing the compensation of a director or fixing the compensation of another director as a director, officer, employee, or agent of the cooperative is not void or voidable or considered to be a contract or other transaction between a cooperative and one or more of its directors for purposes of this section even though the director receiving the compensation fixed by the resolution is present and voting at the meeting of the board or a committee at which the resolution is authorized, approved, or ratified or even though other directors voting upon the resolution are also receiving compensation from the cooperative.

b. A director has a material financial interest in each organization in which the director or a family member of the director has a material financial interest. A contract or other transaction between a cooperative and a family member of a director is considered to be a transaction between the cooperative and the director. A family member of a director includes the spouse, parents, children and spouses of children, brothers and sisters and spouses of brothers and sisters, and the brothers and sisters of the spouse of the director or any combination of them.

Sec. 48. NEW SECTION. 501A.714 LIMITATION OF DIRECTOR'S LIABILITY.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the cooperative is not liable for the cooperative's debts or obligations, and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon any action taken, or any failure to take action in the discharge of the person's duties, except for the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm to the cooperative or its members or patrons, or an intentional violation of criminal law.

Sec. 49. NEW SECTION. 501A.715 INDEMNIFICATION.

1. DEFINITIONS. As used in this section, all of the following apply:

a. "Official capacity" means any of the following:

(1) With respect to a director, the position of director in a cooperative.

(2) With respect to a person other than a director, the elective or appointive office or position held by the person, member of a committee of the board, the employment relationship undertaken by an employee of the cooperative, or the scope of the services provided by members of the cooperative who provide services to the cooperative.

(3) With respect to a director, chief executive officer, member, or employee of the cooperative who, while a director, chief executive officer, or member or employee of the cooperative, is or was serving at the request of the cooperative or whose duties in that position involve or involved service as a governor, director, manager, officer, member, partner, trustee, employee, or agent of another organization or employee benefit plan, the position of that person as a governor, director, manager, officer, member, partner, trustee, employee, or agent, as the case may be, of the other organization or employee benefit plan.

b. "Predecessor entity" includes a domestic cooperative or foreign cooperative that was the predecessor of the cooperative referred to in this section in a merger or other transaction in which the predecessor entity's existence ceased upon consummation of the transaction.

c. "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the cooperative.

d. "Special legal counsel" means counsel who has not represented the cooperative or a related organization, or a director, manager, member of a committee of the board, or employee whose indemnification is in issue.

2. INDEMNIFICATION.

a. Subject to the provisions of subsection 4, a cooperative shall indemnify a person made

or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, any of the following applies:

(1) All of the following apply:

(a) The person has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding with respect to the same acts or omissions.

(b) The person acted in good faith.

(c) The person has not received an improper personal benefit.

(d) The person has not committed an act for which liability cannot be eliminated or limited under section 501A.714.

(e) In the case of a criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful.

(2) (a) In the case of an act or omission occurring in the official capacity described in subsection 1, paragraph "a", subparagraph (1) or (2), the person reasonably believed that the conduct was in the best interests of the cooperative.

(b) In the case of an act or omission occurring in the official capacity described in subsection 1, paragraph "a", subparagraph (3), the person reasonably believed that the conduct was not opposed to the best interests of the cooperative.

If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the cooperative if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.

b. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent does not, of itself, establish that the person did not meet the criteria set forth in this subsection.

3. ADVANCES. Subject to the provisions of subsection 4, if a person is made or threatened to be made a party to a proceeding, the person is entitled, upon written request to the cooperative, to payment or reimbursement by the cooperative of reasonable expenses, including attorney fees and disbursements incurred by the person in advance of the final disposition of the proceeding, as follows:

a. Upon receipt by the cooperative of a written affirmation by the person of a good-faith belief that the criteria for indemnification set forth in subsection 2 has been satisfied, and a written undertaking by the person to repay all amounts paid or reimbursed by the cooperative, if it is ultimately determined that the criteria for indemnification have not been satisfied.

b. After a determination that the facts then known to those making the determination would not preclude indemnification under this section.

The written undertaking required by this subsection is an unlimited general obligation of the person making it, but need not be secured and shall be accepted without reference to financial ability to make the repayment.

4. PROHIBITION OR LIMIT ON INDEMNIFICATION OR ADVANCES. The articles or bylaws either may prohibit indemnification or advances of expenses otherwise required by this section or may impose conditions on indemnification or advances of expenses in addition to the conditions contained in subsection 2 or 3, including, without limitation, monetary limits on indemnification or advances of expenses if the conditions apply equally to all persons or to all persons within a given class. A prohibition or limit on indemnification or advances of expenses shall not apply to or affect the right of a person to indemnification or advances of expenses with respect to any acts or omissions of the person occurring before the effective date

of a provision in the articles or the date of adoption of a provision in the bylaws establishing the prohibition or limit on indemnification or advances of expenses.

5. REIMBURSEMENT TO WITNESSES. This section does not require, or limit the ability of, a cooperative to reimburse expenses, including attorney fees and disbursements incurred by a person in connection with an appearance as a witness in a proceeding at a time when the person has not been made or threatened to be made a party to a proceeding.

6. DETERMINATION OF ELIGIBILITY.

a. All determinations whether indemnification of a person is required because the criteria set forth in subsection 2 have been satisfied and whether a person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3 must be made as follows:

(1) By the board by a majority of a quorum, if the directors who are, at the time, parties to the proceeding are not counted for determining either a majority or the presence of a quorum.

(2) If a quorum under subparagraph (1) cannot be obtained by a majority of a committee of the board consisting solely of two or more directors not at the time parties to the proceeding duly designated to act in the matter by a majority of the full board, including directors who are parties.

(3) If a determination is not made under subparagraph (1) or (2) by special legal counsel selected either by a majority of the board or a committee by vote under subparagraph (1) or (2) or if the requisite quorum of the full board cannot be obtained and the committee cannot be established by a majority of the full board, including directors who are parties.

(4) If a determination is not made under subparagraphs (1) through (3) by the affirmative vote of the members, but the membership interests held by parties to the proceeding must not be counted in determining the presence of a quorum, and are not considered to be present and entitled to vote on the determination.

(5) If an adverse determination is made under subparagraphs (1) through (4) or paragraph "b" or if a determination is not made under subparagraphs (1) through (4) or paragraph "b" within sixty days either after the later to occur of the termination of a proceeding or a written request for indemnification to the cooperative, or a written request for an advance of expenses, as the case may be, by a court in this state, which may be the same court in which the proceeding involving the person's liability took place upon application of the person and any notice the court requires. The person seeking indemnification or payment or reimbursement of expenses under this subparagraph has the burden of establishing that the person is entitled to indemnification or payment or reimbursement of expenses.

b. With respect to a person who is not, and was not at the time of the act or omission complained of in the proceedings, a director, chief executive officer, or person possessing, directly or indirectly, the power to direct or cause the direction of the management or policies of the cooperative, the determination whether indemnification of this person is required because the criteria set forth in subsection 2 have been satisfied and whether such person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3, may be made by an annually appointed committee of the board, having at least one member who is a director. The committee shall report at least annually to the board concerning its actions.

7. INSURANCE. A cooperative may purchase and maintain insurance on behalf of a person in that person's official capacity against any liability asserted against and incurred by the person in or arising from that capacity, whether or not the cooperative would have been required to indemnify the person against the liability under the provisions of this section.

8. DISCLOSURE. A cooperative that indemnifies or advances expenses to a person in accordance with this section in connection with a proceeding by or on behalf of the cooperative shall report to the members in writing the amount of the indemnification or advance and to whom and on whose behalf it was paid not later than the next meeting of members.

9. INDEMNIFICATION OF OTHER PERSONS. Nothing in this section must be construed to limit the power of the cooperative to indemnify persons other than a director, chief executive officer, member, employee, or member of a committee of the board of the cooperative by contract or otherwise.

Sec. 50. NEW SECTION. 501A.716 OFFICERS.

1. REQUIRED OFFICERS.

a. The board shall elect all of the following:

(1) A chairperson.

(2) One or more vice chairpersons.

b. The board shall elect or appoint all of the following:

(1) A records officer.

(2) A financial officer.

c. The officers, other than the chief executive officer, shall not have the authority to bind the cooperative except as authorized by the board.

2. ADDITIONAL OFFICERS. The board may elect additional officers as the articles or bylaws authorize or require.

3. RECORDS OFFICER AND FINANCIAL OFFICER MAY BE COMBINED. The offices of records officer and financial officer may be combined.

4. OFFICERS THAT MUST BE MEMBERS. The chairperson and first vice chairperson shall be directors and members. The financial officer, records officer, and additional officers need not be directors or members.

5. CHIEF EXECUTIVE OFFICER. The board may employ a chief executive officer to manage the day-to-day affairs and business of the cooperative, and if a chief executive officer is employed, the chief executive officer shall have the authority to implement the functions, duties, and obligations of the cooperative except as restricted by the board. The chief executive officer shall not exercise authority reserved to the board or the members under this chapter, the articles, or the bylaws.

SUBCHAPTER 8
MEMBERS

Sec. 51. NEW SECTION. 501A.801 MEMBERS.

1. REQUIREMENT. A cooperative shall have one or more patron members.

2. GROUPING OF MEMBERS.

a. A cooperative may group members and patron members in districts, units, or on another basis if and as authorized in its articles or bylaws. The articles or bylaws may include authorization for the board to determine the groupings.

b. The board may implement the use of districts or units, including setting the time and place and prescribing the rules of conduct for holding meetings by districts or units to elect delegates to members' meetings.

3. MEMBER VIOLATIONS.

a. A member who knowingly, intentionally, or repeatedly violates a provision of this chapter, the articles or bylaws of the cooperative, or a member control agreement or marketing contract with the cooperative may be required by the board to surrender the member's voting power or the financial rights of membership interest of any class owned by the member, or both.

b. The cooperative shall refund to the member for the surrendered financial rights of membership interest the lesser of the book value or market value of the financial right of the membership interest payable in not more than seven years from the date of surrender or the board may transfer all of any patron member's financial rights to a class of financial rights held by members who are not patron members, or to a certificate of interest, which carries liquidation rights on par with membership interests and is redeemed within seven years after the transfer as provided in the certificate.

c. Membership interests required to be surrendered may be reissued or be retired and canceled by the board.

4. INSPECTION OF COOPERATIVE RECORDS BY MEMBER.

a. A member is entitled to inspect and copy, at the member's expense, during regular business hours at a reasonable location specified by the cooperative, any of the records described

in section 501A.507 if the member meets the requirements of paragraph "b" and gives the cooperative written demand at least five business days before the date on which the member wishes to inspect and copy the records. Notwithstanding the provisions of this subsection or any provisions of section 501A.507, a member shall not have the right to inspect or copy any records of the cooperative relating to the amount of equity capital in the cooperative held by any person or any accounts receivable or other amounts due the cooperative from any person, or any personnel records or employment records of any employee.

b. To be entitled to inspect and copy permitted records, the member shall meet all of the following requirements:

(1) The member must have been a member for at least one year immediately preceding the demand to inspect or copy or must be a member holding at least five percent of all of the outstanding equity interests in the cooperative as of the date the demand is made.

(2) The demand is made in good faith and for a proper cooperative business purpose.

(3) The member describes with reasonable particularity the purpose and the records the member desires to inspect.

(4) The records are directly connected with the described purpose.

c. The right of inspection granted by this subsection shall not be abolished or limited by the articles, bylaws, or any actions of the board or the members.

d. This subsection does not affect any of the following:

(1) The right of a member to inspect records to the same extent as any other litigant if the member is in litigation with the cooperative.

(2) The power of a court to compel the production of the cooperative's records for examination.

e. Notwithstanding any other provision in this subsection, if the records to be inspected or copied are in active use or storage and, therefore, not available at the time otherwise provided for inspection or copying, the cooperative shall notify the member and shall set a date and hour within three business days of the date otherwise set in this subsection for the inspection or copying.

f. A member's agent or attorney has the same inspection and copying rights as the member. The right to copy records under this subsection includes, if reasonable, the right to receive copies made by photographic copying, xerographic copying, or other means. The cooperative may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge shall not exceed the estimated cost of production and reproduction of the records.

g. If a cooperative refuses to allow a member, or the member's agent or attorney, who complies with this subsection to inspect or copy any records that the member is entitled to inspect or copy within a prescribed time limit or, if none, within a reasonable time, the district court of the county in this state where the cooperative's principal office is located or, if it has no principal office in this state, the district court of the county in which its registered office is located may, on application of the member, summarily order the inspection or copying of the records demanded at the cooperative's expense.

h. If a court orders inspection or copying of the records demanded, unless the cooperative proves that it refused inspection or copying in good faith because it had a reasonable basis for doubt about the right of the member or the member's agent or attorney to inspect or copy the records demanded, all of the following shall apply:

(1) The court may order the losing party to pay the prevailing party's reasonable costs, including reasonable attorney fees.

(2) The court may order the losing party to pay the prevailing party for any damages the prevailing party shall have incurred by reason of the subject matter of the litigation.

(3) If inspection or copying is ordered under this paragraph "h", the court may order the cooperative to pay the member's inspection and copying expenses.

(4) The court may grant either party any other remedy provided by law.

(5) The court may impose reasonable restrictions on the use or distribution of the records by the demanding member.

Sec. 52. NEW SECTION. 501A.802 MEMBER NOT LIABLE FOR COOPERATIVE DEBTS.

A member is not, merely on the account of that status, personally liable for the acts, debts, liabilities, or obligations of a cooperative. A member is liable for any unpaid subscription for the membership interest, unpaid membership fees, or a debt for which the member has separately contracted with the cooperative.

Sec. 53. NEW SECTION. 501A.803 REGULAR MEMBERS' MEETINGS.

1. ANNUAL MEETING. Regular members' meetings shall be held annually at a time determined by the board, unless otherwise provided for in the bylaws.

2. LOCATION. The regular members' meeting shall be held at the principal place of business of the cooperative or at another conveniently located place as determined by the bylaws or the board.

3. BUSINESS AND FISCAL REPORTS. The officers shall submit reports to the members at the regular members' meeting covering the business of the cooperative for the previous fiscal year that show the condition of the cooperative at the close of the fiscal year.

4. ELECTION OF DIRECTORS. All directors shall be elected at the regular members' meeting for the terms of office prescribed in the bylaws, except for directors elected at district or unit meetings.

5. NOTICE.

a. The cooperative shall give notice of regular members' meetings by mailing the regular members' meeting notice to each member at the members' last known post office address or by other notification approved by the board and agreed to by the members. The regular members' meeting notice shall be published or otherwise given by approved method at least two weeks before the date of the meeting or mailed at least fifteen days before the date of the meeting.

b. The notice shall contain a summary of any bylaw amendments adopted by the board since the last annual meeting.

6. WAIVER AND OBJECTIONS. A member may waive notice of a meeting of members. A waiver of notice by a member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item cannot lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Sec. 54. NEW SECTION. 501A.804 SPECIAL MEMBERS' MEETINGS.

1. CALLING MEETING. Special members' meetings of the members may be called by any of the following:

a. A majority vote of the board.

b. The written petition of at least twenty percent of the patron members and, if authorized by the articles or bylaws, twenty percent of the nonpatron members, twenty percent of all members, or members representing twenty percent of the membership interests collectively submitted to the chairperson.

2. NOTICE. The cooperative shall give notice of a special members' meeting by mailing the special members' meeting notice to each member personally at the person's last known post office address or an alternative method approved by the board and agreed to by the member individually or the members generally. For a member that is an entity, notice mailed or delivered by an alternative method shall be to an officer of the entity. The special members' meeting notice shall state the time, place, and purpose of the special members' meeting. The special members' meeting notice shall be issued within ten days from and after the date of the presentation of a members' petition, and the special members' meeting shall be held within thirty days after the date of the presentation of the members' petition.

3. WAIVER AND OBJECTIONS. A member may waive notice of a meeting of members. A waiver of notice by a member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item cannot lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Sec. 55. NEW SECTION. 501A.805 CERTIFICATION OF MEETING NOTICE.

1. CERTIFICATE OF MAILING. After mailing special or regular members' meeting notices or otherwise delivering the notices, the cooperative shall execute a certificate containing the date of mailing or delivery of the notice and a statement that the special or regular members' meeting notices were mailed or delivered as prescribed by law.

2. MATTER OF RECORD. The certificate shall be made a part of the record of the meeting.

3. FAILURE TO RECEIVE MEETING NOTICE. Failure of a member to receive a special or regular members' meeting notice does not invalidate an action taken by the members at a members' meeting.

Sec. 56. NEW SECTION. 501A.806 QUORUM.

1. QUORUM. The quorum for a members' meeting to transact business shall be by any of the following:

a. Ten percent of the total number of members of a cooperative with five hundred or fewer members.

b. Fifty members for cooperatives with more than five hundred members.

2. QUORUM FOR VOTING BY MAIL. In determining a quorum at a meeting, on a question submitted to a vote by mail or an alternative method, members present in person or represented by mail vote or the alternative voting method shall be counted. The attendance of a sufficient number of members to constitute a quorum shall be established by a registration of the members of the cooperative present at the meeting. The registration shall be verified by the chairperson or the records officer of the cooperative and shall be reported in the minutes of the meeting.

3. MEETING ACTION INVALID WITHOUT QUORUM. An action by a cooperative is not valid or legal in the absence of a quorum at the meeting at which the action was taken.

Sec. 57. NEW SECTION. 501A.807 REMOTE COMMUNICATIONS FOR MEMBERS' MEETINGS.

1. CONSTRUCTION AND APPLICATION. This section shall be construed and applied to all of the following:

a. To facilitate remote communication consistent with other applicable law.

b. To be consistent with reasonable practices concerning remote communication and with the continued expansion of those practices.

2. MEMBERS' MEETINGS HELD SOLELY BY MEANS OF REMOTE COMMUNICATION. To the extent authorized in the articles, a member control agreement, or the bylaws and determined by the board, a regular or special meeting of members may be held solely by any combination of means of remote communication through which the members may participate in the meeting, if notice of the meeting is given to every owner of membership interests entitled to vote as would be required by this chapter for a meeting, and if the membership interests held by the members participating in the meeting would be sufficient to constitute a quorum at a meeting. Participation by a member by that means constitutes presence at the meeting in person or by proxy if all the other requirements of this chapter for the meeting are met.

3. PARTICIPATION IN MEMBERS' MEETINGS BY MEANS OF REMOTE COMMUNICATION. To the extent authorized in the articles or the bylaws and determined by the board, a member not physically present in person or by proxy at a regular or special meeting of mem-

bers may, by means of remote communication, participate in a meeting of members held at a designated place. Participation by a member by that means constitutes presence at the meeting in person or by proxy if all the other requirements of this chapter for the meeting are met.

4. REQUIREMENTS FOR MEETINGS HELD SOLELY BY MEANS OF REMOTE COMMUNICATION AND FOR PARTICIPATION BY MEANS OF REMOTE COMMUNICATION. In any meeting of members held solely by means of remote communication under subsection 2 or in any meeting of members held at a designated place in which one or more members participate by means of remote communication under subsection 3, all of the following shall apply:

a. The cooperative shall implement reasonable measures to verify that each person deemed present and entitled to vote at the meeting by means of remote communication is a member.

b. The cooperative shall implement reasonable measures to provide each member participating by means of remote communication with a reasonable opportunity to participate in the meeting, including an opportunity to do all of the following:

(1) Read or hear the proceedings of the meeting substantially concurrently with those proceedings.

(2) If allowed by the procedures governing the meeting, have the member's remarks heard or read by other participants in the meeting substantially concurrently with the making of those remarks.

(3) If otherwise entitled, vote on matters submitted to the members.

5. NOTICE TO MEMBERS.

a. Any notice to members given by the cooperative under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the member to whom the notice is given is effective when given. The notice is deemed given upon any of the following:

(1) If by facsimile communication, when directed to a telephone number at which the member has consented to receive notice.

(2) If by electronic mail, when directed to an electronic mail address at which the member has consented to receive notice.

(3) If by a posting on an electronic network on which the member has consented to receive notice, together with separate notice to the member of the specific posting, upon the later of any of the following:

(a) The posting.

(b) The giving of the separate notice.

(4) If by any other form of electronic communication by which the member has consented to receive notice, when directed to the member.

b. An affidavit of the secretary, other authorized officer, or authorized agent of the cooperative that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit.

c. Consent by a member to notice given by electronic communication may be given in writing or by authenticated electronic communication. The cooperative is entitled to rely on any consent so given until revoked by the member, provided that no revocation affects the validity of any notice given before receipt by the cooperative of revocation of the consent.

6. REVOCATION. Any ballot, vote, authorization, or consent submitted by electronic communication under this chapter may be revoked by the member submitting the ballot, vote, authorization, or consent so long as the revocation is received by a director or the chief executive officer of the cooperative at or before the meeting or before an action without a meeting is effective.

7. WAIVER. Waiver of notice by a member of a meeting by means of authenticated electronic communication may be given in the manner provided for the regular or special meeting. Participation in a meeting by means of remote communication described in subsections 2 and 3 is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item cannot lawfully be considered at the meeting and does not participate in the consideration of the item at that meeting.

Sec. 58. NEW SECTION. 501A.808 ACT OF MEMBERS.

1. ACTION BY AFFIRMATIVE VOTE OF MEMBERS.

a. The members shall take action by the affirmative vote of the members of the greater of any of the following:

(1) A majority of the voting power of the membership interests present and entitled to vote on that item of business.

(2) A majority of the voting power that would constitute a quorum for the transaction of business at the meeting, except where this chapter, the articles or bylaws, or a member control agreement require a larger proportion.

b. If the articles, bylaws, or a member control agreement require a larger proportion than is required by this chapter for a particular action, the articles, bylaws, or the member control agreement shall have control over the provisions of this chapter.

2. CLASS OR SERIES OF MEMBERSHIP INTERESTS. In any case where a class or series of membership interests is entitled by this chapter, the articles, bylaws, a member control agreement, or the terms of the membership interests to vote as a class or series, the matter being voted upon must also receive the affirmative vote of the owners of the same proportion of the membership interests present of that class or series; or of the total outstanding membership interests of that class or series, as the proportion required under subsection 1, unless the articles, bylaws, or the member control agreement require a larger proportion. Unless otherwise stated in the articles, bylaws, or a member control agreement, in the case of voting as a class or series, the minimum percentage of the total voting power of membership interests of the class or series that must be present is equal to the minimum percentage of all membership interests entitled to vote required to be present under section 501A.707.

3. GREATER QUORUM OR VOTING REQUIREMENTS.

a. The articles or bylaws adopted by the members may provide for a greater quorum or voting requirement for members or voting groups than is provided for by this chapter.

b. An amendment to the articles or bylaws that adds, changes, or deletes a greater quorum or voting requirement shall 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. 59. NEW SECTION. 501A.809 ACTION WITHOUT A MEETING.

1. METHOD. An action required or permitted to be taken at a meeting of the members may be taken by written action signed, or consented to by authenticated electronic communication, by all of the members. If the articles, bylaws, or a member control agreement so provide, any action may be taken by written action signed, or consented to by authenticated electronic communication, by the members who own voting power equal to the voting power that would be required to take the same action at a meeting of the members at which all members were present.

2. EFFECTIVE TIME. The written action is effective when signed or consented to by authenticated electronic communication by the required members, unless a different effective time is provided in the written action.

3. NOTICE AND LIABILITY. When written action is permitted to be taken by less than all members, all members must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A member who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

Sec. 60. NEW SECTION. 501A.810 MEMBER VOTING RIGHTS.

1. MEMBER HAS ONE VOTE OR PATRONAGE VOTING. A patron member of a cooperative is only entitled to one vote on an issue to be voted upon by members holding patron membership interests. However, if authorized in the cooperative's articles or bylaws, a patron member may be entitled to additional votes based on patronage criteria in section 501A.811. If nonpatron members are authorized by the patron members and granted voting rights on any matter voted on by the members of the cooperative, the entire patron members' voting power

shall be voted collectively based upon the vote of the majority of patron members voting on the issue and the collective vote of the patron members shall be a majority of the vote cast unless otherwise provided in the bylaws. The bylaws shall not reduce the collective patron member vote to less than fifteen percent of the total vote on matters of the cooperative. A nonpatron member has the voting rights in accordance to the nonpatron member's nonpatron membership interests as granted in the bylaws, subject to the provisions of this chapter.

2. RIGHT TO VOTE AT MEETING. A member or delegate may exercise voting rights on any matter that is before the members as prescribed in the articles or bylaws at a members' meeting from the time the member or delegate arrives at the members' meeting, unless the articles or bylaws specify an earlier and specific time for closing the right to vote.

3. VOTING METHOD. A member's vote at a members' meeting shall be in person or by mail if a mail vote is authorized by the board or by alternative method if authorized by the board and not by proxy, except as provided in subsection 4.

4. MEMBERS REPRESENTED BY DELEGATES.

a. The provisions of this subsection apply to members represented by delegates.

b. A cooperative may provide in the articles or bylaws that units or districts of members are entitled to be represented at members' meetings by delegates chosen by the members of the unit or district. The delegates may vote on matters at the members' meeting in the same manner as a member. The delegates may only exercise the voting rights on a basis and with the number of votes as prescribed in the articles or bylaws.

c. If the approval of a certain portion of the members is required for adoption of amendments, a dissolution, a merger, a consolidation, or a sale of assets, the votes of delegates shall be counted as votes by the members represented by the delegate.

d. Patron members may be represented by the proxy of other patron members.

e. Nonpatron members may be represented by proxy if authorized in the bylaws.

5. ABSENTEE BALLOTS.

a. The provisions of this subsection apply to absentee ballots.

b. A member who is or will be absent from a members' meeting may vote by mail or by an approved alternative method on the ballot prescribed in this subsection on any motion, resolution, or amendment that the board submits for vote by mail or alternative method to the members.

c. The ballot shall be in the form prescribed by the board and contain all of the following:

(1) The exact text of the proposed motion, resolution, or amendment to be acted on at the meeting.

(2) The text of the motion, resolution, or amendment for which the member may indicate an affirmative or negative vote.

d. The member shall express a choice by marking an appropriate choice on the ballot and mail, deliver, or otherwise submit the ballot to the cooperative in a plain, sealed envelope inside another envelope bearing the member's name or by an alternative method approved by the board.

e. A properly executed ballot shall be accepted by the board and counted as the vote of the absent member at the meeting.

Sec. 61. NEW SECTION. 501A.811 PATRON MEMBER VOTING BASED ON PATRONAGE.

1. PATRON MEMBERS TO HAVE AN ADDITIONAL VOTE. A cooperative may authorize by the articles or the bylaws for patron members to have an additional vote for all of the following:

a. A stipulated amount of business transacted between the patron member and cooperative.

b. A stipulated number of patron members in a member cooperative.

c. A certain stipulated amount of equity allocated to or held by a patron member in the cooperative's central organization.

d. A combination of methods provided in this subsection.

2. DELEGATES ELECTED BY PATRONS TO HAVE AN ADDITIONAL VOTE. A cooper-

ative that is organized into units or districts of patron members may, by the articles or the bylaws, authorize the delegates elected by its patron members to have an additional vote for any of the following:

a. A stipulated amount of business transacted between the patron members in the units or districts and the cooperative.

b. A certain stipulated amount of equity allocated to or held by the patron members of the units or districts of the cooperative.

c. A combination of methods in this subsection.

Sec. 62. NEW SECTION. 501A.812 VOTING RIGHTS.

1. DETERMINATION. The board may fix a date not more than sixty days, or a shorter time period provided in the articles or bylaws, before the date of a meeting of members as the date for the determination of the owners of membership interests entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only members on that date are entitled to notice of and permitted to vote at that meeting of members.

2. NONMEMBERS. The articles or bylaws may give or prescribe the manner of giving a creditor, security holder, or other person a right to vote on patron membership interests under this section.

3. JOINTLY OWNED MEMBERSHIP INTERESTS. Membership interests owned by two or more members may be voted by any one of them unless the cooperative receives written notice from any one of them denying the authority of that person to vote those membership interests.

4. MANNER OF VOTING AND PRESUMPTION. Except as provided in subsection 3, an owner of a nonpatron membership interest or a patron membership interest with more than one vote that is entitled to vote may vote any portion of the membership interest in any way the member chooses. If a member votes without designating the proportion voted in a particular way, the member is considered to have voted all of the membership interest in that way.

Sec. 63. NEW SECTION. 501A.813 VOTING BY ORGANIZATIONS AND LEGAL REPRESENTATIVES.

1. MEMBERSHIP INTERESTS HELD BY ANOTHER ORGANIZATION. Membership interests of a cooperative reflected in the required records as being owned by another domestic business entity or foreign business entity may be voted by the chairperson, chief executive officer, or another legal representative of that organization.

2. MEMBERSHIP INTERESTS HELD BY SUBSIDIARY. Except as provided in subsection 3, membership interests of a cooperative reflected in the required records as being owned by a subsidiary are not entitled to be voted on any matter.

3. MEMBERSHIP INTERESTS CONTROLLED IN A FIDUCIARY CAPACITY. Membership interests of a cooperative in the name of, or under the control of, the cooperative or a subsidiary in a fiduciary capacity are not entitled to be voted on any matter, except to the extent that the settler or beneficiary possesses and exercises a right to vote or gives the cooperative or, with respect to membership interests in the name of or under control of a subsidiary, the subsidiary, binding instructions on how to vote the membership interests.

4. VOTING BY CERTAIN REPRESENTATIVES. Subject to section 501A.810, membership interests under the control of a person in a capacity as a personal representative, an administrator, executor, guardian, conservator, or the like may be voted by the person, either in person or by proxy, without reflecting in the required records those membership interests in the name of the person.

5. VOTING BY TRUSTEES IN BANKRUPTCY OR RECEIVER. Membership interests reflected in the required records in the name of a trustee in bankruptcy or a receiver may be voted by the trustee or receiver either in person or by proxy. Membership interests under the control of a trustee in bankruptcy or a receiver may be voted by the trustee or receiver without reflecting in the required records the name of the trustee or receiver, if authority to do so is contained in an appropriate order of the court by which the trustee or receiver was appointed. The right to vote of trustees in bankruptcy and receivers is subject to section 501A.810.

6. MEMBERSHIP INTERESTS HELD BY OTHER ORGANIZATIONS. Membership interests reflected in the required records in the name of a business entity not described in subsections 1 through 5 may be voted either in person or by proxy by the legal representative of that business entity.

7. GRANT OF SECURITY INTEREST. The grant of a security interest in a membership interest does not entitle the holders of the security interest to vote.

Sec. 64. NEW SECTION. 501A.814 PROXIES.

1. AUTHORIZATION.

a. A patron member may only grant a proxy to vote to another patron member.

b. A member may cast or authorize the casting of a vote by any of the following:

(1) Filing a written appointment of a proxy with the board at or before the meeting at which the appointment is to be effective.

(2) Telephonic transmission or authenticated electronic communication, whether or not accompanied by written instructions of the member, of an appointment of a proxy with the cooperative or the cooperative's duly authorized agent at or before the meeting at which the appointment is to be effective.

c. The telephonic transmission or authenticated electronic communication must set forth or be submitted with information from which it can be determined that the appointment was authorized by the member. If it is reasonably concluded that the telephonic transmission or authenticated electronic communication is valid, the inspectors of election or, if there are not inspectors, the other persons making that determination shall specify the information upon which they relied to make that determination. A proxy so appointed may vote on behalf of the member, or otherwise participate, in a meeting by remote communication under section 501A.807, to the extent the member appointing the proxy would have been entitled to participate by remote communication if the member did not appoint the proxy.

d. A copy, facsimile, telecommunication, or other reproduction of the original writing or transmission may be substituted or used in lieu of the original writing or transmission for any purpose for which the original transmission could be used, if the copy, facsimile, telecommunication, or other reproduction is a complete and legible reproduction of the entire original writing or transmission.

e. An appointment of a proxy for membership interests owned jointly by two or more members is valid if signed or consented to by authenticated electronic communication, by any one of them, unless the cooperative receives from any one of those members written notice or an authenticated electronic communication either denying the authority of that person to appoint a proxy or appointing a different proxy.

2. DURATION. The appointment of a proxy is valid for eleven months unless a longer period is expressly provided in the appointment. An appointment is not irrevocable unless the appointment is coupled with an interest in the membership interests or the cooperative.

3. TERMINATION. An appointment may be terminated at will unless the appointment is coupled with an interest, in which case the appointment shall not be terminated except in accordance with the terms of an agreement, if any, between the parties to the appointment. Termination may be made by filing written notice of the termination of the appointment with a manager of the cooperative or by filing a new written appointment of a proxy with a manager of the cooperative. Termination in either manner revokes all prior proxy appointments and is effective when filed with a manager of the cooperative.

4. REVOCATION BY DEATH OR INCAPACITY. The death or incapacity of a person appointing a proxy does not revoke the authority of the proxy, unless written notice of the death or incapacity is received by a manager of the cooperative before the proxy exercises the authority under that appointment.

5. MULTIPLE PROXIES. Unless the appointment specifically provides otherwise, if two or more persons are appointed as proxies for a member, all of the following apply:

a. Any one of them may vote the membership interests on each item of business in accordance with specific instructions contained in the appointment.

b. If no specific instructions are contained in the appointment with respect to voting the membership interests on a particular item of business, the membership interests must be voted as a majority of the proxies determine. If the proxies are equally divided, the membership interests must not be voted.

6. VOTE OF PROXY ACCEPTED AND LIABILITY. Unless the appointment of a proxy contains a restriction, limitation, or specific reservation of authority, the cooperative may accept a vote or action taken by a person named in the appointment. The vote of a proxy is final, binding, and not subject to challenge, but the proxy is liable to the member for damages resulting from a failure to exercise the proxy or from an exercise of the proxy in violation of the authority granted in the appointment.

7. LIMITED AUTHORITY. If a proxy is given authority by a member to vote on less than all items of business considered at a meeting of members, the member is considered to be present and entitled to vote by the proxy only with respect to those items of business for which the proxy has authority to vote. A proxy who is given authority by a member who abstains with respect to an item of business is considered to have authority to vote on the item of business for purposes of this subsection.

Sec. 65. NEW SECTION. 501A.815 SALE OF PROPERTY AND ASSETS.

1. MEMBER APPROVAL NOT REQUIRED. A cooperative may, by affirmative vote of a majority of the board present, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board considers expedient and without member approval, do any of the following:

a. Sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets in the usual and regular course of its business.

b. Grant a security interest in all or substantially all of its property and assets whether or not in the usual and regular course of its business.

c. Transfer any or all of its property to a business entity all the ownership interests of which are owned by the cooperative.

d. For purposes of debt financing, transfer any or all of its property to a special purpose entity owned or controlled by the cooperative for an asset securitization.

2. MEMBER APPROVAL REQUIRED. Except as provided in subsection 1, a cooperative, by affirmative vote of a majority of the board present, may sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets, including its goodwill, not in the usual and regular course of its business, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board considers expedient, when approved at a regular or special meeting of the members by the affirmative vote of two-thirds of the voting power voting at the meeting. Ten days' written notice of the meeting must be given to all members whether or not they are entitled to vote at the meeting. The written notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the cooperative.

3. CONFIRMATORY DOCUMENTS. Confirmatory deeds, assignments, or similar instruments to evidence a sale, lease, transfer, or other disposition may be signed and delivered at any time in the name of the transferor by its current chairperson of the board or authorized agents.

4. LIABILITY OF TRANSFEREE. The transferee is liable for the debts, obligations, and liabilities of the transferor only to the extent provided in the contract or agreement between the transferee and the transferor or to the extent provided by law.

Sec. 66. NEW SECTION. 501A.816 VOTE OF OWNERSHIP INTERESTS HELD BY COOPERATIVE.

A cooperative that holds ownership interests of another business entity may, by direction of the cooperative's board, elect or appoint a person to represent the cooperative at a meeting of the business entity. The representative has authority to represent the cooperative and may cast the cooperative's vote at the business entity's meeting.

SUBCHAPTER 9
MEMBERSHIP INTERESTS

Sec. 67. NEW SECTION. 501A.901 MEMBERSHIP INTERESTS.

1. PATRON MEMBERSHIP INTERESTS. Patron membership interests shall be the only membership interest of a cooperative unless nonpatron memberships are authorized under subsection 2. If nonpatron interests are authorized, the patron membership interests collectively shall have not less than fifty percent of the cooperative's financial rights to profit allocations and distributions. However, the cooperative's articles or bylaws may be amended by the affirmative vote of patron members to allow the cooperative's financial rights to profit allocations and distributions to patron members collectively to be a lesser amount but in no case less than fifteen percent.

2. NONPATRONAGE MEMBERSHIP INTERESTS.

a. In order for a cooperative to have nonpatron membership interests, the patron members must approve articles or bylaw provisions authorizing the terms and conditions of the nonpatron membership interests, which may include authorizing the board to determine the terms and conditions of the nonpatron membership interests.

b. If nonpatron membership interests are authorized, the cooperative may solicit and issue nonpatron membership interests on terms and conditions determined by the board and disclosed in the articles, bylaws, or by separate disclosure to the members. Each member acquiring nonpatron membership interests shall sign a member control agreement or otherwise agree to the conditions of the bylaws. The control agreement or the bylaws shall describe the rights and obligations of the member as it relates to the nonpatron membership interests, the financial and governance rights, the transferability of the nonpatron membership interests, the division and allocation of profits and losses among the membership interests and membership classes, and financial rights upon liquidation. If the articles or bylaws do not otherwise provide for the allocation of the profits and losses between patron membership interests and nonpatron membership interests, then the allocation of profits and losses among nonpatron membership interests individually and patron membership interests collectively shall be allocated on the basis of the value of contributions to capital made according to the patron membership interests collectively and the nonpatron memberships[3] interests individually to the extent the contributions have been accepted by the cooperative. Distributions of cash or other assets of the cooperative shall be allocated among the membership interests as provided in the articles or bylaws, subject to the provisions of this chapter. If not otherwise provided in the articles or bylaws, distributions shall be made on the basis of value of the capital contributions of the patron membership interests collectively and the nonpatron membership interests to the extent the contributions have been accepted by the cooperative.

3. AMOUNTS AND DIVISIONS OF MEMBERSHIP INTERESTS. The authorized amount and divisions of patron membership interests and, if authorized by the patron members, nonpatron membership interest, may be increased, decreased, established, or altered in accordance with the restrictions in this chapter by amending the articles or bylaws at a regular members' meeting or at a special members' meeting called for the purpose of the amendment.

4. ISSUANCE OF MEMBERSHIP INTERESTS. Authorized membership interests may be issued on terms and conditions prescribed in the articles, bylaws, or if authorized in the articles or bylaws as determined by the board. The cooperative shall disclose to any person acquiring membership interests to be issued by the cooperative, the organization, capital structure, and known business prospects and risks of the cooperative, the nature of the governance and financial rights of the membership interest being acquired and of other classes of membership and membership interests. The cooperative shall notify all members of the membership interests being issued by the cooperative. A membership interest shall not be issued until subscription price of the membership interest has been paid for in money or property with the value of the property to be contributed approved by the board.

5. TRANSFERRING OR SELLING MEMBERSHIP INTERESTS. After issuance by the cooperative, membership interests in a cooperative may only be sold or transferred with the

[3] According to enrolled Act

approval of the board. The board may adopt resolutions prescribing procedures to prospectively approve transfers.

6. COOPERATIVE FIRST RIGHT TO PURCHASE MEMBERSHIP INTERESTS. The articles or bylaws may provide that the cooperative or the patron members, individually or collectively, have the first privilege of purchasing the membership interests of any class of membership interests offered for sale. The first privilege to purchase membership interests may be satisfied by notice to other members that the membership interests are for sale and a procedure by which members may proceed to attempt to purchase and acquire the membership interests.

7. PAYMENT FOR DISSENTING MEMBERSHIP INTERESTS.

a. Subject to the provisions in the articles and bylaws, a member may dissent from and obtain payment for the fair value of the member's membership interests in the cooperative if all of the following apply:

(1) The majority of the cooperative's member voting power is held by different classes of interests.

(2) The articles or bylaws are amended or the cooperative is merged or otherwise combined with another entity in a manner that materially and adversely affects the rights and preferences of the membership interests of the dissenting member.

b. The dissenting member shall file a notice of intent to demand fair value of the membership interest with the records officer of the cooperative within thirty days after the amendment of the bylaws and notice of the amendment to members; otherwise, the right of the dissenting member to demand payment of fair value for the membership interest is waived. If a proposed amendment of the articles or bylaws must be approved by the members, a member who is entitled to dissent and who wishes to exercise dissenter's rights shall file a notice to demand fair value of the membership interest with the records officer of the cooperative; otherwise, the right to demand fair value for the membership interest by the dissenting member is waived. After receipt of the dissenting member's demand notice and approval of the amendment, the cooperative has sixty days to rescind the amendment, or otherwise the cooperative shall remit the fair value for the member's interest to the dissenting member by one hundred eighty days after receipt of the notice. Upon receipt of the fair value for the membership interest, the member has no further member rights in the cooperative.

Sec. 68. NEW SECTION. 501A.902 ASSIGNMENT OF FINANCIAL RIGHTS.

1. ASSIGNMENT OF FINANCIAL RIGHTS PERMITTED. Except as provided in subsection 3, a member's financial rights are transferable in whole or in part.

2. EFFECT OF ASSIGNMENT OF FINANCIAL RIGHTS. An assignment of a member's financial rights entitles the assignee to receive, to the extent assigned, only the share of profits and losses and the distributions to which the assignor would otherwise be entitled. An assignment of a member's financial rights does not dissolve the cooperative and does not entitle or empower the assignee to become a member, to exercise any governance rights, to receive any notices from the cooperative, or to cause dissolution. The assignment shall not allow the assignee to control the member's exercise of governance or voting rights.

3. RESTRICTIONS OF ASSIGNMENT OF FINANCIAL RIGHTS.

a. A restriction on the assignment of financial rights may be imposed in the articles, in the bylaws, in a member control agreement, by a resolution adopted by the members, by an agreement among or other written action by the members, or by an agreement among or other written action by the members and the cooperative. A restriction is not binding with respect to financial rights reflected in the required records before the adoption of the restriction, unless the owners of those financial rights are parties to the agreement or voted in favor of the restriction.

b. Subject to paragraph "c", a written restriction on the assignment of financial rights that is not manifestly unreasonable under the circumstances and is noted conspicuously in the required records may be enforced against the owner of the restricted financial rights or a successor or transferee of the owner, including a pledgee or a legal representative. Unless noted con-

spicuously in the required records, a restriction, even though permitted by this section, is ineffective against a person without knowledge of the restriction.

c. With regard to restrictions on the assignment of financial rights, a would-be assignee of financial rights is entitled to rely on a statement of membership interest issued by the cooperative under section 501A.903. A restriction on the assignment of financial rights, which is otherwise valid and in effect at the time of the issuance of a statement of membership interest but which is not reflected in that statement, is ineffective against an assignee who takes an assignment in reliance on the statement.

d. Notwithstanding any provision of law, articles, bylaws, member control agreement, other agreement, resolution, or action to the contrary, a security interest in a member's financial rights may be foreclosed and otherwise enforced, and a secured party may assign a member's financial rights in accordance with the uniform commercial code, chapter 554, without the consent or approval of the member whose financial rights are subject to the security interest.

Sec. 69. NEW SECTION. 501A.903 NATURE OF A MEMBERSHIP INTEREST AND STATEMENT OF INTEREST OWNED.

1. GENERALLY. A membership interest is personal property. A member has no interest in specific cooperative property. All property of the cooperative is property of the cooperative.

2. STATEMENT OF MEMBERSHIP INTEREST. At the request of any member, the cooperative shall state in writing the particular membership interest owned by that member as of the date the cooperative makes the statement. The statement must describe the member's rights to vote, if any, to share in profits and losses, and to share in distributions, restrictions on assignments of financial rights under section 501A.902, subsection 3, or voting rights under section 501A.810 then in effect, as well as any assignment of the member's rights then in effect other than a security interest.

3. TERMS OF MEMBERSHIP INTERESTS. All the membership interests of a cooperative are subject to all of the following:

a. Membership interests shall be of one class, without series, unless the articles or bylaws establish or authorize the board to establish more than one class or series within classes.

b. Ordinary patron membership interests and, if authorized, nonpatron membership interest subject to this chapter are entitled to vote as provided in section 501A.810, and have equal rights and preferences in all matters not otherwise provided for by the board and to the extent that the articles or bylaws have fixed the relative rights and preferences of different classes and series.

c. Membership interests share profits and losses and are entitled to distributions as provided in sections 501A.1005 and 501A.1006.

4. RIGHTS OF JUDGMENT CREDITOR. On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge a member's or an assignee's financial rights with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of a member's financial rights under section 501A.902. This chapter does not deprive any member or assignee of financial rights of the benefit of any exemption laws applicable to the membership interest. This section is the sole and exclusive remedy of a judgment creditor with respect to the judgment debtor's membership interest.

5. a. Subject to any restrictions in the articles or bylaws, the power granted in this subsection may be exercised by a resolution or resolutions establishing a class or series, setting forth the designation of the class or series, and fixing the relative rights and preferences of the class or series. Any of the rights and preferences of a class or series established in the articles, bylaws, or by resolution of the board may do any of the following:

(1) Be made dependent upon facts ascertainable outside the articles or bylaws or outside the resolution or resolutions establishing the class or series, if the manner in which the facts operate upon the rights and preferences of the class or series is clearly and expressly set forth in the articles or bylaws or in the resolution or resolutions establishing the class or series.

(2) Include by reference some or all of the terms of any agreements, contracts, or other

arrangements entered into by the cooperative in connection with the establishment of the class or series if the cooperative retains at its principal executive office a copy of the agreements, contracts, or other arrangements or the portions will be included by reference.

b. A statement setting forth the name of the cooperative and the text of the resolution and certifying the adoption of the resolution and the date of adoption must be given to the members before the acceptance of any contributions for which the resolution creates rights or preferences not set forth in the articles or bylaws. Where the members have received notice of the creation of membership interests with rights or preferences not set forth in the articles or bylaws before the acceptance of the contributions with respect to the membership interests, the statement may be filed anytime within one year after the acceptance of the contributions. The resolution is effective three days after delivery to the members is deemed effective by the board, or, if the statement is not required to be given to the members before the acceptance of contributions, on the date of its adoption by the directors.

6. SPECIFIC TERMS. Without limiting the authority granted in this section, in regulating the membership interests of a class or series, a cooperative may do any of the following:

a. Subject to the right of the cooperative to redeem any of those membership interests at the price fixed for their redemption by the articles or bylaws or by the board.

b. Entitle the members to receive cumulative, partially cumulative, or noncumulative distributions.

c. Provide a preference over any class or series of membership interests for the payment of distributions of any or all kinds.

d. Convert into membership interests of any other class or any series of the same or another class.

e. Provide full, partial, or no voting rights, except as provided in section 501A.810.

7. GRANT OF A SECURITY INTEREST. For the purpose of any law relating to security interests, membership interests, governance or voting rights, and financial rights are each to be characterized as provided in section 554.8103, subsection 3.

8. POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER.

a. If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage the member's person or property, or an order for relief under the bankruptcy code is entered with respect to the member, the member's executor, administrator, guardian, conservator, trustee, or other legal representative may exercise all of the member's rights for the purpose of settling the estate or administering the member's property. If a member is a business entity, trust, or other entity and is dissolved, terminated, or placed by a court in receivership or bankruptcy, the powers of that member may be exercised by its legal representative or successor.

b. If an event referred to in paragraph "a" causes the termination of a member's membership interest and the termination does not result in dissolution, then, subject to the articles and bylaws, all of the following apply:

(1) As provided in section 501A.902, the terminated member's interest will be considered to be merely that of an assignee of the financial rights owned before the termination of membership.

(2) The rights to be exercised by the legal representative of the terminated member shall be limited accordingly.

9. LIABILITY OF SUBSCRIBERS AND MEMBERS WITH RESPECT TO MEMBERSHIP INTERESTS. A person who subscribes to or owns a membership interest in a cooperative is under no obligation to the cooperative or its creditors with respect to the membership interests subscribed for or owned, except to pay to the cooperative the full consideration for which the membership interests are issued or to be issued.

Sec. 70. NEW SECTION. 501A.904 CERTIFICATED MEMBERSHIP INTERESTS.

1. CERTIFICATED — UNCERTIFICATED. The membership interests of a cooperative shall be either certificated or uncertificated. Each holder of certificated membership interests issued is entitled to a certificate of membership interest.

2. SIGNATURE REQUIRED. Certificates shall be signed by an agent or officer authorized in the articles or bylaws to sign share certificates or, in the absence of an authorization, by the chairperson or records officer of the cooperative.

3. SIGNATURE VALID. If a person signs or has a facsimile signature placed upon a certificate while the chairperson, an officer, transfer agent, or records officer of a cooperative, the certificate may be issued by the cooperative, even if the person has ceased to have that capacity before the certificate is issued, with the same effect as if the person had that capacity at the date of its issue.

4. FORM OF CERTIFICATE. A certificate representing membership interests of a cooperative shall contain on its face all of the following:

a. The name of the cooperative.

b. A statement that the cooperative is organized under the laws of this state and this chapter.

c. The name of the person to whom the certificate is issued.

d. The number and class of membership interests, and the designation of the series, if any, that the certificate represents.

e. A statement that the membership interests in the cooperative are subject to the articles and bylaws of the cooperative.

f. Any restrictions on transfer, including approval of the board, if applicable, first rights of purchase by the cooperative, and other restrictions on transfer, which may be stated by reference to the back of the certificate or to another document.

5. LIMITATIONS SET FORTH. A certificate representing membership interests issued by a cooperative authorized to issue membership interests of more than one class or series shall set forth upon the face or back of the certificate, or shall state that the cooperative will furnish to any member upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the membership interests of each class or series authorized to be issued, so far as they have been determined, and the authority of the board to determine the relative rights and preferences of subsequent classes or series.

6. PRIMA FACIE EVIDENCE. A certificate signed as provided in subsection 2 is prima facie evidence of the ownership of the membership interests referred to in the certificate.

7. UNCERTIFICATED MEMBERSHIP INTERESTS. Unless uncertificated membership interests are prohibited by the articles or bylaws, a resolution approved by the affirmative vote of a majority of the directors present may provide that some or all of any or all classes and series of its membership interests will be uncertificated membership interests.

The resolution does not apply to membership interests represented by a certificate until the certificate is surrendered to the cooperative. Within a reasonable time after the issuance or transfer of uncertificated membership interests, the cooperative shall send to the new member the information required by this section to be stated on certificates. This information is not required to be sent to the new holder by a publicly held cooperative that has adopted a system of issuance, recordation, and transfer of its membership interests by electronic or other means not involving an issuance of certificates if the system complies with section 17A of the Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq. Except as otherwise expressly provided by statute, the rights and obligations of the holders of certificated and uncertificated membership interests of the same class and series are identical.

Sec. 71. NEW SECTION. 501A.905 LOST CERTIFICATES — REPLACEMENT.

1. ISSUANCE. A new membership interest certificate may be issued under section 554.8405 in place of one that is alleged to have been lost, stolen, or destroyed.

2. NOT OVERISSUE. The issuance of a new certificate under this section does not constitute an overissue of the membership interests the new certificate represents.

Sec. 72. NEW SECTION. 501A.906 RESTRICTION ON TRANSFER OR REGISTRATION OF MEMBERSHIP INTERESTS.

1. HOW IMPOSED. A restriction on the transfer or registration of transfer of membership interests of a cooperative may be imposed in the articles, in the bylaws, by a resolution adopted

by the members, or by an agreement among or other written action by a number of members or holders of other membership interests or among them and the cooperative. A restriction is not binding with respect to membership interests issued prior to the adoption of the restriction, unless the holders of those membership interests are parties to the agreement or voted in favor of the restriction.

2. RESTRICTIONS PERMITTED. A written restriction on the transfer or registration of transfer of membership interests of a cooperative that is not manifestly unreasonable under the circumstances may be enforced against the holder of the restricted membership interests or a successor or transferee of the holder, including a pledgee or a legal representative, if the restriction is any of the following:

a. Noted conspicuously on the face or back of the certificate.

b. Included in this chapter or the articles or bylaws.

c. Included in information sent to the holders of uncertificated membership interests.

Unless otherwise restricted by this chapter, the articles, bylaws, noted conspicuously on the face or back of the certificate, or included in information sent to the holders of uncertificated membership interests, a restriction, even though permitted by this section, is ineffective against a person without knowledge of the restriction. A restriction under this section is deemed to be noted conspicuously and is effective if the existence of the restriction is stated on the certificate and reference is made to a separate document creating or describing the restriction.

SUBCHAPTER 10
CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

Sec. 73. NEW SECTION. 501A.1001 AUTHORIZATION, FORM, AND ACCEPTANCE OF CONTRIBUTIONS.

1. Subject to any restrictions in this chapter regarding patron and nonpatron membership interests or in the articles or bylaws, and only when authorized by the board, a cooperative may accept contributions, which may be patron or nonpatron membership contributions as determined by the board under subsections 2 and 3, make contribution agreements under section 501A.1003, and make contribution rights agreements under section 501A.1004.

2. PERMISSIBLE FORMS. A person may make a contribution to a cooperative by any of following:[4]

a. Paying money or transferring the ownership of an interest in property to the cooperative or rendering services to or for the benefit of the cooperative.

b. Executing a written obligation signed by the person to pay money or transfer ownership of an interest in property to the cooperative or to perform services to or for the benefit of the cooperative.

3. A purported contribution shall not be treated or considered as a contribution, unless all of the following apply:

a. The board accepts the contribution on behalf of the cooperative and in that acceptance describes the contribution, including terms of future performance, if any, and states the value being accorded to the contribution.

b. The fact of contribution and the contribution's accorded value are both reflected in the required records of the cooperative.

4. The determinations of the board as to the amount or fair value or the fairness to the cooperative of the contribution accepted or to be accepted by the cooperative or the terms of payment or performance, including under a contribution rights[5] in section 501A.1003, and a contribution rights agreement in section 501A.1004, are presumed to be proper if they are made in good faith and on the basis of accounting methods, or a fair valuation or other method, reasonable in the circumstances. Directors who are present and entitled to vote, and who, intentionally or without reasonable investigation, fail to vote against approving a consideration that is unfair to the cooperative, or overvalue property or services received or to be received by the

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[4] The phrase "any of the following: " probably intended

[5] See chapter 179, §134 herein

cooperative as a contribution, are jointly and severally liable to the cooperative for the benefit of the then members who did not consent to and are damaged by the action to the extent of the damages of those members. A director against whom a claim is asserted under this subsection, except in case of knowing participation in a deliberate fraud, is entitled to contribution on an equitable basis from other directors who are liable under this subsection.

Sec. 74. NEW SECTION. 501A.1002 RESTATEMENT OF VALUE OF PREVIOUS CONTRIBUTIONS.

1. DEFINITION. As used in this section, an "old contribution" is a contribution reflected in the required records of a cooperative before the time the cooperative accepts a new contribution.

2. RESTATEMENT REQUIRED. Whenever a cooperative accepts a new contribution, the board shall restate, as required by this section, the value of all old contributions.

3. RESTATEMENT AS TO PARTICULAR SERIES OR CLASS TO WHICH NEW CONTRIBUTION PERTAINS.

a. Unless otherwise provided in a cooperative's articles or bylaws, this subsection sets forth the method of restating the value of old contributions that pertain to the same series or class to which the new contribution pertains. In restating the value, the cooperative shall do all of the following:

(1) State the value the cooperative has accorded to the new contribution under section 504A.1001,[6] subsection 3, paragraph "a".

(2) Determine what percentage the value stated under subparagraph (1) will constitute, after the restatement required by this subsection, of the total value of all contributions that pertain to the particular series or class to which the new contribution pertains.

(3) Divide the value stated under subparagraph (1) by the percentage determined under subparagraph (2), yielding the total value, after the restatement required by this subsection, of all contributions pertaining to the particular series or class.

(4) Subtract the value stated under subparagraph (1) from the value determined under subparagraph (3), yielding the total value, after the restatement required by this subsection, of all the old contributions pertaining to the particular series or class.

(5) Subtract the value, as reflected in the required records before the restatement required by this subsection, of the old contributions from the value determined under subparagraph (4), yielding the value to be allocated among and added to the old contributions pertaining to the particular series or class.

(6) Allocate the value determined under subparagraph (5) proportionally among the old contributions pertaining to the particular series or class, add the allocated values to those old contributions, and change the required records accordingly.

b. The values determined under paragraph "a", subparagraph (5), and allocated and added under paragraph "a", subparagraph (6), may be positive, negative, or zero.

4. RESTATEMENT METHOD FOR OTHER SERIES OR CLASS. Unless otherwise provided in a cooperative's articles or bylaws, this subsection sets forth the method of restating the value of old contributions that do not pertain to the same series or class to which the new contribution pertains. In restating the value, the cooperative shall do all of the following:

a. Determine the percentage by which the restatement under subsection 3 has changed the total contribution value reflected in the required records for the series or class to which the new contribution pertains.

b. As to each old contribution that does not pertain to the same series or class to which the new contribution pertains, change the value reflected in the required records by the percentage determined under paragraph "a". The percentage determined under paragraph "a" may be positive, negative, or zero.

5. NEW CONTRIBUTIONS MAY BE AGGREGATED. If a cooperative accepts more than one contribution pertaining to the same series or class at the same time, then for the purpose of the restatement required by this section, the cooperative may consider all the new contributions a single contribution.

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[6] Section "501A.1001" probably intended

Sec. 75. NEW SECTION. 501A.1003 CONTRIBUTION AGREEMENTS.

1. SIGNED WRITING. A contribution agreement, whether made before or after the formation of the cooperative, is not enforceable against the would-be contributor unless it is in writing and signed by the would-be contributor.

2. IRREVOCABLE PERIOD. Unless otherwise provided in the contribution agreement, or unless all of the would-be contributors and, if in existence, the cooperative, consent to a shorter or longer period, a contribution agreement is irrevocable for a period of six months.

3. CURRENT AND DEFERRED PAYMENT. A contribution agreement, whether made before or after the formation of a cooperative, must be paid or performed in full at the time or times, or in the installments, if any, specified in the contribution agreement. In the absence of a provision in the contribution agreement specifying the time at which the contribution is to be paid or performed, the contribution must be paid or performed at the time or times determined by the board. However, a call made by the board for payment or performance on contributions must be uniform for all membership interests of the same class or for all membership interests of the same series.

4. FAILURE TO PAY REMEDIES.

a. Unless otherwise provided in the contribution agreement, in the event of default in the payment or performance of an installment or call when due, the cooperative may proceed to collect the amount due in the same manner as a debt due the cooperative. If a would-be contributor does not make a required contribution of property or services, the cooperative shall require the would-be contributor to contribute cash equal to that portion of the value, as stated in the cooperative's required records, of the contribution that has not been made.

b. If the amount due under a contribution agreement remains unpaid for a period of twenty days after written notice of demand for payment has been given to the delinquent would-be contributor, the membership interests that were subject to the contribution agreement may be offered for sale by the cooperative for a price in money equaling or exceeding the sum of the full balance owed by the delinquent would-be contributor plus the expenses incidental to the sale.

If the membership interests that were subject to the contribution agreement are sold according to this paragraph "b", the cooperative shall pay to the delinquent would-be contributor or to the delinquent would-be contributor's legal representative the lesser of one of the following:

(1) The excess of net proceeds realized by the cooperative over the sum of the amount owed by the delinquent would-be contributor plus the expenses incidental to the sale, less any penalty stated in the contribution agreement, which may include forfeiture of the partial contribution.

(2) The amount actually paid by the delinquent would-be contributor.

If the membership interests that were subject to the contribution agreement are not sold according to this paragraph "b", the cooperative may collect the amount due in the same manner as a debt due the cooperative or cancel the contribution agreement according to paragraph "c".

c. If the amount due under a contribution agreement remains unpaid for a period of twenty days after written notice of demand for payment has been given to the delinquent would-be contributor and the membership interests that were subject to the defaulted contribution agreement have not been sold according to paragraph "b", the cooperative may cancel the contribution agreement. In addition, the cooperative may retain any portion of the contribution agreement price actually paid as provided in the contribution agreement. The cooperative shall refund to the delinquent would-be contributor or the delinquent would-be contributor's legal representatives any portion of the contribution agreement price as provided in the contribution agreement.

5. RESTRICTIONS ON ASSIGNMENT. Unless otherwise provided in the articles or bylaws, a would-be contributor's rights under a contribution agreement shall not be assigned, in whole or in part, to a person who was not a member at the time of the assignment, unless all the members approve the assignment by unanimous written consent.

Sec. 76. NEW SECTION. 501A.1004 CONTRIBUTION RIGHTS AGREEMENTS.

1. AGREEMENTS PERMITTED. Subject to any restrictions in a cooperative's articles or

bylaws, the cooperative may enter into contribution rights agreements under the terms, provisions, and conditions established by board resolution.

2. WRITING REQUIRED AND TERMS TO BE STATED. Any contribution rights agreement must be in writing and the writing must state in full, summarize, or include by reference all the agreement's terms, provisions, and conditions of the rights to make contributions.

3. RESTRICTIONS ON ASSIGNMENT. Unless otherwise provided in a cooperative's articles or bylaws, a would-be contributor's rights under a contribution rights agreement shall not be assigned, in whole or in part, to a person who was not a member at the time of the assignment, unless all the members approve the assignment by unanimous written consent.

Sec. 77. NEW SECTION. 501A.1005 ALLOCATIONS AND DISTRIBUTIONS TO MEMBERS.

1. ALLOCATION OF PROFITS AND LOSSES. If nonpatron membership interests are authorized by the patrons, the bylaws shall prescribe the allocation of profits and losses between patron membership interests collectively and any other membership interests. If the bylaws do not otherwise provide, the profits and losses between patron membership interests collectively and other membership interests shall be allocated on the basis of the value of contributions to capital made by the patron membership interests collectively and other membership interests accepted by the cooperative. The allocation of profits to the patron membership interests collectively shall not be less than fifty percent of the total profits in any fiscal year, except if authorized in the cooperative's articles or bylaws that are adopted by an affirmative vote of the patron members, or in the articles or bylaws as amended by the affirmative vote of the patron members. However, the allocation of profits to the patron membership interests collectively shall not be less than fifteen percent of the total profits in any fiscal year.

2. DISTRIBUTION OF CASH OR OTHER ASSETS. A cooperative's bylaws shall prescribe the distribution of cash or other assets of the cooperative among the membership interests of the cooperative. If nonpatron membership interests are authorized by the patrons and the bylaws do not provide otherwise, distributions and allocations shall be made to the patron membership interests collectively and other members on the basis of the value of contributions to capital made and accepted by the cooperative, by the patron membership interests collectively, and other membership interests. The distributions to patron membership interests collectively shall not be less than fifty percent of the total distributions in any fiscal year, except if authorized in the articles or bylaws adopted by the affirmative vote of the patron members, or the articles or bylaws as amended by the affirmative vote of the patron members. However, the distributions to patron membership interests collectively shall not be less than fifteen percent of the total distributions in any fiscal year.

Sec. 78. NEW SECTION. 501A.1006 ALLOCATIONS AND DISTRIBUTIONS TO PATRON MEMBERS.

1. DISTRIBUTION OF NET INCOME. A cooperative may set aside a portion of net income allocated to the patron membership interests as the board determines advisable to create or maintain a capital reserve.

2. RESERVES. In addition to a capital reserve, the board may, for patron membership interests, do any of the following:

a. Set aside an amount not to exceed five percent of the annual net income of the cooperative for promoting and encouraging cooperative organization.

b. Establish and accumulate reserves for new buildings, machinery and equipment, depreciation, losses, and other proper purposes.

3. PATRONAGE DISTRIBUTIONS. Net income allocated to patron members in excess of dividends on equity and additions to reserves shall be distributed to patron members on the basis of patronage. A cooperative may establish allocation units, whether the units are functional, divisional, departmental, geographic, or otherwise. The cooperative may provide for pooling arrangements. The cooperative may account for and distribute net income to patrons on the basis of allocation units and pooling arrangements. A cooperative may offset the net

loss of an allocation unit or pooling arrangement against the net income of other allocation units or pooling arrangements.

4. FREQUENCY OF DISTRIBUTION. A distribution of net income shall be made at least annually. The board shall present to the members at their annual meeting a report covering the operations of the cooperative during the preceding fiscal year.

5. FORM OF DISTRIBUTION. A cooperative may distribute net income to patron members in cash, capital credits, allocated patronage equities, revolving fund certificates, or its own or other securities.

6. ELIGIBLE NONMEMBER PATRONS. A cooperative may provide in the bylaws that nonmember patrons are allowed to participate in the distribution of net income, payable to patron members on equal terms with patron members.

7. PATRONAGE CREDITS FOR INELIGIBLE MEMBERS. If a nonmember patron with patronage credits is not qualified or eligible for membership, a refund due may be credited to the nonmember patron's individual account. The board may issue a certificate of interest to reflect the credited amount. After the nonmember patron is issued a certificate of interest, the nonmember patron may participate in the distribution of income on the same basis as a patron member.

Sec. 79. NEW SECTION. 501A.1007 MEMBER CONTROL AGREEMENTS.

1. AUTHORIZATION. A written agreement among persons who are then members, including a sole member, or who have signed subscription or contribution agreements, relating to the control of any phase of the business and affairs of the cooperative, its liquidation, dissolution and termination, or the relations among members or persons who have signed subscription or contribution agreements is valid as provided in subsection 2. Other than the authorization of nonpatron membership interests as provided in section 501A.901 and nonpatron voting rights as provided in section 501A.810, whenever this chapter provides that a particular result may or must be obtained through a provision in a cooperative's articles or bylaws, the same result can be accomplished through a member control agreement valid under this section or through a procedure established by a member control agreement valid under this section. However, the member control agreement must be authorized by the cooperative's articles or bylaws and cannot conflict with the cooperative's articles or bylaws. Any result accomplished through a membership control agreement under this section must be properly disclosed as provided in section 501A.901.

2. VALID EXECUTION. Other than patron member voting control under section 501A.810 and patron member allocation and distribution provisions under sections 501A.1005 and 501A.1006, a written agreement among persons described in subsection 1 that relates to the control of or the liquidation, dissolution, and termination of the cooperative, the relations among them, or any phase of the business and affairs of the cooperative is valid if it meets the requirements of this subsection. This includes but is not limited to the management of its business, the declaration and payment of distributions, the sharing of profits and losses, the election of directors, the employment of members by the cooperative, or the arbitration of disputes. The written agreement must be signed by all persons who are then the members of the cooperative, whether or not the members all have voting power, and all those who have signed contribution agreements, regardless of whether those signatories will, when members, have voting power.

3. OTHER AGREEMENTS NOT AFFECTED. This section does not apply to, limit, or restrict agreements otherwise valid, nor is the procedure set forth in this section the exclusive method of agreement among members or between the members and the cooperative with respect to any of the matters described.

Sec. 80. NEW SECTION. 501A.1008 REVERSION OF DISBURSEMENTS.

1. Once a person's membership interest or other member's equity in a cooperative is deemed abandoned under section 556.5, the cooperative may retain any disbursement held by the cooperative for or owing to the person. The cooperative may also deliver the disbursement

to the treasurer of state for disposition as abandoned property pursuant to sections 556.5 and 556.11.

2. If the cooperative elects to retain the disbursement under this section, the disbursement shall be deposited into a reversion fund established by the cooperative.

3. A disbursement having an aggregate value of fifty dollars or more that is retained by the cooperative shall be forfeited to the cooperative only if the cooperative publishes at least one notice of the abandoned property in a publication regularly distributed to its membership or in a newspaper having a general circulation in the county where the cooperative is located. The notice shall include all of the following:

a. The name and address of the cooperative.

b. The name of the person who has an interest in the disbursement according to the records of the cooperative.

c. A brief description of the type of disbursement retained by the cooperative.

d. A statement that the disbursement will be forfeited to the cooperative unless the person files a claim for the disbursement within the period provided for in this section.

4. a. Subject to this subsection, a person asserting an interest in the disbursement may file a claim for it with the cooperative in a manner and according to procedures required by the cooperative. If a person is entitled to an abandoned membership interest, or other interest as provided in section 556.20 or 556.21, the cooperative shall also pay the person the disbursement deposited in the reversion fund that is realized or accrued from the membership interest or other interest.

b. If a person has not filed a claim for the disbursement within six months after the first date that the notice of abandoned property is first published as provided in this section, the disbursement shall be forfeited to the cooperative.

5. The disbursements deposited into the reversion fund that are forfeited to the cooperative shall be used as provided in this subsection. The cooperative may authorize the payment of forfeited disbursements to persons claiming interests in forfeited disbursements as provided in the cooperative's articles of organization or bylaws. Otherwise, forfeited disbursements shall be used as the directors deem suitable for any of the following purposes:

a. Teaching and promoting cooperation. The directors may deposit the amounts of disbursements into the education fund as established by the cooperative.

b. Economic development including private or joint public and private investments involving the creation of economic opportunities for its members or the retention of existing sources of income that would otherwise be lost.

SUBCHAPTER 11
MERGER AND CONVERSION

Sec. 81. NEW SECTION. 501A.1101 MERGER AND CONSOLIDATION.

1. AUTHORIZATION. Unless otherwise prohibited, cooperatives organized under the laws of this state, including cooperatives organized under this chapter or traditional cooperatives, may merge or consolidate with each other, an Iowa limited liability company under the provisions of section 490A.1207, or other business entities organized under the laws of another state by complying with the provisions of this section and the law of the state where the surviving or new business entity will exist. A cooperative shall not merge or consolidate with a business entity organized under the laws of this state, other than a traditional cooperative unless the law governing the business entity expressly authorizes merger or consolidation with a cooperative. This subsection does not authorize a foreign business entity to do any act not authorized by the law governing the foreign business entity.

2. PLAN. To initiate a merger or consolidation of a cooperative, a written plan of merger or consolidation shall be prepared by the board or by a committee selected by the board to prepare a plan. The plan shall state all of the following:

a. The names of the constituent domestic cooperative, the name of any Iowa limited liability company that is a party to the merger, to the extent authorized under section 490A.1207, and any foreign business entities.

b. The name of the surviving or new domestic cooperative, Iowa limited liability company as required by section 490A.1207, or other foreign business entity.

c. The manner and basis of converting membership or ownership interests of the constituent domestic cooperative, the surviving Iowa limited liability company as provided in section 490A.1207, or foreign business entity into membership or ownership interests in the surviving or new domestic cooperative, the surviving Iowa limited liability company as authorized in section 490A.1207, or foreign business entity.

d. The terms of the merger or consolidation.

e. The proposed effect of the merger or consolidation on the members and patron members of each constituent domestic cooperative.

f. For a consolidation, the plan shall contain the articles of the entity or organizational documents to be filed with the state in which the entity is organized or, if the surviving organization is an Iowa limited liability company, the articles of organization.

3. NOTICE. The following shall apply to notice:

a. The board shall mail or otherwise transmit or deliver notice of the merger or consolidation to each member. The notice shall contain the full text of the plan, and the time and place of the meeting at which the plan will be considered.

b. A cooperative with more than two hundred members may provide the notice in the same manner as a regular members' meeting notice.

4. ADOPTION OF PLAN.

a. A plan of merger or consolidation shall be adopted by a domestic cooperative as provided in this subsection.

b. The plan of merger or consolidation is adopted if all of the following apply:

(1) A quorum of the members eligible to vote is registered as being present or represented by mail vote or alternative ballot at the meeting.

(2) The plan is approved by the patron members, or if otherwise provided in the articles or bylaws, is approved by a majority of the votes cast in each class of votes cast. For a domestic cooperative with articles or bylaws requiring more than a majority of the votes cast or other conditions for approval, the plan must be approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

c. After the plan has been adopted, articles of merger or consolidation stating the plan and that the plan was adopted according to this subsection shall be signed by the chairperson, vice chairperson, records officer, or documents officer of each cooperative merging or consolidating.

d. The articles of merger or consolidation shall be filed in the office of the secretary.

e. For a merger, the articles of the surviving domestic cooperative subject to this chapter are deemed amended to the extent provided in the articles of merger.

f. Unless a later date is provided in the plan, the merger or consolidation is effective when the articles of merger or consolidation are filed in the office of the secretary or the appropriate office of another jurisdiction.

g. The secretary shall issue a certificate of organization of the merged or consolidated cooperative.

5. EFFECT OF MERGER. For a merger that does not involve an Iowa limited liability company, the following shall apply to the effect of a merger:

a. After the effective date, the domestic cooperative, Iowa limited liability company, if party to the plan, and any foreign business entity that is a party to the plan become a single entity. For a merger, the surviving business entity is the business entity designated in the plan. For a consolidation, the new domestic cooperative, the Iowa limited liability company, if any, and any foreign business entity is the business entity provided for in the plan. Except for the surviving or new domestic cooperative, Iowa limited liability company, or foreign business entity, the separate existence of each merged or consolidated domestic or foreign business entity that is a party to the plan ceases on the effective date of the merger or consolidation.

b. The surviving or new domestic cooperative, Iowa limited liability company, or foreign

business entity possesses all of the rights and property of each of the merged or consolidated business entities and is responsible for all their obligations. The title to property of the merged or consolidated domestic cooperative, Iowa limited liability company, or foreign business entity is vested in the surviving or new domestic cooperative, Iowa limited liability company, or foreign business entity without reversion or impairment of the title caused by the merger or consolidation.

c. If a merger involves an Iowa limited liability company, this subsection is subject to the provisions of section 490A.1207.

Sec. 82. NEW SECTION. 501A.1102 MERGER OF SUBSIDIARY.

1. WHEN AUTHORIZED — CONTENTS OF PLAN. For purposes of this section, "subsidiary" means a domestic cooperative, an Iowa limited liability company, or a foreign cooperative.

2. An Iowa limited liability company may only participate in a merger under this section to the extent authorized under section 490A.1207. A parent domestic cooperative or a subsidiary that is a domestic cooperative may complete the merger of a subsidiary as provided in this section. However, if either the parent cooperative or the subsidiary is a business entity organized under the laws of this state, the merger of the subsidiary is not authorized under this section unless the law governing the business entity expressly authorizes merger with a cooperative.

a. A parent cooperative owning at least ninety percent of the outstanding ownership interests of each class and series of a subsidiary directly, or indirectly through related organizations, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, may merge the subsidiary into itself or into any other subsidiary at least ninety percent of the outstanding ownership interests of each class and series of which is owned by the parent cooperative directly, or indirectly through related organizations, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, without a vote of the members of itself or any subsidiary or may merge itself, or itself and one or more of the subsidiaries, into one of the subsidiaries under this section. A resolution approved by the affirmative vote of a majority of the directors of the parent cooperative present shall set forth a plan of merger that contains all of the following:

(1) The name of the subsidiary or subsidiaries, the name of the parent cooperative, and the name of the surviving cooperative.

(2) The manner and basis of converting the membership interests of the subsidiary or subsidiaries or parent cooperative into securities of the parent cooperative, subsidiary, or of another cooperative or, in whole or in part, into money or other property.

(3) If the parent cooperative is a constituent cooperative but is not the surviving cooperative in the merger, a provision for the pro rata issuance of membership interests of the surviving cooperative to the holders of membership interests of the parent on surrender of any certificates for shares or membership interests of the parent cooperative.

(4) If the surviving cooperative is a subsidiary, a statement of any amendments to the articles of the surviving cooperative that will be part of the merger.

b. If the parent is a constituent cooperative and the surviving cooperative in the merger, the parent cooperative may change its cooperative name, without a vote of its members, by the inclusion of a provision to that effect in the resolution of merger setting forth the plan of merger that is approved by the affirmative vote of a majority of the directors of the parent cooperative present. Upon the effective date of the merger, the name of the parent cooperative shall be changed.

c. If the parent cooperative is a constituent cooperative but is not the surviving cooperative in the merger, the resolution is not effective unless the resolution is also approved by the affirmative vote of the holders of a majority of the voting power of all membership interests of the parent entitled to vote at a regular or special meeting if the parent is a cooperative, or in accordance with the laws under which the parent is organized if the parent is a foreign business entity or foreign cooperative.

3. NOTICE TO MEMBERS OF SUBSIDIARY. Notice of the action, including a copy of the

plan of merger, shall be delivered to each member, other than the parent cooperative and any subsidiary of each subsidiary that is a constituent cooperative in the merger before, or within ten days after, the effective date of the merger.

4. ARTICLES OF MERGER — CONTENTS OF ARTICLES. Articles of merger shall be prepared that contain all of the following:

a. The plan of merger.

b. The number of outstanding membership interests of each series and class of each subsidiary that is a constituent cooperative in the merger, other than the series or classes that, absent this section, would otherwise not be entitled to vote on the merger, and the number of membership interests of each series and class of the subsidiary or subsidiaries, other than series or classes that, absent this section, would otherwise not be entitled to vote on the merger, owned by the parent directly, or indirectly through related organizations.

c. A statement that the plan of merger has been approved by the parent under this section.

5. ARTICLES SIGNED, FILED. The articles of merger shall be signed on behalf of the parent and filed with the secretary.

6. CERTIFICATE. The secretary shall issue a certificate of merger to the parent or its legal representative or, if the parent is a constituent cooperative but is not the surviving cooperative in the merger, to the surviving cooperative or its legal representative.

7. NONEXCLUSIVITY. A merger among a parent and one or more subsidiaries or among two or more subsidiaries of a parent may be accomplished under section 501A.1101 instead of this section, in which case this section does not apply.

Sec. 83. NEW SECTION. 501A.1103 ABANDONMENT.

1. ABANDONMENT BY MEMBERS OF PLAN. After a plan of merger has been approved by the members entitled to vote on the approval of the plan and before the effective date of the plan, the plan may be abandoned by the same vote that approved the plan.

2. ABANDONMENT OF MERGER.

a. A merger may be abandoned upon any of the following:

(1) The members of each of the constituent domestic cooperatives entitled to vote on the approval of the plan have approved the abandonment at a meeting by the affirmative vote of the holders of a majority of the voting power of the membership interests entitled to vote.

(2) The merger is with a domestic cooperative and an Iowa limited liability company or foreign business entity.

(3) The abandonment is approved in such manner as may be required by section 490A.1207 for the involvement of an Iowa limited liability company, or for a foreign business entity by the laws of the state under which the foreign business entity is organized.

(4) The members of a constituent domestic cooperative are not entitled to vote on the approval of the plan, and the board of the constituent domestic cooperative has approved the abandonment by the affirmative vote of a majority of the directors present.

(5) The plan provides for abandonment and all conditions for abandonment set forth in the plan are met.

(6) The plan is abandoned before the effective date of the plan by a resolution of the board of any constituent domestic cooperative abandoning the plan of merger approved by the affirmative vote of a majority of the directors present, subject to the contract rights of any other person under the plan. If a plan of merger is with a domestic business entity or foreign business entity, the plan of merger may be abandoned before the effective date of the plan by a resolution of the foreign business entity adopted according to the laws of the state under which the foreign business entity is organized, subject to the contract rights of any other person under the plan. If the plan of merger is with an Iowa limited liability company, the plan of merger may be abandoned by the Iowa limited liability company as provided in section 490A.1207, subject to the contractual rights of any other person under the plan.

b. If articles of merger have been filed with the secretary, but have not yet become effective, the constituent organizations, in the case of abandonment under paragraph "a", subparagraphs (1) through (4), the constituent organizations or any one of them, in the case of aban-

donment under paragraph "a", subparagraph (5), or the abandoning organization in the case of abandonment under paragraph "a", subparagraph (6), shall file with the secretary articles of abandonment that include all of the following:

(1) The names of the constituent organizations.

(2) The provisions of this section under which the plan is abandoned.

(3) If the plan is abandoned under paragraph "a", subparagraph (6), the text of the resolution abandoning the plan.

Sec. 84. NEW SECTION. 501A.1104 CONVERSION — AMENDMENT OF ORGANIZATIONAL DOCUMENTS TO BE GOVERNED BY THIS CHAPTER.

1. AUTHORITY.

a. A traditional cooperative organized may convert to a cooperative and become subject to this chapter by amending its organizational documents to conform to the requirements of this chapter.

b. A traditional cooperative becoming a converted cooperative must provide its members with a disclosure statement of the rights and obligations of the members and the capital structure of the cooperative before becoming subject to this chapter. A traditional cooperative, upon distribution of the disclosure required in this subsection and approval of its members as necessary for amending its articles under the respective chapter of its organization, may amend its articles to comply with this chapter.

c. A traditional cooperative becoming a converted cooperative must prepare a certificate stating all of the following:

(1) The date on which the traditional cooperative was first organized.

(2) The name of the traditional cooperative and, if the name is changed, the name of the cooperative becoming converted.

(3) The future effective date and time, which must be a date and time certain, that the traditional cooperative will be governed by this chapter, if the effective date and time is not to be the date and time of filing.

d. Upon filing with the secretary of the articles for compliance with this chapter and the certificate required under paragraph "c", a traditional cooperative is converted and governed by this chapter unless a later date and time is specified in the certificate under paragraph "c".

e. In connection with a conversion under which a traditional cooperative becomes governed by this chapter, the rights, securities, or interests of the traditional cooperative as provided in chapter 497, 498, 499, or 501 may be exchanged or converted into rights, property, securities, or interests in the converted cooperative.

2. EFFECT OF BEING GOVERNED BY THIS CHAPTER. The conversion of a traditional cooperative to a cooperative governed by this chapter does not affect any obligations or liabilities of the cooperative before the conversion or the personal liability of any person incurred before the conversion.

a. When the conversion is effective, the rights, privileges, and powers of the cooperative, real and personal property of the cooperative, debts due to the cooperative, and causes of action belonging to the traditional cooperative remain vested in the converted cooperative and are the property of the converted cooperative and governed by this chapter. Title to real property vested by deed or otherwise in the traditional cooperative does not revert and is not impaired by reason of the cooperative being converted and governed by this chapter.

b. Rights of creditors and liens upon property of the traditional cooperative are preserved unimpaired, and debts, liabilities, and duties of the traditional cooperative remain attached to the converted cooperative and may be enforced against the converted cooperative to the same extent as if the debts, liabilities, and duties had originally been incurred or contracted by the cooperative as organized under this chapter.

c. The rights, privileges, powers, and interests in property of the traditional cooperative as well as the debts, liabilities, and duties of the traditional cooperative are not deemed, as a consequence of the conversion, to have been transferred for any purpose by the laws of this state.

SUBCHAPTER 12
DISSOLUTION

Sec. 85. NEW SECTION. 501A.1201 METHODS OF DISSOLUTION.
A cooperative may be dissolved by the members or by administrative or court order as provided in this chapter.

Sec. 86. NEW SECTION. 501A.1202 WINDING UP.
1. COLLECTION AND PAYMENT OF DEBTS. After the notice of intent to dissolve has been filed with the secretary, the board, or the officers acting under the direction of the board, shall proceed as soon as possible to do all of the following:
a. Collect or make provision for the collection of all debts due or owing to the cooperative, including unpaid subscriptions for membership interests.
b. Pay or make provision for the payment of all debts, obligations, and liabilities of the cooperative according to their priorities.
2. TRANSFER OF ASSETS. After the notice of intent to dissolve has been filed with the secretary, the board may sell, lease, transfer, or otherwise dispose of all or substantially all of the property and assets of the dissolving cooperative without a vote of the members.
3. DISTRIBUTION TO MEMBERS. Tangible and intangible property, including money, remaining after the discharge of the debts, obligations, and liabilities of the cooperative shall be distributed to the members and former members as provided in the cooperative's articles or bylaws, unless otherwise provided by law. If previously authorized by the members, the tangible and intangible property of the cooperative may be liquidated and disposed of at the discretion of the board.

Sec. 87. NEW SECTION. 501A.1203 REVOCATION OF DISSOLUTION PROCEEDINGS.
1. AUTHORITY TO REVOKE. Dissolution proceedings may be revoked before the articles of dissolution are filed with the secretary.
2. REVOCATION BY MEMBERS. The chairperson may call a members' meeting to consider the advisability of revoking the dissolution proceedings. The question of the proposed revocation shall be submitted to the members at the members' meeting called to consider the revocation. The dissolution proceedings are revoked if the proposed revocation is approved at the members' meeting by a majority of the members of the cooperative or, for a cooperative with articles or bylaws requiring a greater number of members, the number of members required by the articles or bylaws.
3. FILING WITH THE SECRETARY. Revocation of dissolution proceedings is effective when a notice of revocation is filed with the secretary. After the notice is filed, the cooperative may resume business.

Sec. 88. NEW SECTION. 501A.1204 STATUTE OF LIMITATIONS.
The claim of a creditor or claimant against a dissolving cooperative is barred if the claim has not been enforced by initiating legal, administrative, or arbitration proceedings concerning the claim by two years after the date the notice of intent to dissolve is filed with the secretary.

Sec. 89. NEW SECTION. 501A.1205 ARTICLES OF DISSOLUTION.
1. CONDITIONS TO FILE. Articles of dissolution of a cooperative shall be filed with the secretary after payment of the claims of all known creditors and claimants has been made or provided for and the remaining property has been distributed by the board. The articles of dissolution shall state all of the following:
a. The name of the cooperative.
b. All debts, obligations, and liabilities of the cooperative have been paid or discharged or adequate provisions have been made for them or time periods allowing claims have run and other claims are not outstanding.

c. The remaining property, assets, and claims of the cooperative have been distributed among the members or under a liquidation authorized by the members.

d. Legal, administrative, or arbitration proceedings by or against the cooperative are not pending or adequate provision has been made for the satisfaction of a judgment, order, or decree that may be entered against the cooperative in a pending proceeding.

2. DISSOLUTION EFFECTIVE ON FILING. The cooperative is dissolved when the articles of dissolution have been filed with the secretary.

3. CERTIFICATE. The secretary shall issue to the dissolved cooperative or its legal representative a certificate of dissolution that contains all of the following:

a. The name of the dissolved cooperative.

b. The date the articles of dissolution were filed with the secretary.

c. A statement that the cooperative is dissolved.

Sec. 90. NEW SECTION. 501A.1206 APPLICATION FOR COURT-SUPERVISED VOLUNTARY DISSOLUTION.

After a notice of intent to dissolve has been filed with the secretary and before a certificate of dissolution has been issued, the cooperative or, for good cause shown, a member or creditor may apply to a court within the county where the registered address is located to have the dissolution conducted or continued under the supervision of the court.

Sec. 91. NEW SECTION. 501A.1207 COURT-ORDERED REMEDIES FOR DISSOLUTION.

1. CONDITIONS FOR RELIEF. A court may grant equitable relief that the court deems just and reasonable in the circumstances or may dissolve a cooperative and liquidate its assets and business as follows:

a. In a supervised voluntary dissolution that is applied for by the cooperative.

b. In an action by a member when it is established that any of the following apply:

(1) The directors or the persons having the authority otherwise vested in the board are deadlocked in the management of the cooperative's affairs and the members are unable to break the deadlock.

(2) The directors or those in control of the cooperative have acted fraudulently, illegally, or in a manner unfairly prejudicial toward one or more members in their capacities as members, directors, or officers.

(3) The members of the cooperative are so divided in voting power that, for a period that includes the time when two consecutive regular members' meetings were held, they have failed to elect successors to directors whose terms have expired or would have expired upon the election and qualification of their successors.

(4) The cooperative assets are being misapplied or wasted.

(5) The period of duration as provided in the articles has expired and has not been extended as provided in this chapter.

c. In an action by a creditor when any of the following applies:

(1) The claim of the creditor against the cooperative has been reduced to judgment and an execution on the judgment has been returned unsatisfied.

(2) The cooperative has admitted in writing that the claim of the creditor against the cooperative is due and owing and it is established that the cooperative is unable to pay its debts in the ordinary course of business.

(3) In an action by the attorney general to dissolve the cooperative in accordance with this chapter when it is established that a decree of dissolution is appropriate.

2. CONDITION OF COOPERATIVE OR ASSOCIATION. In determining whether to order equitable relief or dissolution, the court shall take into consideration the financial condition of the cooperative, but shall not refuse to order equitable relief or dissolution solely on the grounds that the cooperative has accumulated operating net income or current operating net income.

3. DISSOLUTION AS REMEDY. In deciding whether to order dissolution of the cooperative, the court shall consider whether lesser relief suggested by one or more parties, such as a form of equitable relief or a partial liquidation, would be adequate to permanently relieve the circumstances established under subsection 1, paragraph "b", subparagraph (1) or (2). Lesser relief may be ordered if it would be appropriate under the facts and circumstances of the case.

4. EXPENSES. If the court finds that a party to a proceeding brought under this section has acted arbitrarily, vexatiously, or otherwise not in good faith, the court may in its discretion award reasonable expenses, including attorney fees and disbursements to any of the other parties.

5. VENUE. Proceedings under this section shall be brought in a court within the county where the registered address of the cooperative is located.

6. PARTIES. It is not necessary to make members parties to the action or proceeding unless relief is sought against them personally.

Sec. 92. NEW SECTION. 501A.1208 PROCEDURE IN INVOLUNTARY OR COURT-SUPERVISED VOLUNTARY DISSOLUTION.

1. ACTION BEFORE HEARING. Before a hearing is completed in dissolution proceedings, a court may do any of the following:

a. Issue injunctions.

b. Appoint receivers with all powers and duties that the court directs.

c. Take actions required to preserve the cooperative's assets, wherever located.

d. Carry on the business of the cooperative.

2. ACTION AFTER HEARING. After a hearing is completed, upon notice to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of membership interests. A receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative, either at public or private sale.

3. DISCHARGE OF OBLIGATIONS. The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the following order of priority:

a. The costs and expense of the proceedings, including attorney fees and disbursements.

b. Debts, taxes, and assessments due the United States, this state, and other states in that order.

c. Claims duly proved and allowed to employees under the provisions of the workers' compensation law, except that claims under this paragraph shall not be allowed if the cooperative carried workers' compensation insurance, as provided by law, at the time the injury was sustained.

d. Claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver.

e. Other claims that are proved and allowed by the court.

4. REMAINDER TO MEMBERS. After payment of the expenses of receivership and claims of creditors are proved, the remaining assets, if any, may be distributed to the members or distributed under an approved liquidation plan.

Sec. 93. NEW SECTION. 501A.1209 RECEIVER QUALIFICATIONS AND POWERS.

1. QUALIFICATIONS. A receiver shall be a natural person or a domestic business entity or a foreign business entity authorized to transact business in this state. A receiver shall give a bond as directed by the court with the sureties required by the court.

2. POWERS. A receiver may sue and defend in all courts as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction of the cooperative and its property.

Sec. 94. NEW SECTION. 501A.1210 DISSOLUTION ACTION BY ATTORNEY GENERAL — ADMINISTRATIVE DISSOLUTION.

1. CONDITIONS TO BEGIN ACTION. A cooperative may be dissolved involuntarily by a decree of a court in this state in an action filed by the attorney general if it is established that any of the following applies:

a. The articles and certificate of organization were procured through fraud.

b. The cooperative was organized for a purpose not permitted by this chapter or prohibited by state law.

c. The cooperative has flagrantly violated a provision of this chapter, has violated a provision of this chapter more than once, or has violated more than one provision of this chapter.

d. The cooperative has acted, or failed to act, in a manner that constitutes surrender or abandonment of the cooperative's franchise, privileges, or enterprise.

2. NOTICE TO COOPERATIVE. An action shall not be commenced under subsection 1 until thirty days after notice to the cooperative by the attorney general of the reason for the filing of the action. If the reason for filing the action is an act that the cooperative has done, or omitted to do, and the act or omission may be corrected by an amendment of the articles or bylaws or by performance of or abstention from the act, the attorney general shall give the cooperative thirty additional days to make the correction before filing the action.

Sec. 95. NEW SECTION. 501A.1211 FILING CLAIMS IN COURT-SUPERVISED DISSOLUTION PROCEEDINGS.

1. FILING UNDER OATH. In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims under oath with the clerk of court or with the receiver in a form prescribed by the court.

2. DATE TO FILE A CLAIM. If the court requires the filing of claims, the court shall do all of the following:

a. Set a date, by order, at least one hundred twenty days after the date the order is filed as the last day for the filing of claims.

b. Prescribe the notice of the fixed date that shall be given to creditors and claimants.

3. FIXED DATE OR EXTENSION FOR FILING. Before the fixed date, the court may extend the time for filing claims. Creditors and claimants failing to file claims on or before the fixed date may be barred, by order of court, from claiming an interest in or receiving payment out of the property or assets of the cooperative.

Sec. 96. NEW SECTION. 501A.1212 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets.

Sec. 97. NEW SECTION. 501A.1213 COURT-SUPERVISED DISSOLUTION ORDER.

1. CONDITIONS FOR DISSOLUTION ORDER. In an involuntary or supervised voluntary dissolution the court shall enter an order dissolving the cooperative upon the following conditions:

a. After the costs and expenses of the proceedings and all debts, obligations, and liabilities of the cooperative have been paid or discharged and the remaining property and assets have been distributed to its members.

b. If the property or other assets are not sufficient to satisfy and discharge the costs, expenses, debts, obligations, and liabilities, when all the property and assets have been applied so far as they will go to their payment according to their priorities.

2. DISSOLUTION EFFECTIVE ON FILING ORDER. When the order dissolving the cooperative has been entered, the cooperative is dissolved.

Sec. 98. NEW SECTION. 501A.1214 FILING COURT'S DISSOLUTION ORDER.

After the court enters an order dissolving a cooperative, the clerk of court shall cause a certified copy of the dissolution order to be filed with the secretary. The secretary shall not charge a fee for filing the dissolution order.

Sec. 99. NEW SECTION. 501A.1215 BARRING OF CLAIMS.

1. CLAIMS BARRED. A person who is or becomes a creditor or claimant before, during, or following the conclusion of dissolution proceedings, who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding during the pendency of the dissolution proceeding or has not initiated a legal, administrative, or arbitration proceeding before the commencement of the dissolution proceedings and all those claiming through or under the creditor or claimant, are forever barred from suing on that claim or otherwise realizing upon or enforcing it, except as provided in this section.

2. CERTAIN UNFILED CLAIMS ALLOWED. Within one year after articles of dissolution have been filed with the secretary under this chapter or a dissolution order has been entered, a creditor or claimant who shows good cause for not having previously filed the claim may apply to a court in this state to allow a claim for any of the following:

a. Against the cooperative to the extent of undistributed assets.

b. If the undistributed assets are not sufficient to satisfy the claim, the claim may be allowed against a member to the extent of the distributions to members in dissolution received by the member.

3. OMITTED CLAIMS ALLOWED. Debts, obligations, and liabilities incurred during dissolution proceedings shall be paid or provided for by the cooperative before the distribution of assets to a member. A person to whom this kind of debt, obligation, or liability is owed but is not paid may pursue any remedy against the offenders, directors, or members of the cooperative before the expiration of the applicable statute of limitations. This subsection does not apply to dissolution under the supervision or order of a court.

Sec. 100. NEW SECTION. 501A.1216 RIGHT TO SUE OR DEFEND AFTER DISSOLUTION.

After a cooperative has been dissolved, any of its former officers, directors, or members may assert or defend, in the name of the cooperative, a claim by or against the cooperative.

DIVISION II
CONFORMING AND OTHER CHANGES

Sec. 101. Section 10B.1, subsection 2, Code 2005, is amended to read as follows:

2. "Cooperative association" means any entity organized 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; or a cooperative organized under chapter 501 or 501A.

Sec. 102. Section 10B.4, subsection 1, Code 2005, is amended to read as follows:

1. A biennial report shall be filed by a reporting entity with the secretary of state on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to chapter 17A. However, a reporting entity required to file a biennial report pursuant to chapter 490, 496C, 497, 498, 490A,[7] 499, 501, 501A, or 504A shall file the report required by this section in the same year as required by that chapter. The reporting entity may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this subsection. The reports shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

Sec. 103. Section 15.333, subsection 1, Code 2005, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of

[7] See chapter 179, §135 herein

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 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, 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. 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 or 501A 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 or 501A and filing as a partnership for federal tax purposes, or estate or trust.

Sec. 104. Section 15.385, subsection 3, paragraph a, Code 2005, is amended to read as follows:[8]

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 or 501A, 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, 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, S corporation, limited liability company, cooperative organized under chapter 501 or 501A, 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. 105. Section 15E.202, subsection 17, paragraph b, Code 2005, is amended to read as follows:

b. A cooperative organized under chapter 501 or 501A.

Sec. 106. Section 203.1, subsection 10, paragraph i, Code 2005, is amended to read as follows:

i. A cooperative organized under chapter 501 or 501A, if the cooperative only purchases grain from its members who are producers or from a licensed grain dealer, and the cooperative does not resell that grain.

[8] See chapter 179, §136 herein

Sec. 107. Section 490A.102, subsection 4, Code 2005, is amended to read as follows:

4. "Constituent entity" means each limited liability company, limited partnership, ~~or~~ corporation, or domestic cooperative which is party to a plan of merger pursuant to subchapter XII.

Sec. 108. Section 490A.102, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Domestic cooperative" means a cooperative organized under chapter 497, 498, 499, 501, or 501A.

Sec. 109. NEW SECTION. 490A.131 BIENNIAL REPORT FOR SECRETARY OF STATE.

1. A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that states all of the following:

a. The name of the limited liability company or foreign limited liability company.

b. The street and mailing address of its designated office and the name and street and mailing address of its agent for service of process in this state.

c. The street and mailing address of its principal office.

d. In the case of a foreign limited liability company, the state or other jurisdiction under whose law the foreign limited liability company is formed.

2. Information in a biennial report must be current as of the date the biennial report is delivered to the secretary of state for filing.

3. If a biennial report does not contain the information required in subsection 1, the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection 1 and delivered to the secretary of state within thirty days after the effective date of the notice, it is timely delivered.

4. If a filed biennial report contains an address of a designated office or the name or address of an agent for service of process which differs from the information shown in the records of the secretary of state immediately before the filing, the differing information in the biennial report is considered a statement of change under section 490A.502.

5. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first odd-numbered year following the calendar year in which a limited liability company was formed or a foreign limited liability company was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following odd-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.[9]

Sec. 110. Section 490A.1201, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

490A.1201 CONSTITUENT ENTITY.

As used in this section, unless the context otherwise requires, "constituent entity", as used in sections 490A.1202, 490A.1204, 490A.1205, and 490A.1207, includes a domestic cooperative. However, as used in section 490A.1203, "constituent entity" does not include a domestic cooperative.

Sec. 111. NEW SECTION. 490A.1201A MERGER.

With or without a business purpose, a limited liability company may merge with any of the following:

1. Another domestic limited liability company pursuant to a plan of merger approved in the manner provided in sections 490A.1202 through 490A.1205.

2. A domestic corporation under a plan of merger approved in the manner provided in sections 490A.1202 through 490A.1205, and in chapter 490.

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[9] See chapter 179, §27 herein

3. A domestic limited partnership pursuant to a plan of merger approved in the manner provided in sections 490A.1202 through 490A.1207, and in chapter 487.

4. One or more cooperatives organized under chapter 497, 498, 499, 501, or 501A, in the manner provided by and subject to the limitations in section 490A.1207.

5. A foreign corporation, foreign limited liability company, or foreign limited partnership pursuant to a plan of merger approved in the manner provided in section 490A.1206.

Sec. 112. Section 490A.1202, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. As used in this section, "interests" includes but is not limited to membership interests in a domestic cooperative.

Sec. 113. NEW SECTION. 490A.1207 MERGER OF DOMESTIC COOPERATIVE INTO A DOMESTIC LIMITED LIABILITY COMPANY.

1. A limited liability company may merge with a domestic cooperative only as provided by this section. A limited liability company may merge with one or more domestic cooperatives if all of the following apply:

a. Only one limited liability company and one or more domestic cooperatives are parties to the merger.

b. When the merger becomes effective, the separate existence of each domestic cooperative ceases and the limited liability company is the surviving entity per organization.

c. As to each domestic cooperative, the plan of merger is initiated and adopted, and the merger is effectuated, as provided in section 501A.1101.

d. As to the limited liability company, the plan of merger complies with section 490A.1202, the plan of merger is approved as provided in section 490A.1203, and the articles of merger are prepared, signed, and filed as provided in section 490A.1204.

e. Notwithstanding section 490A.1202, 490A.1205, or 490A.1206, the surviving organization must be the limited liability company.

2. Section 501A.1103 governs the abandonment by a domestic cooperative of a merger authorized by this section. Section 490A.1203, subsection 2, governs the abandonment by a limited liability company of a merger authorized by this section, except that for the purposes of a merger authorized by this section, the requirements stated in section 490A.1203, subsection 2, paragraphs "b" and "c", do not apply and instead the abandonment must have been approved by the domestic cooperative.

Sec. 114. Section 499.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

~~No~~ A person ~~or firm, and no~~ including a corporation hereafter organized, which is not an association as defined in this chapter or a cooperative as defined in chapter 501 or 501A, shall not use the word "cooperative" or any abbreviation thereof in its name or advertising or in any connection with its business, except foreign associations admitted under section 499.54. The attorney general or any association or any member thereof may sue and enjoin such use.

Sec. 115. Section 502.102, subsection 20, Code 2005, is amended to read as follows:

20. "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; cooperative; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

Sec. 116. Section 556.1, subsection 3, Code 2005, is amended to read as follows:

3. "Cooperative association" means ~~an~~ any of the following:

a. An entity which is structured and operated on a cooperative basis, including an association of persons organized under chapter 497, 498, or 499; or an entity composed of entities organized under those chapters~~; a.~~

b. A cooperative organized under chapter 501~~;~~.
c. A cooperative organized under chapter 501A.
d. ~~a~~ A cooperative association organized under chapter 490~~; or any~~.
e. 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. 117. Section 556.5, subsection 4, paragraph b, Code 2005, is amended to read as follows:
b. A disbursement held by a cooperative association shall not be deemed abandoned under this chapter if the disbursement is retained by a cooperative association organized under chapter 490 as provided in section 490.629, ~~or~~ by a cooperative association organized under chapter 499 as provided in section 499.30A, or by a cooperative as provided in section 501A.1008.

Sec. 118. Section 501A.102, as enacted in this Act, is amended by striking from the section the word and figure "or 487".[10]

Sec. 119. EFFECTIVE DATES. This Act takes effect July 1, 2005, except that section 118 of this Act takes effect January 1, 2006.

Approved May 20, 2005

CHAPTER 136

AGRICULTURAL PRODUCTION

H.F. 805

AN ACT relating to agricultural production including animal feeding operations, by providing for the regulation of open feedlot operations, and agricultural production liens, and providing for penalties.

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

DIVISION I
OPEN FEEDLOT OPERATIONS
SUBCHAPTER I
GENERAL PROVISIONS

Section 1. NEW SECTION. 459A.101 TITLE.
This chapter shall be known and may be cited as the "Animal Agriculture Compliance Act for Open Feedlot Operations".

Sec. 2. NEW SECTION. 459A.102 DEFINITIONS.
1. "Alternative technology system" or "alternative system" means a system for open feedlot effluent control as provided in section 459A.303.
2. "Animal" means the same as defined in section 459.102.
3. "Animal feeding operation" means the same as defined in section 459.102.
4. "Animal unit" means the same as defined in section 459.102.
5. "Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an open feedlot operation.

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[10] According to enrolled Act; however, the phrase in section 501A.102 as enacted is "chapter 486A, 487, or 488"

6. "ASTM international" means the American society for testing and materials international.

7. "Commission" means the environmental protection commission created pursuant to section 455A.6.

8. "Department" means the department of natural resources.

9. "Document" means any form required to be processed by the department under this chapter, including but not limited to applications for permits or related materials as provided in section 459A.205, soils and hydrogeologic reports as provided in section 459A.206, construction certifications as provided in section 459A.207, nutrient management plans as provided in section 459A.208, and notices required under this chapter.

10. "Nutrient management plan" or "plan" means a plan which provides for the management of open feedlot effluent, including the application of effluent as provided in section 459A.208.

11. "Open feedlot" means a lot, yard, corral, building, or other area used to house animals in conjunction with an open feedlot operation.

12. "Open feedlot effluent" or "effluent" means a combination of manure, precipitation-induced runoff, or other runoff from an open feedlot before its settleable solids have been removed.

13. "Open feedlot operation" or "operation" means an unroofed or partially roofed animal feeding operation if crop, vegetation, or forage growth or residue cover is not maintained as part of the animal feeding operation during the period that animals are confined in the animal feeding operation.

14. "Open feedlot operation structure" means an open feedlot, settled open feedlot effluent basin, a solids settling facility, or an alternative technology system. "Open feedlot operation structure" does not include a manure storage structure as defined in section 459.102.

15. "Operating permit" means a permit which regulates the operation of an open feedlot operation as issued by the department or the United States environmental protection agency, including as provided in state law or pursuant to the federal Water Pollution Control Act, Title 33, U.S.C., ch. 126, as amended, and 40 C.F.R., pt. 124.

16. "Research college" means an accredited public or private college or university, including but not limited to a university under the control of the state board of regents as provided in chapter 262, or a community college under the jurisdiction of a board of directors for a merged area as provided in chapter 260C, if the college or university performs research or experimental activities regarding animal agriculture or agronomy.

17. "Settled open feedlot effluent" or "settled effluent" means a combination of manure, precipitation-induced runoff, or other runoff originating from an open feedlot after its settleable solids have been removed.

18. "Settleable solids" or "solids" means that portion of open feedlot effluent that meets all of the following requirements:

a. The solids do not flow perceptibly under pressure.

b. The solids are not capable of being transported through a mechanical pumping device designed to move a liquid.

c. The constituent molecules of the solids do not flow freely among themselves but do show the tendency to separate under stress.

19. "Settled open feedlot effluent basin" or "basin" means an impoundment which is part of an open feedlot operation, if the primary function of the impoundment is to collect and store settled open feedlot effluent.

20. "Solids settling facility" means a basin, terrace, diversion, or other structure or solids removal method which is part of an open feedlot operation and which is designed and operated to remove settleable solids from open feedlot effluent. A "solids settling facility" does not include a basin, terrace, diversion, or other structure or solids removal method which retains the liquid portion of open feedlot effluent for more than seven consecutive days following a precipitation event.

21. "Water of the state" means the same as defined in section 455B.171.

22. "Waters of the United States" means the same as defined in 40 C.F.R., pt. 122, § 2, as that section exists on the effective date of this Act.

Sec. 3. NEW SECTION. 459A.103 SPECIAL TERMS.

For purposes of this chapter, all of the following shall apply:

1. a. Two or more open feedlot operations under common ownership or common management are deemed to be a single open feedlot operation if they are adjacent or utilize a common area or system for open feedlot effluent disposal.

b. For purposes of determining whether two or more open feedlot operations are adjacent, all of the following shall apply:

(1) At least one open feedlot operation structure must be constructed on or after July 17, 2002.

(2) An open feedlot operation structure which is part of one open feedlot operation is separated by less than one thousand two hundred fifty feet from an open feedlot operation structure which is part of the other open feedlot operation.

c. For purposes of determining whether two or more open feedlot operations are under common ownership, a person must hold an interest in each of the open feedlot operations as any of the following:

(1) A sole proprietor.

(2) A joint tenant or tenant in common.

(3) A holder of a majority equity interest in a business association as defined in section 202B.102, including but not limited to as a shareholder, partner, member, or beneficiary.

An interest in the open feedlot operation under subparagraph (2) or (3) which is held directly or indirectly by the person's spouse or dependent child shall be attributed to the person.

d. For purposes of determining whether two or more open feedlot operations are under common management, a person must have significant control of the management of the day-to-day operations of each of the open feedlot operations. Common management does not include control over a contract livestock facility by a contractor, as defined in section 202.1.

2. An open feedlot operation structure is "constructed" when any of the following occurs:

a. Excavation commences for a proposed open feedlot operation structure or proposed expansion of an existing open feedlot operation structure.

b. Forms for concrete are installed for a proposed open feedlot operation structure or the proposed expansion of an existing open feedlot operation structure.

c. Piping for the movement of open feedlot effluent is installed within or between open feedlot operation structures as proposed or proposed to be expanded.

3. In calculating the animal unit capacity of an open feedlot operation, the animal unit capacity shall not include the animal unit capacity of any confinement feeding operation building as defined in section 459.102, which is part of the open feedlot operation.

4. An open feedlot operation structure is abandoned if the open feedlot operation structure has been razed, removed from the site of an open feedlot operation, filled in with earth, or converted to uses other than an open feedlot operation structure so that it cannot be used as an open feedlot operation structure without significant reconstruction.

5. All distances between locations or objects provided in this chapter shall be measured in feet from their closest points.

6. The regulation of open feedlot effluent shall be construed as also regulating settled open feedlot effluent and solids.

7. "Seasonal high-water table" means the seasonal high-water table as determined by a professional engineer pursuant to the following requirements:

a. The seasonal high-water table shall be determined by evaluating soil profile characteristics such as color and mottling from soil corings, soil test pits, or other soil profile evaluation methods, water level data from soil corings or other sources, and other pertinent information.

b. If a drainage tile line to artificially lower the seasonal high-water table is installed as required by this section, the level to which the seasonal high-water table will be lowered will be the seasonal high-water table.

Sec. 4. NEW SECTION. 459A.104 GENERAL AUTHORITY — COMMISSION AND DEPARTMENT — PURPOSE — COMPLIANCE.

1. The commission shall establish by rule adopted pursuant to chapter 17A, requirements relating to the construction, including expansion, or operation of open feedlot operations, including related open feedlot operation structures.

2. Any provision referring generally to compliance with the requirements of this chapter as applied to open feedlot 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 nutrient management plans required under this chapter.

3. The purpose of this chapter is to provide requirements relating to the construction, including the expansion, and operation of open feedlot operations, and the control of open feedlot effluent, which shall be construed to supplement applicable provisions of chapter 459. If there is a conflict between the provisions of this chapter and chapter 459, the provisions of this chapter shall prevail.

Sec. 5. NEW SECTION. 459A.105 EXCEPTION TO REGULATION.

1. Except as provided in subsection 2, the requirements of this chapter which regulate open feedlot operations, including rules adopted by the department pursuant to section 459A.104, shall not apply to research activities and experiments performed under the authority and regulations of a research college, if the research activities and experiments relate to an open feedlot operation structure or the disposal or treatment of effluent originating from an open feedlot operation.

2. The requirements of section 459A.410, including rules adopted by the department under that section, apply to research activities and experiments performed under the authority and regulations of a research college.

SUBCHAPTER II
DOCUMENTATION

Sec. 6. NEW SECTION. 459A.201 DOCUMENT PROCESSING REQUIREMENTS.

1. The department shall adopt and promulgate forms required to be completed in order to comply with this chapter, including forms for documents that the department shall make available on the internet in the same manner as provided in section 459.302.

2. a. The department shall provide for procedures for the receipt, filing, processing, and return of documents in an electronic format in the same manner as provided in section 459.302. The department shall provide for authentication of the documents that may include electronic signatures as provided in chapter 554D.

b. The department shall to every extent feasible provide for the processing of documents required under this subchapter using electronic systems in the same manner as required in section 459.302.

3. a. The department shall approve or disapprove an application for a construction permit as provided in section 459A.205 within sixty days after receiving the permit application. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than thirty days after the department's receipt of the notice. The applicant may submit more than one notice. However, the department may provide that an application is terminated if no action is required by the department for one year following delivery of the application to the department. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than thirty days. However, the department shall not provide for more than one continuance.

b. A nutrient management plan as provided in section 459A.208 shall be approved or disapproved as part of a construction permit application pursuant to section 459A.205. If the nutri-

ent management plan is not part of an application for a construction permit, the nutrient management plan shall be approved or disapproved within sixty days from the date that the department receives the nutrient management plan.

Sec. 7. NEW SECTION. 459A.205 PERMIT REQUIREMENTS — SETTLED OPEN FEEDLOT EFFLUENT BASINS AND ALTERNATIVE TECHNOLOGY SYSTEMS.

1. The department shall approve or disapprove applications for permits for the construction, including the expansion, of settled open feedlot effluent basins and alternative technology systems, as provided in this chapter. The department's decision to approve or disapprove a permit for the construction of a basin or alternative system shall be based on whether the application is submitted according to procedures and standards required by this chapter. A person shall not begin construction of a basin or alternative system requiring a permit under this section, unless the department first approves the person's application and issues to the person a construction permit.

2. The department shall issue a construction permit upon approval of an application. The department shall approve the application regardless of whether the applicant is required to be issued a construction permit.

3. The department shall not approve an application for a construction permit unless the applicant submits all of the following:

a. For an open feedlot operation submitting an application for a construction permit on or after September 30, 2006, a nutrient management plan as provided in section 459A.208.

b. An engineering report, construction plans, and specifications prepared by a licensed professional engineer or the natural resources conservation service of the United States department of agriculture certifying that the construction of the settled open feedlot effluent basin or alternative technology system complies with the construction design standards required in this chapter.

4. An open feedlot operation must be issued a construction permit prior to any of the following:

a. The construction, including expansion, of a settled open feedlot effluent basin or alternative technology system if the open feedlot operation is required to be issued an operating permit.

b. The department has previously issued the open feedlot operation a construction permit and any of the following applies:

(1) The animal unit capacity of the open feedlot operation will be increased to more than the animal unit capacity approved by the department in the previous construction permit.

(2) The volume of open feedlot effluent stored at the open feedlot operation would be more than the volume approved by the department in the previous construction permit.

(3) The open feedlot operation was discontinued for twenty-four months or more and the animal unit capacity would be one thousand animal units or more.

5. Prior to submitting an application for a construction permit the applicant may submit a conceptual design and site investigation report to the department for review and comment.

6. The application for the construction permit shall include all of the following:

a. The name of the owner of the open feedlot operation and the name of the open feedlot operation, including a mailing address and telephone number for the owner and the operation.

b. The name of the contact person for the open feedlot operation, including the person's mailing address and telephone number.

c. The location of the open feedlot operation.

d. A statement providing that the application is for any of the following:

(1) The construction or expansion of a settled open feedlot effluent basin or alternative technology system for an existing open feedlot operation which is not expanding.

(2) The construction or expansion of a settled open feedlot effluent basin or alternative technology system for an existing open feedlot operation which is expanding.

(3) The construction of a settled open feedlot effluent basin or alternative technology system for a proposed new open feedlot operation.

e. The animal unit capacity for each animal species in the open feedlot operation before and after the proposed construction.

f. An engineering report, construction plans, and specifications prepared by a licensed professional engineer or by the United States natural resource conservation service, for the settled open feedlot operation effluent basin or alternative technology system.

g. A soils and hydrogeologic report of the site, as required in section 459A.206.

h. Information, including but not limited to maps, drawings, and aerial photos that clearly show the location of all of the following:

(1) The open feedlot operation and all existing and proposed settled open feedlot effluent basins or alternative technology systems, clean water diversions, and other pertinent features or structures.

(2) Any other open feedlot operation under common ownership or common management and located within one thousand two hundred fifty feet of the open feedlot operation.

(3) A public water supply system as defined in section 455B.171 or a drinking water well which is located within a distance from the operation as prescribed by rules adopted by the department.

i. For an open feedlot operation implementing an alternative technology system as provided in section 459A.303, the applicant shall submit all of the following:

(1) Information showing that the proposed open feedlot operation meets criteria for siting as established by rules adopted by the department. However, if the site does not meet the criteria, the information shall show substantially equivalent alternatives to meeting such criteria.

(2) The results of predictive computer modeling for the proposed alternative technology system to determine suitability of the proposed site for the system and to predict performance of the alternative technology system as compared to the use of a settled open feedlot effluent basin.

(3) A conceptual design of the proposed alternative technology system, as developed by a licensed engineer.

7. a. Except as provided in paragraph "b", a construction permit for an open feedlot operation expires as follows:

(1) If construction does not begin within one year after the date the construction permit is issued.

(2) If construction is not completed within three years after the date the construction permit is issued.

b. If requested, the department may grant an extension of time to begin or complete construction upon a showing of just cause by the construction permit applicant.

8. The department may suspend or revoke a construction permit, modify the terms or conditions of a construction permit, or disapprove a request to extend the time to begin or complete construction as provided in this section, if it determines that the operation of the open feedlot operation constitutes a clear, present, and impending danger to public health or the environment.

9. This section does not require a person to be issued a permit to construct a settled open feedlot effluent basin or alternative technology system if the basin or system is part of an open feedlot operation which is owned by a research college conducting research activities as provided in section 459A.105.

Sec. 8. NEW SECTION. 459A.206 SETTLED OPEN FEEDLOT EFFLUENT BASINS — SOILS AND HYDROGEOLOGIC REPORT.

A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to section 459A.205 shall meet design standards as required by a soils and hydrogeologic report.

The report shall be submitted with the construction permit application as provided in section 459A.205. The report shall include all of the following:

1. A description of the steps to determine the soils and hydrogeologic conditions at the pro-

posed construction site, a description of the geologic units encountered, and a description of the effects of the soil and groundwater elevation and direction of flow on the construction and operation of the basin.

2. The subsurface soil classification of the site. A subsurface soil classification shall be based on ASTM international designation D-2487-92 or D-2488-90.

3. The results of at least three soil corings reflecting the continuous soil profile taken for each basin. The soil corings shall be taken and used in determining subsurface soil characteristics and groundwater elevation and direction of flow of the proposed site for construction. The soil corings shall be taken as follows:

a. By a qualified person ordinarily engaged in the practice of taking soil cores and in performing soil testing.

b. At locations that reflect the continuous soil profile conditions existing within the area of the proposed basin, including conditions found near the corners and the deepest point of the proposed basin. The soil corings shall be taken to a minimum depth of ten feet below the bottom elevation of the basin.

c. By a method such as hollow stem auger or other method that identifies the continuous soil profile and does not result in the mixing of soil layers.

Sec. 9. NEW SECTION. 459A.207 CONSTRUCTION CERTIFICATION.

1. The owner of an open feedlot operation who is issued a construction permit for a settled open feedlot effluent basin as provided in section 459A.205 after the effective date of this Act shall submit to the department a construction certification from a licensed professional engineer certifying all of the following:

a. The basin was constructed in accordance with the design plans submitted to the department as part of an application for a construction permit pursuant to section 459A.205. If the actual construction deviates from the approved design plans, the construction certification shall identify all changes and certify that the changes were consistent with all applicable standards of this section.

b. The basin was inspected by the licensed professional engineer after completion of construction and before commencement of operation.

2. A written record of an investigation for drainage tile lines, including the findings of the investigation and actions taken to comply with subchapter III, shall be submitted as part of the construction certification.

Sec. 10. NEW SECTION. 459A.208 NUTRIENT MANAGEMENT PLAN — REQUIREMENTS.

1. The owner of an open feedlot operation which has an animal unit capacity of one thousand animal units or more or which is required to be issued an operating permit shall develop and implement a nutrient management plan meeting the requirements of this section by December 31, 2006.

2. Not more than one open feedlot operation shall be covered by a single nutrient management plan.

3. A person shall not remove open feedlot effluent from an open feedlot operation structure which is part of an open feedlot operation for which a nutrient management plan is required under this section, unless the department approves a nutrient management plan as required in this section. The department may adopt rules allowing a person to remove open feedlot effluent from an open feedlot operation structure until the nutrient management plan is approved or disapproved by the department according to terms and conditions required by rules adopted by the department.

4. The department shall not approve an application for a permit to construct a settled open feedlot effluent basin unless the owner of the open feedlot operation applying for approval submits a nutrient management plan together with the application for the construction permit as provided in section 459A.205. The owner shall also submit proof that the owner has pub-

lished a notice for public comment as provided in this section. The department shall approve or disapprove the nutrient management plan as provided in section 459A.201. A nutrient management plan using an alternative technology system shall not include requirements for settled effluent that enters the alternative technology system.

5. Prior to approving or disapproving a nutrient management plan as required in this section, the department may receive comments exclusively to determine whether the nutrient management plan is submitted according to procedures required by the department and that the nutrient management plan complies with the provisions of this chapter.

a. The owner of the open feedlot operation shall publish a notice for public comment in a newspaper having a general circulation in the county where the open feedlot operation is or is proposed to be located and in the county where open feedlot effluent, which originates from the open feedlot operation, may be applied under the terms and conditions of the nutrient management plan.

b. The notice for public comment shall include all of the following:

(1) The name of the owner of the open feedlot operation submitting the nutrient management plan.

(2) The name of the township where the open feedlot operation is or is proposed to be located and the name of the township where open feedlot effluent originating from the open feedlot operation may be applied.

(3) The animal unit capacity of the open feedlot operation.

(4) The time when and the place where the nutrient management plan may be examined as provided in section 22.2.

(5) Procedures for providing public comment to the department. The notice shall also include procedures for requesting a public hearing conducted by the department. The department is not required to conduct a public hearing if it does not receive a request for the public hearing within ten days after the first publication of the notice for public comment as provided in this subsection. If such a request is received, the public hearing must be conducted within thirty days after the first date that the notice for public comment was published.

(6) A statement that a person may acquire information relevant to making comments under this subsection by accessing the department's internet website. The notice for public comment shall include the address of the department's internet website as required by the department.

c. The department shall maintain an internet website where persons may access information relevant to making comments under this subsection. The department may include an electronic version of the nutrient management plan as provided in section 459A.201. The department shall include information regarding the time when, the place where, and the manner in which persons may participate in a public hearing as provided in this subsection.

6. A nutrient management plan must be authenticated by the owner of the animal feeding operation as required by the department in accordance with section 459A.201.

7. A nutrient management plan shall include all of the following:

a. Restrictions on the application of open feedlot effluent based on all of the following:

(1) Calculations necessary to determine the land area required for the application of open feedlot effluent from an open feedlot operation based on nitrogen use levels in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements adopted by the department.

(2) A phosphorus index established pursuant to section 459.312.

b. Information relating to the application of the open feedlot effluent, including all of the following:

(1) Nutrient levels of the open feedlot effluent.

(2) Application methods, the timing of the application, and the location of the land where the application occurs.

c. If the application is on land other than land owned or rented for crop production by the owner of the open feedlot operation, the plan shall include a copy of each written agreement

executed by the owner of the open feedlot operation and the landowner or the person renting the land for crop production where the open feedlot effluent may be applied.

d. An estimate of the open feedlot effluent volume or weight produced by the open feedlot operation.

e. Information which shows all of the following:

(1) There is adequate storage for open feedlot effluent, including procedures to ensure proper operation and maintenance of the storage structures.

(2) The proper management of animal mortalities to ensure that animals are not disposed of in an open feedlot operation structure or a treatment system that is not specifically designed to treat animal mortalities.

(3) Surface drainage prior to contact with an open feedlot structure is diverted, as appropriate, from the open feedlot operation.

(4) Animals kept in the open feedlot operation do not have direct contact with any waters of the United States.

(5) Chemicals or other contaminants handled on-site are not disposed of in an open feedlot operation structure or a treatment system that is not specifically designed to treat such chemicals or contaminants.

8. If an open feedlot operation uses an alternative technology system as provided in section 459A.303, the nutrient management plan is not required to provide for settled effluent that enters the alternative technology system.

9. The owner of an open feedlot operation who is required to develop and implement a nutrient management plan shall maintain a current nutrient management plan and maintain records sufficient to demonstrate compliance with the nutrient management plan.

SUBCHAPTER III
DESIGN STANDARDS AND CONSTRUCTION REQUIREMENTS

Sec. 11. NEW SECTION. 459A.301 SETTLED OPEN FEEDLOT EFFLUENT BASINS — CONSTRUCTION DESIGN STANDARDS — RULES.

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 459A.205, any construction design standards for the basin shall be established by rules as provided in chapter 17A that exclusively account for special design characteristics of open feedlot operations and related basins, including but not limited to the dilute composition of settled open feedlot effluent as collected and stored in the basins.

Sec. 12. NEW SECTION. 459A.302 SETTLED OPEN FEEDLOT EFFLUENT BASINS — CONSTRUCTION REQUIREMENTS.

A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to section 459A.205 shall meet all of the following requirements:

1. a. Prior to constructing a settled open feedlot effluent basin, the site for the basin shall be investigated for a drainage tile line by the owner of the open feedlot operation. The investigation shall be made by digging a core trench to a depth of at least six feet deep from ground level at the projected center of the berm of the basin. If a drainage tile line is discovered, one of the following solutions shall be implemented:

(1) The drainage tile line shall be rerouted around the perimeter of the basin at a distance of least[1] twenty-five feet horizontally separated from the outside edge of the berm of the basin. For an area of the basin where there is not a berm, the drainage tile line shall be rerouted at least fifty feet horizontally separated from the edge of the basin.

(2) The drainage tile line shall be replaced with a nonperforated tile line under the basin floor. The nonperforated tile line shall be continuous and without connecting joints. There must be a minimum of three feet between the nonperforated tile line and the basin floor.

[1] The phrase "a distance of at least" probably intended

b. A written record of the investigation shall be submitted as part of the construction certification required under section 459A.207.

2. a. The settled open feedlot effluent basin shall be constructed with a minimum separation of two feet between the top of the liner of the basin and the seasonal high-water table.

b. If a drainage tile line around the perimeter of the basin is installed a minimum of two feet below the top of the basin liner to artificially lower the seasonal high-water table, the top of the basin's liner may be a maximum of four feet below the seasonal high-water table. The seasonal high-water table may be artificially lowered by gravity flow tile lines or other similar system. However the following shall apply:

(1) Except as provided in subparagraph (2), an open feedlot operation shall not use a nongravity mechanical system that uses pumping equipment.

(2) If the open feedlot operation was constructed before the effective date of this Act, the operation may continue to use its existing nongravity mechanical system that uses pumping equipment or it may construct a new nongravity mechanical system that uses pumping equipment. However, an open feedlot operation that expands the area of its open feedlot on or after April 1, 2011, shall not use a nongravity mechanical system that uses pumping equipment.

3. Drainage tile lines may be installed to artificially lower the seasonal high-water table at a settled open feedlot effluent basin, if all of the following conditions are satisfied:

a. A device to allow monitoring of the water in the drainage tile lines and a device to allow shutoff of the flow in the drainage tile lines are installed, if the drainage tile lines do not have a surface outlet accessible on the property where the settled open feedlot effluent basin is located.

b. Drainage tile lines are installed horizontally at least twenty-five feet away from the settled open feedlot effluent basin. Drainage tile lines shall be placed in a vertical trench and encased in granular material which extends upward to the level of the seasonal high-water table.

4. A settled open feedlot effluent basin shall be constructed with at least four feet between the bottom of the basin and a bedrock formation.

5. A settled open feedlot effluent basin constructed on a floodplain or within a floodway of a river or stream shall comply with rules of the department.

6. The liner of a settled open feedlot effluent basin shall comply with all of the following:

a. The liner shall comply with any of the following permeability standards:

(1) The liner shall be constructed to have a percolation rate that shall not exceed one-sixteenth inch per day at the design depth of the basin as determined by percolation tests conducted by the professional engineer. If a clay soil liner is used, the liner shall be constructed with a minimum thickness of twelve inches or the minimum thickness necessary to comply with the percolation rate in this section, whichever is greater.

(2) The liner shall be constructed at optimum moisture content not less than ninety-five percent of the maximum density as determined by a standard five-point proctor test performed at the site of the open feedlot operation by a professional engineer. If a clay soil liner is used, the liner shall be constructed with a minimum thickness of twelve inches.

b. If a synthetic liner is used, the liner shall be installed to comply with the percolation rate required in this section.

7. The owner of an open feedlot operation using a settled open feedlot effluent basin shall inspect the berms of the basin at least semiannually for evidence of erosion. If the inspection reveals erosion which may impact the basin's structural stability or the integrity of the basin's liner, the owner shall repair the berms.

Sec. 13. NEW SECTION. 459A.303 ALTERNATIVE TECHNOLOGY SYSTEMS.

In lieu of using a settled open feedlot effluent basin as provided in section 459A.302 to meet the open feedlot effluent control requirements of section 459A.401, an open feedlot operation may use an alternative technology system for open feedlot effluent control.

1. The alternative technology system must provide an equivalent level of open feedlot effluent control as would be achieved by using a settled open feedlot effluent basin.

2. The department shall adopt rules establishing requirements for the construction and operation of alternative technology systems.

SUBCHAPTER IV
OPEN FEEDLOT EFFLUENT CONTROL

Sec. 14. NEW SECTION. 459A.401 OPEN FEEDLOT EFFLUENT CONTROL METHODS.

An open feedlot operation shall provide for the management of open feedlot effluent by using an open feedlot effluent control method as follows:

1. All settleable solids from open feedlot effluent shall be removed prior to discharge into the waters of the state.

a. The settleable solids shall be removed by use of a solids settling facility. The construction of a solids settling facility is not required where existing site conditions provide for removal of settleable solids prior to discharge into the waters of the state.

b. The removal of settleable solids shall be deemed to have occurred when the velocity of flow of the open feedlot effluent has been reduced to less than point five feet per second for a minimum of five minutes. A solids settling facility shall have sufficient capacity to store settled solids between periods of land application and to provide required flow-velocity reduction for open feedlot effluent flow volumes resulting from a precipitation event of less intensity than a ten-year, one-hour frequency event. A solids settling facility which receives open feedlot effluent shall provide a minimum of one square foot of surface area for each eight cubic feet of open feedlot effluent per hour resulting from a ten-year, one-hour frequency precipitation event.

2. This subsection shall apply to an open feedlot operation which is required to be issued an operating permit.

a. An open feedlot operation may discharge open feedlot effluent into any waters of the United States due to a precipitation event, if any of the following apply:

(1) For an open feedlot operation that houses cattle, other than veal cattle, the operation is designed, constructed, operated, and maintained to not discharge open feedlot effluent resulting from a twenty-five-year, twenty-four-hour precipitation event into any waters of the United States.

(2) For an open feedlot operation that houses veal calves, swine, chickens, or turkeys, the operation is designed, constructed, operated, and maintained to not discharge open feedlot effluent resulting from a one-hundred-year, twenty-four-hour precipitation event into any waters of the United States.

b. If the open feedlot operation is designed, constructed, and operated in accordance with the requirements of an open feedlot effluent control system as provided in rules adopted by the department, the operation shall be deemed to be in compliance with this section, unless a discharge from the operation causes a violation of state water quality standards as provided in chapter 455B, division III.

3. The following shall apply to an open feedlot operation which has an animal unit capacity of one thousand animal units or more:

a. (1) The open feedlot operation shall not discharge open feedlot effluent from an open feedlot operation structure into any waters of the United States, unless the discharge is pursuant to an operating permit.

(2) The open feedlot operation shall not be required to be issued an operating permit if the operation does not discharge open feedlot effluent into any waters of the United States.

b. The control of open feedlot effluent originating from the open feedlot operation may be accomplished by the use of a solids settling facility, settled open feedlot effluent basin, alternative technology system, or any other open feedlot effluent control structure or practice approved by the department. The department may require the diversion of surface drainage prior to contact with an open feedlot operation structure. Solids shall be settled from open

feedlot effluent before the effluent enters a settled open feedlot effluent basin or alternative technology system.

Sec. 15. NEW SECTION. 459A.402 OPEN FEEDLOT EFFLUENT CONTROL — ALTERNATIVE CONTROL PRACTICES.

If because of topography or other factors related to the site of an open feedlot operation it is economically or physically impractical to comply with open feedlot effluent control requirements using an open feedlot control method in section 459A.401, the department shall allow the use of other open feedlot effluent control practices if those practices will provide an equivalent level of open feedlot effluent control that would be achieved by using an open feedlot effluent control method pursuant to section 459A.401.

Sec. 16. NEW SECTION. 459A.410 EFFLUENT APPLICATION REQUIREMENTS.

Open feedlot effluent shall be applied in a manner which does not cause surface water or groundwater pollution. Application in accordance with the provisions of state law, including this chapter, rules adopted pursuant to the provisions of state law, including this chapter, and guidelines adopted pursuant to this chapter, shall be deemed as compliance with this section.

Sec. 17. NEW SECTION. 459A.411 DISCONTINUANCE OF OPERATIONS.

The owner of an open feedlot operation who discontinues the use of the operation shall remove all open feedlot effluent from related open feedlot operation structures used to store open feedlot effluent, as soon as practical but not later than six months following the date the open feedlot operation is discontinued.

SUBCHAPTER V
ENFORCEMENT

Sec. 18. NEW SECTION. 459A.501 GENERAL.

The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in chapter 455B, division I, unless otherwise provided in this chapter.

Sec. 19. NEW SECTION. 459A.502 VIOLATIONS — CIVIL PENALTY.

A person who violates this chapter shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.191. Any civil penalty collected and interest on a civil penalty shall be deposited in the animal agriculture compliance fund created in section 459.401. A person shall not be subject to a penalty under this section and a penalty under section 459.603 for the same violation.

DIVISION II
CONFORMING AMENDMENTS

Sec. 20. Section 455B.103, subsections 3 and 4, Code 2005, are amended to read as follows:

3. Contract, with the approval of the commission, with public agencies of this state to provide all laboratory, scientific field measurement and environmental quality evaluation services necessary to implement the provisions of this chapter, ~~and~~ chapter 459, ~~subchapters II and III~~ and chapter 459A. If the director finds that public agencies of this state cannot provide the laboratory, scientific field measurement and environmental evaluation services required by the department, the director may contract, with the approval of the commission, with any other public or private persons or agencies for such services or for scientific or technical services required to carry out the programs and services assigned to the department.

4. Conduct investigations of complaints received directly or referred by the commission created in section 455A.6 or other investigations deemed necessary. While conducting an investigation, the director may enter at any reasonable time in and upon any private or public proper-

ty to investigate any actual or possible violation of this chapter, ~~or~~ chapter 459, ~~subchapters II and III,~~ chapter 459A, or the rules or standards adopted under this chapter, ~~or~~ chapter 459, ~~subchapters II and III~~ or chapter 459A. However, the owner or person in charge shall be notified.

Sec. 21. Section 455B.103A, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If a permit is required pursuant to this chapter, ~~or~~ chapter 459, or chapter 459A for stormwater discharge or an air contaminant source and a facility to be permitted is representative of a class of facilities which could be described and conditioned by a single permit, the director may issue, modify, deny, or revoke a general permit for all of the following conditions:

Sec. 22. Section 455B.103A, subsection 5, Code 2005, is amended to read as follows:

5. The enforcement provisions of division II of this chapter and chapter 459, subchapter II, apply to general permits for air contaminant sources. The enforcement provisions of division III, part 1, of this chapter, ~~and~~ chapter 459, subchapter III, and chapter 459A apply to general permits for stormwater discharge.

Sec. 23. Section 455B.105, subsections 3, 6, and 8, Code 2005, are amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement this chapter, ~~and~~ chapter 459, and chapter 459A, 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, and chapter 459A. Rules adopted by the executive committee before January 1, 1981, shall remain effective until modified or rescinded by action of the commission.

6. Approve all contracts and agreements under this chapter, ~~and~~ chapter 459, and chapter 459A between the department and other public or private persons or agencies.

8. Hold public hearings, except when the evidence to be received is confidential pursuant to this chapter, chapter 22, ~~or~~ chapter 459, or chapter 459A, necessary to carry out its powers and duties. The commission may issue subpoenas requiring the attendance of witnesses and the production of evidence pertinent to the hearings. A subpoena shall be issued and enforced in the same manner as provided in civil actions.

Sec. 24. Section 455B.105, subsection 11, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Adopt, by rule, procedures and forms necessary to implement the provisions of this chapter, ~~and~~ chapter 459, and chapter 459A relating to permits, conditional permits, and general permits. The commission may also adopt, by rule, a schedule of fees for permit and conditional permit applications and a schedule of fees which may be periodically assessed for administration of permits and conditional permits. In determining the fee schedules, the commission shall consider:

Sec. 25. Section 455B.109, subsection 4, Code 2005, is amended to read as follows:

4. a. ~~All~~ Except as provided in paragraph "b", civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state. ~~However, civil~~

b. The following provisions shall apply to animal feeding operations:

(1) Civil penalties assessed by the department and interest on the civil penalties, arising out of violations involving animal feeding operations under chapter 459, subchapter II, shall be deposited in the animal agriculture compliance fund as created in section 459.401.

(2) Civil penalties assessed by the department and interest on the penalties arising out of violations committed by animal feeding operations under chapter 459, subchapter III, which may be assessed pursuant to section 455B.191 or 459.604, shall also be deposited in the animal agriculture compliance fund.

(3) Civil penalties assessed by the department and interest on the civil penalties, arising out of violations involving open feedlot operations under chapter 459A, shall be deposited in the animal agriculture compliance fund as created in section 459.401.

Sec. 26. Section 455B.111, subsection 1, paragraphs a and b, Code 2005, are amended to read as follows:

a. A person, including the state of Iowa, for violating any provision of this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; chapter 459A; or a rule adopted pursuant to this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; or chapter 459A.

b. The director, the commission, or any official or employee of the department where there is an alleged failure to perform any act or duty under this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; chapter 459A; or a rule adopted pursuant to this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; or chapter 459A, which is not a discretionary act or duty.

Sec. 27. Section 455B.111, subsection 5, Code 2005, is amended to read as follows:

5. This section does not restrict any right under statutory or common law of a person or class of person to seek enforcement of provisions of this chapter, ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; chapter 459A; or a rule adopted pursuant to this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A, or seek other relief permitted under the law.

Sec. 28. Section 455B.112, Code 2005, is amended to read as follows:

455B.112 ACTIONS BY ATTORNEY GENERAL.

In addition to the duty to commence legal proceedings at the request of the director or commission under this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A the attorney general may institute civil or criminal proceedings, including an action for injunction, to enforce the provisions of this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A including orders or permits issued or rules adopted under this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; or chapter 459A.

Sec. 29. Section 455B.113, subsection 1, Code 2005, is amended to read as follows:

1. The director shall certify laboratories which perform laboratory analyses of samples required to be submitted by the department by this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A, or by rules adopted in accordance with this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A; or by permits or orders issued under this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; or chapter 459A.

Sec. 30. Section 455B.115, Code 2005, is amended to read as follows:

455B.115 ANALYSIS BY CERTIFIED LABORATORY REQUIRED.

Laboratory analysis of samples as required by this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A; or by rules adopted, or by permits or orders issued pursuant to this chapter; ~~or~~ chapter 459, subchapters I, II, III, IV, and VI~~,~~; or chapter 459A shall be conducted by a laboratory certified by the director as having the necessary competence, equipment, and capabilities to perform the analysis. Analytical results from laboratories not certificated shall not be accepted by the director.

Sec. 31. Section 455B.179, Code 2005, is amended to read as follows:

455B.179 TRADE SECRETS PROTECTED.

Upon a satisfactory showing by any person to the director that public disclosure of any rec-

ord, report, permit, permit application, or other document or information or part thereof would divulge methods or processes entitled to protection as a trade secret, any such record, report, permit, permit application, or other document or part thereof other than effluent data and analytical results of monitoring of public water supply systems, shall be accorded confidential treatment. Notwithstanding the provisions of chapter 22, a person in connection with duties or employment by the department shall not make public any information accorded confidential status; however, any such record or other information accorded confidential status may be disclosed or transmitted to other officers, employees, or authorized representatives of this state or the United States concerned with carrying out this part of this division; ~~or~~ chapter 459, subchapter III, or chapter 459A; or when relevant in any proceeding under this part of this division; ~~or~~ chapter 459, subchapter III; or chapter 459A.

Sec. 32. Section 455B.182, Code 2005, is amended to read as follows:

455B.182 FAILURE CONSTITUTES CONTEMPT.

Failure to obey any order issued by the department with reference to a violation of this part of this division; ~~or~~ chapter 459, subchapter III,; or chapter 459A; or any rule promulgated or permit issued pursuant thereto shall constitute prima facie evidence of contempt. In such event the department may certify to the district court of the county in which such alleged disobedience occurred the fact of such failure. The district court after notice, as prescribed by the court, to the parties in interest shall then proceed to hear the matter and if it finds that the order was lawful and reasonable it shall order the party to comply with the order. If the person fails to comply with the court order, that person shall be guilty of contempt and shall be fined not to exceed five hundred dollars for each day that the person fails to comply with the court order. The penalties provided in this section shall be considered as additional to any penalty which may be imposed under the law relative to nuisances or any other statute relating to the pollution of any waters of the state or related to public water supply systems and a conviction under this section shall not be a bar to prosecution under any other penal statute.

Sec. 33. Section 455B.185, Code 2005, is amended to read as follows:

455B.185 DATA FROM DEPARTMENTS.

The commission and the director may request and receive from any department, division, board, bureau, commission, public body, or agency of the state, or of any political subdivision thereof, or from any organization, incorporated or unincorporated, which has for its object the control or use of any of the water resources of the state, such assistance and data as will enable the commission or the director to properly carry out their activities and effectuate the purposes of this part 1 of division III; ~~and~~ chapter 459, subchapter III; or chapter 459A. The department shall reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency.

Sec. 34. Section 459.102, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A settled open feedlot effluent basin ~~that collects and stores only precipitation-induced runoff from an open feedlot~~ as defined in section 459A.102.

Sec. 35. Section 459.102, subsections 37, 45, and 46, Code 2005, are amended by striking the subsections.

Sec. 36. Section 459.401, subsection 2, paragraph a, subparagraph (5), Code 2005, is amended to read as follows:

(5) The collection of civil penalties assessed by the department and interest on civil penalties, arising out of violations involving animal feeding operations as provided in sections 459.602, ~~and~~ 459.603, and 459A.502.

Sec. 37. Section 459.309, Code 2005, is repealed.

DIVISION III
AGRICULTURAL PRODUCTION LIENS

Sec. 38. Section 579A.2, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The lien terminates one year after the cattle have left the custom cattle feedlot. ~~Section 554.9515 shall not apply to a financing statement perfecting the lien.~~ The lien may be terminated by the custom cattle feedlot operator who files a termination statement as provided in chapter 554, article 9.

Sec. 39. Section 579B.4, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. For a lien arising out of producing a crop, the lien becomes effective the day that the crop is first planted. In order to perfect the lien, the contract producer must file a financing statement in the office of the secretary of state as provided in section 554.9308. The contract producer must file a financing statement for the crop within forty-five days after the crop is first planted. The lien terminates one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer. ~~Section 554.9515 shall not apply to a financing statement perfecting the lien.~~ The lien may be terminated by the contract producer who files a termination statement as provided in chapter 554, article 9.

Approved May 23, 2005

CHAPTER 137

REGULATION OF NATURAL RESOURCES AND WATERCRAFT

H.F. 828

AN ACT relating to aquatic regulations and activities, including aquatic invasive species, the regulation and registration of certain vessels, the operation of certain vessels by minors, inspections of certain vessels, the operation of vessels for hire or commercial vessels, providing for penalties, and appropriating the moneys collected from certain registration fee increases to the state fish and game protection fund.

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

Section 1. Section 455A.4, subsection 1, paragraph j, Code 2005, is amended by striking the paragraph.

Sec. 2. Section 456A.37, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. "Aquatic invasive species" means a species that is not native to an ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health including but not limited to habitat alteration and degradation, and loss of biodiversity. For the purposes of this section, "aquatic invasive species" are limited to Eurasian water mil-

foil, purple loosestrife, ~~and~~ zebra mussels, ~~except as provided in subsection 4~~ and those species identified as "aquatic invasive species" by the commission by rule.

Sec. 3. Section 456A.37, subsection 4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

c. If the commission determines that an additional species should be defined as an "aquatic invasive species", the species ~~may~~ shall be defined by the commission by rule as an "aquatic invasive species" ~~subject to enactment of the definition by the general assembly at the next regular session of the general assembly. Failure of the general assembly to enact the definition pursuant to this paragraph constitutes a nullification of the definition effective upon adjournment of that next regular session of the general assembly~~.

Sec. 4. Section 462A.5, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The owner of each vessel required to be numbered by this state shall register it every ~~two~~ three 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 such vessel is principally used. The commission shall have supervisory responsibility over the registration of all vessels and shall provide each county recorder with registration forms and certificates and shall allocate identification numbers to each county.

Sec. 5. Section 462A.5, subsection 1, Code 2005, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. A vessel that has an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.

Sec. 6. Section 462A.5, subsection 3, Code 2005, is amended to read as follows:

3. The registration fees for vessels subject to this chapter are as follows:

a. For vessels of any length without motor or sail, ~~five~~ twelve dollars.

b. For motorboats or sailboats less than ~~twelve~~ sixteen feet in length, ~~eight~~ twenty-two dollars and fifty cents.

c. For motorboats or sailboats ~~twelve~~ sixteen feet or more, but less than ~~fifteen~~ twenty-six feet in length, ~~ten~~ thirty-six dollars.

~~d. For motorboats or sailboats fifteen feet or more, but less than eighteen feet in length, twelve dollars.~~

~~e. For motorboats or sailboats eighteen feet or more, but less than twenty-five feet in length, eighteen dollars.~~

~~f.~~ d. For motorboats or sailboats ~~twenty-five~~ twenty-six feet ~~in length~~ or more, ~~twenty-eight~~ but less than forty feet in length, seventy-five dollars.

e. For motorboats or sailboats forty feet in length or more, one hundred fifty dollars.

f. For all personal watercraft, forty-five dollars.

Every registration certificate and number issued becomes delinquent at midnight April 30 of ~~odd-numbered years~~ the last calendar year of the registration period unless terminated or discontinued in accordance with this chapter. After January 1 ~~in odd-numbered years~~, 2007, an unregistered vessel and a renewal of registration may be registered for the ~~two-year~~ three-year registration period beginning May 1 of that year. ~~After January 1 in even-numbered years~~ When unregistered vessels are registered after May 1 of the second year of the three-year registration period, such unregistered vessels may be registered for the remainder of the current registration period at ~~fifty~~ sixty-six percent of the appropriate registration fee. When unregistered vessels are registered after May 1 of the third year of the three-year registration period, such unregistered vessels may be registered for the remainder of the current registration period at thirty-three percent of the appropriate registration fee.

If a timely application for renewal is made, the applicant shall receive the same registration

number allocated to the applicant for the previous registration period. If the application for registration for the ~~biennium~~ three-year registration period is not made before May 1 of ~~each odd-numbered~~ the last calendar year of the registration period, the applicant shall be charged a penalty of five dollars.

Sec. 7. Section 462A.5, subsection 6, Code 2005, is amended to read as follows:

6. The owner of each vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto shall register it every ~~two~~ three years with the county recorder in the same manner prescribed for undocumented vessels and shall cause the registration validation decal to be placed on the vessel in the manner prescribed by the rules of the commission. When the vessel bears the identification required in the documentation, it is exempt from the placement of the identification numbers as required on undocumented vessels. The fee for such registration is twenty-five dollars plus a writing fee.

Sec. 8. Section 462A.12, subsection 6, Code 2005, is amended to read as follows:

6. An owner or operator of a vessel propelled by a motor of more than ten horsepower shall not permit any person under twelve years of age to operate the ~~personal watercraft~~ vessel unless accompanied in or on the same ~~personal watercraft~~ vessel by a responsible person of at least eighteen years of age who is experienced in motorboat operation. ~~Commencing January 1, 2003, a~~ A person who is twelve years of age or older but less than eighteen years of age shall not operate any ~~personal watercraft~~ vessel propelled by a motor of more than ten horsepower unless the person has successfully completed a department-approved watercraft safety course and obtained a watercraft safety certificate or is accompanied in or on the same vessel by a responsible person of at least eighteen years of age who is experienced in motorboat operation. 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. 9. Section 462A.20, Code 2005, is amended to read as follows:

462A.20 BOAT INSPECTION.

~~Any person having,~~ A vessel either for hire or offered for hire upon any waters of this state under the jurisdiction of the commission~~, any vessel, either for hire or offered for hire, must have such vessel and all its appurtenances annually~~ may be inspected at any time by representatives of the commission or by any peace officer who is trained in enforcing, and who in the regular course of duty enforces, boating and navigation laws.

~~Every such owner shall file in the office of the commission, an application for inspection of such vessels on a blank furnished by the commission for that purpose.~~

Officers appointed by the commission or any peace officer who is trained in enforcing, and who in the regular course of duty enforces, boating and navigation laws shall have the power and authority to determine whether such vessel is safe for the transportation of passengers or cargo and upon what waters it may be used. They may determine and designate the number of passengers or cargo, including crew, that may be carried and determine whether the machinery, equipment and all appurtenances are such as to make ~~said vessels~~ the vessel seaworthy, where used, and such other matters as are pertinent.

~~After such vessels have been inspected as provided herein, a current inspection seal or tag shall be issued by the commission and shall be kept posted in a conspicuous place upon or in such vessel. Any inspection seal or tag shall be in effect only for the calendar year for which the inspection seal or tag is issued.~~

Private vessels may also be inspected to determine their seaworthiness at any time by representatives of the commission or by any peace officer who is trained in enforcing, and who in the regular course of duty enforces, boating and navigation laws.

Sec. 10. Section 462A.23, subsection 1, Code 2005, is amended to read as follows:

1. Any officer appointed by the commission may, for cause, temporarily suspend the registration certificate of any vessel ~~and the license of a pilot or engineer,~~ that has been issued under this chapter, and the commission, after a due hearing on the matter at its next session, shall make final determination in the matter.

Sec. 11. Section 462A.23, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The commission shall forthwith revoke the registration certificate of any vessel and the ~~pilot's or engineer's license of the operator of such vessel~~ owner's or operator's privilege to operate a vessel for hire or commercial vessel, upon receiving a record of such owner or operator's conviction of any of the following offenses, when such conviction has become final:

Sec. 12. Section 462A.23, subsection 3, Code 2005, is amended to read as follows:

3. The commission is hereby authorized to suspend the registration certificate of any vessel and the ~~pilot's or engineer's license of an operator~~ owner's or operator's privilege to operate a vessel for hire or commercial vessel upon a showing by its records that the owner or operator:

a. Has committed an offense for which mandatory revocation of the registration certificate or ~~pilot's or engineer's license~~ of the privilege to operate a vessel for hire or commercial vessel is required upon conviction.

b. Is a habitual reckless or negligent operator of a vessel for hire or commercial vessel.

c. Is incompetent to operate a vessel for hire or commercial vessel.

d. Has permitted an unlawful or fraudulent use of such registration certificate ~~or pilot's or engineer's license~~.

Sec. 13. Section 462A.25, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

462A.25 PENALTY.

If an owner or operator of a vessel for hire or commercial vessel operated upon the waters of this state under the jurisdiction of the commission permits such vessel to be occupied by more passengers and crew than the registration capacity allows or if a person continues to operate a vessel for hire or commercial vessel after the person's privilege to operate the vessel has been revoked, the person shall be guilty of a serious misdemeanor. The provisions of this section shall not apply to vessels registered or numbered by authority of the United States.

Sec. 14. Section 462A.39, Code 2005, is amended to read as follows:

462A.39 EXPIRATION DATE.

Each special certificate issued hereunder shall expire at midnight on April 30 of ~~each odd-numbered~~ the last calendar year of the registration period, and a new special certificate for the ensuing ~~biennium~~ registration period may be obtained upon application to the commission and payment of the fee provided by law.

Sec. 15. Section 462A.52, Code 2005, is amended to read as follows:

462A.52 FEES REMITTED TO COMMISSION.

1. Within ten days after the end of each month, a county recorder shall remit to the commission all fees collected by the recorder during the previous month. Before May 10 ~~in odd-numbered years~~ of the registration period beginning May 1 of that year, a county recorder shall remit to the commission all unused license blanks for the previous ~~biennium~~ registration period. All fees collected for the registration of vessels shall be forwarded by the commission to the treasurer of the state, who shall place the money in ~~a special conservation~~ the state fish and game protection fund. The money so collected is appropriated to the commission solely for the administration and enforcement of navigation laws and water safety.

2. Notwithstanding subsection 1, any increase in revenues received on or after July 1, 2007, but on or before June 30, 2013, pursuant to this section as a result of fee increases pursuant

to this Act, shall be used by the commission only for the administration and enforcement of programs to control aquatic invasive species and for the administration and enforcement of navigation laws and water safety upon the inland waters of this state and shall be used in addition to funds already being expended by the commission each year for these purposes. The commission shall not reduce the amount of other funds being expended on an annual basis for these purposes as of the effective date of this Act, during the period of the appropriation provided for in this subsection.

3. The commission shall submit a written report to the general assembly by December 31, 2007, and by December 31 of each year thereafter through December 31, 2013, summarizing the activities of the department in administering and enforcing programs to control aquatic invasive species and administering and enforcing navigation laws and water safety upon the inland waters of the state. The report shall include information concerning the amount of revenues collected pursuant to this section as a result of fee increases pursuant to this Act and how the revenues were expended. The report shall also include information concerning the amount and source of all other funds expended by the commission during the year for the purposes of administering and enforcing programs to control aquatic invasive species and administering and enforcing navigation laws and water safety upon the inland waters of the state and how the funds were expended.

Sec. 16. Section 462A.53, Code 2005, is amended to read as follows:

462A.53 AMOUNT OF WRITING FEES.

A writing fee of one dollar and twenty-five cents for each transaction shall be collected by the county recorder. If two or more functions are transacted for the same vessel at one time, the writing fee is limited to one dollar and twenty-five cents.

Sec. 17. Section 462A.66, Code 2005, is amended to read as follows:

462A.66 INSPECTION AUTHORITY.

An officer of the commission or any peace officer who is trained in enforcing, and who in the regular course of duty enforces, boating and navigation laws may stop and inspect a vessel being launched, being operated, or being moored on the waters of this state under the jurisdiction of the commission to determine whether the vessel is properly registered, numbered, and equipped as provided under this chapter and rules of the commission. An officer may board a vessel in the course of an inspection if the operator is unable to supply visual evidence that the vessel is properly registered and equipped as required by this chapter and rules of the commission. The inspection shall not include an inspection of an area that is not essential to determine compliance with the provisions of this chapter and rules of the commission.

Sec. 18. Section 462A.77, subsection 1, Code 2005, is amended to read as follows:

1. Except as provided in subsection 3, an owner of a vessel seventeen feet or longer in length principally used on the waters of the state and to be numbered pursuant to section 462A.4 shall apply to the county recorder of the county in which the owner resides for a certificate of title for the vessel. The requirement of a certificate of title does not apply to canoes, kayaks, or inflatable vessels regardless of length.

Sec. 19. Sections 462A.21 and 462A.22, Code 2005, are repealed.

Approved May 23, 2005

CHAPTER 138

REGULATION OF SNOWMOBILES

H.F. 879

AN ACT relating to the regulation of snowmobiles and establishing fees.

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

Section 1. Section 321G.1, subsection 18, Code 2005, is amended to read as follows:

18. "Snowmobile" means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle, as defined in section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

Sec. 2. Section 321G.3, subsection 1, Code 2005, is amended to read as follows:

1. Each snowmobile used on public land or ice of this state shall be currently registered and numbered. A person shall not operate, maintain, or give permission for the operation or maintenance of a snowmobile on public land or ice unless the snowmobile is numbered in accordance with this chapter~~,~~ or applicable federal laws, or ~~an approved numbering system of another state, and unless~~ the snowmobile displays a current annual user permit for the snowmobile. If the snowmobile is required to be registered in this state, the identifying number set forth in the registration ~~is~~ shall be displayed as prescribed by rules of the commission.

Sec. 3. Section 321G.4, Code 2005, is amended to read as follows:

321G.4 REGISTRATION ~~WITH COUNTY RECORDER~~ — FEE.

1. The owner of each snowmobile required to be numbered shall register it annually with the department through 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 snowmobile is principally used. The department shall develop and maintain an electronic system for the registration of snowmobiles pursuant to this chapter. The ~~commission has supervisory responsibility over~~ department shall establish forms and procedures as necessary for the registration of snowmobiles ~~and shall provide each county recorder with registration forms and certificates and shall allocate registration numbers to each county~~.

2. The owner of the snowmobile shall file an application for registration with the department through the appropriate county recorder ~~on forms provided~~ in the manner established by the commission. The application shall be completed and signed by the owner and shall be accompanied by a fee of fifteen dollars and a writing fee. A snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the snowmobile or that the owner is exempt from paying the tax. A snowmobile that has an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.

3. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall ~~enter it upon the records~~ register the snowmobile with the department and ~~shall~~ issue to the applicant a registration certificate. ~~The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder.~~ The registration certificate shall bear the number awarded to the snowmobile and the name and address of the owner. The registration certificate shall be carried either in the snowmobile or on the person of the operator of the snowmobile when in use. The operator of a snowmobile shall exhibit the registration certificate to a peace officer upon request, to a person injured in an accident involving a snowmobile, to the

owner or operator of another snowmobile or the owner of personal or real property when the snowmobile is involved in a collision or accident of any nature with another snowmobile or the property of another person, or to the property owner or tenant when the snowmobile is being operated on private property without permission from the property owner or tenant.

4. If a snowmobile is placed in storage, the owner shall return the current registration certificate to the county recorder with an affidavit stating that the snowmobile is placed in storage and the effective date of storage. The county recorder shall notify the ~~commission~~ department of each snowmobile placed in storage. When the owner of a stored snowmobile desires to renew the registration, the owner shall make application ~~to~~ through the county recorder and pay the registration and writing fees without penalty. A refund of the registration fee shall not be allowed for a stored snowmobile.

5. Notwithstanding subsections 1 and 2, a snowmobile that is more than thirty years old may be registered for a one-time fee of twenty-five dollars, which shall exempt the owner from annual registration and fee requirements for that snowmobile. However, if ownership of such a snowmobile is transferred, the new owner shall register the snowmobile and pay the one-time fee as required under this subsection.

Sec. 4. NEW SECTION. 321G.4A NONRESIDENT USER PERMITS.

1. A nonresident wishing to operate a snowmobile, other than a snowmobile registered pursuant to this chapter, on public land or ice of this state shall first obtain a user permit from the department. A user permit shall be issued for the snowmobile specified at the time of application and is not transferable. A user permit shall be valid for the calendar year specified in the permit.

2. User permits may be issued by a county recorder or a license agent pursuant to rules adopted by the commission. The fee for a user permit shall be fifteen dollars plus an administrative fee established by the commission. A county recorder shall retain a writing fee of one dollar from the sale of each user permit issued by the county recorder's office. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A license agent designated by the director pursuant to section 483A.11 shall retain a writing fee of one dollar from the sale of each permit issued by the agent.

Sec. 5. Section 321G.6, subsection 1, Code 2005, is amended to read as follows:

1. Every snowmobile registration certificate and number issued expires at midnight December 31 unless sooner terminated or discontinued in accordance with this chapter. After the first day of September each year, an unregistered snowmobile may be registered ~~or~~ and a registration may be renewed in one transaction. The fee is five dollars for the remainder of the current year, in addition to the registration fee of fifteen dollars for the subsequent year beginning January 1, and a writing fee.

Sec. 6. Section 321G.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The department shall develop and maintain an electronic system for residents to renew snowmobile registrations pursuant to this section. A county recorder or license agent may issue snowmobile registration renewals electronically pursuant to rules adopted by the commission. The fee for a registration renewal issued using an electronic system is fifteen dollars plus an administrative fee established by the commission. A county recorder shall retain a writing fee of one dollar and twenty-five cents for each registration renewal issued by the county recorder's office. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A license agent designated by the director pursuant to section 483A.11 shall retain a writing fee of one dollar for each registration renewal issued.

Sec. 7. Section 321G.7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department shall remit the fees, including user permit fees collected pursuant to section

321G.4A, to the treasurer of state, who shall place the money in a special snowmobile fund. The money is appropriated to the department for the snowmobile programs of the state. The programs shall include grants, subgrants, contracts, or cost-sharing of snowmobile programs with political subdivisions or incorporated private organizations or both in accordance with rules adopted by the commission. Snowmobile fees may be used to support snowmobile programs on a usage basis. At least fifty percent of the special fund shall be available for political subdivisions or incorporated private organizations or both. Moneys from the special fund not used by the political subdivisions or incorporated private organizations or both shall remain in the fund and may be used by the department for the administration of the snowmobile programs. Notwithstanding section 8.33, moneys in the special fund shall not revert to the general fund of the state at the end of a fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the special fund shall remain in the fund.

Sec. 8. Section 321G.8, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 9. Section 321G.13, subsection 1, paragraph g, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

g. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a nonmeandered stream which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated snowmobile trails.

This paragraph does not prohibit the use of ford crossings of public or private roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of snowmobiles on ice.

Sec. 10. Section 331.602, subsection 16, Code 2005, is amended to read as follows:

16. Issue snowmobile ~~registrations~~ and all-terrain vehicle registrations and user permits as provided in sections 321G.4, 321G.4A, 321G.6, 321G.21, 321I.4, 321I.5, 321I.7, and 321I.22.

Approved May 23, 2005

CHAPTER 139

REGULATION OF DEER POPULATIONS AND HUNTING LICENSES

S.F. 206

AN ACT relating to deer population management and providing penalties and appropriations.

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

Section 1. Section 170.1, subsection 4, Code 2005, is amended to read as follows:

4. a. "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~~

b. "Farm deer" does not include any unmarked free-ranging elk, whitetail, or mule deer. "Farm deer" also does not include preserve whitetail which are kept on a hunting preserve as provided in chapter 484C.

Sec. 2. NEW SECTION. 170.1A APPLICATION OF CHAPTER.

1. A landowner shall not keep whitetail unless the whitetail are kept as farm deer under this chapter or kept as preserve whitetail on a hunting preserve pursuant to chapter 484C.

2. This chapter authorizes the department of agriculture and land stewardship to regulate whitetail kept as farm deer. However, the department of natural resources shall regulate preserve whitetail kept on a hunting preserve pursuant to chapter 484C.

Sec. 3. Section 483A.1, subsection 2, paragraphs f through u, Code 2005, are amended to read as follows:

f. Deer hunting license, antlerless deer only, required with the purchase of an antlered or any sex deer hunting license	$	100.00
~~f.~~ g. Deer hunting license, antlerless deer only	$	150.00
~~g.~~ h. Wild turkey hunting license	$	100.00
~~h.~~ i. Fur harvester license	$	200.00
~~i.~~ j. Fur dealer license	$	501.00
~~j.~~ k. Location permit for fur dealers	$	56.00
~~k.~~ l. Aquaculture unit license	$	56.00
~~l.~~ m. Retail bait dealer license	$	125.00
or the amount for the same type of license in the nonresident's state, whichever is greater		
~~m.~~ n. Trout fishing fee	$	13.00
~~n.~~ o. Game breeder license	$	26.00
~~o.~~ p. Taxidermy license	$	26.00
~~p.~~ q. Falconry license	$	26.00
~~q.~~ r. Wildlife habitat fee	$	8.00
~~r.~~ s. Migratory game bird fee	$	8.00
~~s.~~ t. Fishing license, three-day	$	15.50
~~t.~~ u. Wholesale bait dealer license	$	250.00
or the amount for the same type of license in the nonresident's state, whichever is greater		
~~u.~~ v. Fishing license, one-day	$	8.50

Sec. 4. Section 483A.8, subsections 1, 3, and 6, Code 2005, are amended to read as follows:

1. A resident hunting deer who is required to have a hunting license must have a resident hunting license in addition to the deer hunting license and must pay the wildlife habitat fee. In addition, a resident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

3. a. A nonresident hunting deer is required to have a nonresident hunting license and a nonresident deer license and must pay the wildlife habitat fee. In addition, a nonresident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

b. A nonresident who purchases an antlered or any sex deer hunting license pursuant to section 483A.1, subsection 2, paragraph "e", is required to purchase an antlerless deer only deer hunting license at the same time, pursuant to section 483A.1, subsection 2, paragraph "f".

c. The commission shall annually limit to ~~eight~~ six thousand ~~five hundred licenses~~ the number of nonresidents allowed to have antlered or any sex deer hunting licenses. Of the ~~first~~ six thousand nonresident antlered or any sex deer licenses issued, not more than thirty-five percent of the licenses shall be bow season licenses ~~and, after~~. After the ~~first~~ six thousand antlered or any sex nonresident deer licenses have been issued, all additional licenses shall be issued for antlerless deer only. The commission shall annually determine the number of nonresident antlerless deer only deer hunting licenses that will be available for issuance.

d. The commission shall allocate ~~the~~ all nonresident deer hunting licenses issued among the zones based on the populations of deer. However, a nonresident applicant may request one or more hunting zones, in order of preference, in which the applicant wishes to hunt. If the request cannot be fulfilled, the applicable fees shall be returned to the applicant. A nonresident applying for a deer hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

6. The commission shall provide by rule for the annual issuance to a nonresident 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~~ of the following year, 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, and pay the one dollar fee for the purpose of deer herd population management as provided in subsection 3. 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~~ current year's nonresident antlerless deer hunting seasons.

Sec. 5. NEW SECTION. 483A.8A DEER HARVEST REPORTING SYSTEM.

1. The commission shall provide, by rule, for the establishment of a deer harvest reporting system for the purpose of collecting information from deer hunters concerning the deer population in this state. Each person who is issued a deer hunting license in this state shall report such information pursuant to this section. Information collected by the commission pursuant to the deer harvest reporting system from a deer hunter who takes a deer shall be limited to the following:

a. The county where the deer was taken.
b. The season during which the deer was taken.
c. The sex of the deer taken.
d. The age of the deer taken.
e. The type of weapon used.
f. The hunting license number of the hunter.
g. The number of days the hunter hunted.
h. The total number of deer taken by the hunter.

2. The deer harvest reporting system established by the commission shall utilize and is limited to utilizing one or more of the following methods of reporting deer taken by hunters:

a. A toll-free telephone number.
b. A postcard.
c. Reporting at an electronic licensing location.
d. Electronic internet communication.

Sec. 6. Section 483A.24, subsection 2, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) "Farm unit" means all parcels of land~~, not necessarily~~ which are certified by the commission pursuant to rule as meeting all of the following requirements:

(a) Are in tracts of two or more contiguous~~,~~ acres.

(b) ~~which are~~ Are operated as a unit for agricultural purposes ~~and which are.~~

(c) Are under the lawful control of the owner or the tenant.

Sec. 7. Section 483A.24, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Upon written application on forms furnished by the department, the department shall issue annually without fee ~~one deer or~~ one wild turkey license~~, or both,~~ to the owner of a farm unit or to a member of the owner's family, but not to both, and to the tenant or to a member of the tenant's family, but not to both. The ~~deer hunting license or~~ wild turkey hunting license issued shall be valid only on the farm unit for which an applicant qualifies pursuant to this subsection and shall be equivalent to the least restrictive license issued under section 481A.38. The owner or the tenant need not reside on the farm unit to qualify for a free license to hunt on that farm unit. ~~A free deer hunting license issued pursuant to this subsection shall be valid during all shotgun deer seasons.~~

Sec. 8. Section 483A.24, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Upon written application on forms furnished by the department, the department shall issue annually without fee two deer hunting licenses, one antlered or any sex deer hunting license and one antlerless deer only deer hunting license, to the owner of a farm unit or a member of the owner's family, but only a total of two licenses for both, and to the tenant of a farm unit or a member of the tenant's family, but only a total of two licenses for both. The deer hunting licenses issued shall be valid only for use on the farm unit for which the applicant applies pursuant to this paragraph. The owner or the tenant need not reside on the farm unit to qualify for the free deer hunting licenses to hunt on that farm unit. The free deer hunting licenses issued pursuant to this paragraph shall be valid and may be used during any shotgun deer season. The licenses may be used to harvest deer in two different seasons. In addition, a person who receives a free deer hunting license pursuant to this paragraph shall pay a one dollar fee for each license that shall be used and is appropriated for the purpose of[1] assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

Sec. 9. Section 483A.24, subsection 2, paragraphs c and d, Code 2005, are amended to read as follows:

~~c.~~ d. In addition to the free deer hunting ~~license~~ licenses received pursuant to paragraph "c", an owner of a farm unit or a member of the owner's family and the tenant or a member of the tenant's family may purchase a deer hunting license for any option offered to paying deer hunting licensees. An owner of a farm unit or a member of the owner's family and the tenant or a member of the tenant's family may also purchase two additional antlerless deer hunting licenses which are valid only on the farm unit for a fee of ten dollars each.

~~d.~~ e. If the commission establishes a deer hunting season to occur in the first quarter of a calendar year that is separate from a deer hunting season that continues from the last quarter of the preceding calendar year, each owner and each tenant of a farm unit located within a zone where a deer hunting season is established, upon application, shall be issued a free deer hunting license for each of the two calendar quarters. Each license is valid only for hunting on the farm unit of the owner and tenant.

Sec. 10. Section 483A.24, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A deer hunting license or wild turkey hunting license issued pursuant to this subsection shall be attested by the signature of the person to whom the license is issued and shall contain a statement in substantially the following form:

By signing this license I certify that I qualify as an owner or tenant under Iowa Code section 483A.24.

A person who makes a false attestation as described in this paragraph is guilty of a simple misdemeanor. In addition, the person's hunting license shall be revoked and the person shall not be issued a hunting license for a period of one year.

[1] See chapter 172, §24 herein

Sec. 11. NEW SECTION. 483A.24B SPECIAL DEER HUNTS.

1. The commission may establish a special season deer hunt for antlerless deer in those counties where paid antlerless only deer hunting licenses remain available for issuance.

2. Antlerless deer may be taken by shotgun, muzzleloading rifle, muzzleloading pistol, handgun, or bow during the special season as provided by the commission by rule.

3. Prior to December 15, a resident may obtain up to three paid antlerless only deer hunting licenses for the special season regardless of how many paid or free gun or bow deer hunting licenses the person may have already obtained. Beginning December 15, a resident or nonresident may purchase an unlimited number of antlerless only deer hunting licenses for the special season.

4. All antlerless deer hunting licenses issued pursuant to this section shall be included in the quotas established by the commission by rule for each county and shall be available in each county only until the quota established by the commission for that county is filled.

5. The daily bag and possession limit during the special season is one deer per license. The tagging requirements are the same as for the regular gun season.

6. A person who receives a license pursuant to this section shall be otherwise qualified to hunt deer in this state and shall have a hunting license and pay the wildlife habitat fee.

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. 12. NEW SECTION. 483A.24C DEER DEPREDATION MANAGEMENT AGREEMENTS — PERMITS.

It is the intent of the general assembly that the department shall administer and enforce the administrative rules concerning deer depredation that are contained in 571 IAC chapter 106.

Sec. 13. Section 484B.3, Code 2005, is amended to read as follows:

484B.3 AUTHORITY OF THE DIRECTOR.

1. The director shall develop, administer, and enforce hunting preserve programs and requirements within the state which implement the provisions of this chapter and ~~the~~ rules adopted by the commission pursuant to this chapter.

2. The chapter does not apply to keeping farm deer ~~as defined in section 170.1~~ as regulated by the department of agriculture and land stewardship pursuant to chapter 170 or to preserve whitetail kept on a hunting preserve as regulated by the department of natural resources pursuant to chapter 484C.

Sec. 14. NEW SECTION. 484C.1 DEFINITIONS.

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

1. "Commission" means the natural resource commission as created pursuant to section 455A.6.

2. "Department" means the department of natural resources as created pursuant to section 455A.2.

3. "Documented event" includes but is not limited to the birth, death, harvest, transfer for consideration, or release of preserve whitetail.

4. "Fence" means a boundary fence which encloses preserve whitetail within a landowner's property as required to be constructed and maintained pursuant to this chapter.

5. "Hunting preserve" means land where a landowner keeps preserve whitetail as part of a business, if the business's purpose is to provide persons with the opportunity to hunt the preserve whitetail.

6. "Landowner" means a person who holds an interest in land, including a titleholder.

7. "Preserve whitetail" means whitetail kept on a hunting preserve.

8. "Whitetail" means an animal belonging to the cervidae family and classified as part of the virginianus species of the odocoileus genus.

Sec. 15. NEW SECTION. 484C.2 APPLICATION OF CHAPTER.

1. A landowner shall not keep whitetail unless the whitetail are kept as preserve whitetail pursuant to this chapter or as farm deer pursuant to chapter 170.

2. This chapter authorizes the department of natural resources to regulate preserve whitetail. However, the department of agriculture and land stewardship shall regulate whitetail kept as farm deer pursuant to chapter 170.

Sec. 16. NEW SECTION. 484C.3 RULES.

The department shall adopt rules pursuant to chapter 17A as necessary to administer this chapter.

Sec. 17. NEW SECTION. 484C.4 DEPARTMENTAL PROGRAMS AND REQUIREMENTS.

The department shall develop, administer, and enforce hunting preserve programs and requirements, which implement the provisions of this chapter and rules adopted by the department pursuant to section 484C.3, regarding fencing, recordkeeping, reporting, and the tagging, transportation, testing, and monitoring for disease of preserve whitetail.

Sec. 18. NEW SECTION. 484C.5 MINIMUM ENCLOSED ACREAGE — EXCEPTIONS.

A hunting preserve must include at least three hundred twenty contiguous acres which are enclosed by a fence certified pursuant to section 484C.6. However, the hunting preserve may include a fewer number of enclosed acres if any of the following applies:

1. The commission grants a waiver for the hunting preserve according to terms and conditions required by the commission. The hunting preserve must include at least one hundred sixty contiguous acres.

2. a. The hunting preserve was operated as a business on January 1, 2005.

b. If the hunting preserve operated as a business on January 1, 2005, the landowner or the landowner's successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same manner as the landowner. However, this paragraph shall not apply if the owner of the hunting preserve or any successor in interest fails to register with the department as provided in section 484C.7 for three or more consecutive years.

3. a. The hunting preserve was not operated as a business on January 1, 2005, and all of the following apply:

(1) The hunting preserve has at least one hundred contiguous acres.

(2) The hunting preserve's fence is certified by the department not later than September 1, 2005.

b. If the hunting preserve complies with paragraph "a", the landowner or the landowner's successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same manner as the landowner. However, this paragraph shall not apply if the owner of the hunting preserve or any successor in interest fails to register with the department as provided in section 484C.7 for three or more consecutive years.

Sec. 19. NEW SECTION. 484C.6 FENCING — CERTIFICATION.

1. A fence required to enclose preserve whitetail under section 484C.5 must be constructed and maintained as prescribed by rules adopted by the department and as certified by the department. The fence shall be constructed and maintained to ensure that the preserve whitetail are kept in the enclosure and all other whitetail are excluded from the enclosure.

2. A fence that was certified by the department of agriculture and land stewardship pursuant to chapter 170 prior to the effective date of this Act shall be certified by the department of natural resources.

3. A fence shall be at least eight feet in height above ground level. The enclosure shall be posted with signs as prescribed by rules adopted by the department.

4. The department may require that the fence be inspected and approved by the department prior to certification. The department shall periodically inspect the fence at any reasonable time by appointment or by providing the landowner with at least forty-eight hours' notice.

Sec. 20. NEW SECTION. 484C.7 REGISTRATION AND FEE.

A landowner who keeps preserve whitetail shall annually register the landowner's hunting preserve with the department by June 30. The landowner shall pay the department a registration fee. The amount of the registration fee shall not exceed three hundred fifty dollars per fiscal year. The fee shall be deposited into the state fish and game protection fund.

Sec. 21. NEW SECTION. 484C.8 REQUIREMENTS FOR RELEASING WHITETAIL — PROPERTY INTERESTS.

A person shall not release whitetail kept as preserve whitetail onto land unless the landowner complies with all of the following:

1. The landowner must notify the department at least thirty days prior to first releasing the preserve whitetail on the land. The notice shall be provided in a manner required by the department. 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 pursuant to section 484C.6.

b. The landowner's name.

c. The location of the land enclosed by the fence.

2. The landowner shall cooperate with the department 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 department 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 preserve whitetail and property of the landowner.

3. A hunting preserve may include whitetail which were regulated as farm deer by the department of agriculture and land stewardship pursuant to chapter 170 and transported to the hunting preserve. The whitetail shall be considered farm deer until released onto the hunting preserve. Once released onto the hunting preserve, the whitetail and its progeny become preserve whitetail and are subject to regulation by the department of natural resources.

Sec. 22. NEW SECTION. 484C.9 DOCUMENTATION — INSPECTIONS.

1. The department shall prepare forms for documents, including records and reports, and provide such forms to landowners in order to comply with this section. The department shall provide procedures for the receipt, filing, processing, and return of documents in an electronic format. The department shall provide for the authentication of the documents that may include electronic signatures as provided in chapter 554D. However, this subsection does not require a landowner to complete or receive a document in an electronic format.

2. A landowner who operates a hunting preserve shall do all of the following:

a. Keep records as required by the department. The records shall be open for inspection at any reasonable time by the department.

b. File an annual report with the department on or before June 30. The report shall describe the hunting preserve operations during the preceding twelve months. The original report shall be forwarded to the department and a copy shall be retained in the hunting preserve's file for three years from the date of expiration of the landowner's last registration as provided in section 484C.7.

c. Keep a record of a documented event as required by the department. The record of the documented event shall be entered in the annual report required in this section. The record of the documented event shall be maintained by the landowner and submitted to the department. The entry of the documented event shall be made within twenty-four hours after its occurrence as prescribed by departmental rule.

Sec. 23. NEW SECTION. 484C.10 TAKING PRESERVE WHITETAIL — TRANSPORTATION TAGS.

The department shall provide transportation tags to a landowner for use in identifying the carcass of preserve whitetail.

1. The tags shall be used to designate all preserve whitetail taken by persons on the hunting preserve. A person taking the preserve whitetail shall tag the preserve whitetail in accordance with the rules adopted by the department.

2. The preserve whitetail taken on a hunting preserve shall be tagged prior to being removed from the hunting preserve.

3. A tag shall remain attached to the carcass of the dead preserve whitetail until processed for consumption. The person taking the preserve whitetail shall be provided with a bill of sale by the landowner. The bill of sale shall remain in the possession of the person taking the preserve whitetail.

4. Preserve whitetail tags issued to a hunting preserve are not transferable.

Sec. 24. NEW SECTION. 484C.11 TAKING PRESERVE WHITETAIL — PROCESSING.

If preserve whitetail have been taken, the harvested preserve whitetail may be processed by the hunting preserve as prescribed by rules adopted by the department. The rules shall provide for the marking and shipment of meat.

Sec. 25. NEW SECTION. 484C.12 HEALTH REQUIREMENTS — CHRONIC WASTING DISEASE.

1. Preserve whitetail that are purchased, propagated, confined, released, or sold by a hunting preserve shall be free of diseases considered reportable for wildlife, poultry, or livestock. The department may provide for the quarantine of diseased preserve whitetail that threaten the health of animal populations.

2. The landowner, or the landowner's veterinarian, and an epidemiologist designated by the department shall develop a plan for eradicating a reportable disease among the preserved whitetail population. The plan shall be designed to reduce and then eliminate the reportable disease, and to prevent the spread of the disease to other animals. The plan must be developed and signed within sixty days after a determination that the preserved whitetail population is affected with the disease. The plan must address population management and adhere to rules adopted by the department. The plan must be formalized as a memorandum of agreement executed by the landowner or landowner's veterinarian and the epidemiologist. The plan must be approved by the department.

Sec. 26. NEW SECTION. 484C.13 PENALTIES.

1. A person who violates a provision of this chapter or a rule adopted pursuant to this chapter is guilty of a simple misdemeanor.

2. A landowner who keeps preserve whitetail and who fails to register with the department as required in section 484C.7 is subject to a civil penalty of not more than two thousand five hundred dollars. The civil penalty shall be deposited in the state fish and game protection fund.

3. The department may suspend or revoke a fence certification issued pursuant to section 484C.6 if the department determines that a landowner has done any of the following:

a. Provided false information to the department in an application for fence certification pursuant to section 484C.6.

b. Failed to provide access to the department for an inspection as provided in this chapter.

c. Failed to maintain adequate records or to submit timely reports as provided in section 484C.9.

d. Failed to maintain a fence enclosing the land where preserve whitetail are kept as required by this chapter. The department shall not suspend or revoke a certification, if the landowner remedies each item as provided in a notice of deficiency delivered to the landowner by

the department. The remedies shall be completed within seven days from receipt of the notice. The notice shall be hand delivered or sent by certified mail.

Sec. 27. Section 483A.24A, Code 2005, is repealed.

Sec. 28. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP AND DEPARTMENT OF NATURAL RESOURCES — JOINT STUDY AND RECOMMENDATIONS.

1. The department of agriculture and land stewardship and the department of natural resources shall conduct a joint study to consider issues relating to keeping of whitetail farm deer pursuant to Code chapter 170 and keeping preserve whitetail as part of a hunting preserve pursuant to Code chapter 484C as enacted by this Act. As part of the study, the departments shall consider all of the following:

a. The fair and effective regulation of whitetail farm deer and preserve whitetail by the departments.

b. Threats to whitetail farm deer, preserve whitetail, and state-owned whitetail caused by potential outbreaks of infectious diseases including but not limited to chronic wasting disease, and methods to cooperate in monitoring and controlling infectious diseases and obtaining federal moneys necessary to provide for the prevention and suppression of infectious diseases.

2. The departments shall jointly report the results of the study, including findings and recommendations, to the government oversight committees by November 2005 as required by the committees.

Sec. 29. DEPARTMENT OF NATURAL RESOURCES AND HUNTING PRESERVE INDUSTRY — JOINT STUDY AND RECOMMENDATIONS.

1. A preserve whitetail committee is established. The committee shall be composed of the following:

a. Not more than five persons appointed by the governor who shall be members of the Iowa whitetail deer association.

b. Not more than five persons appointed by the director of the department of natural resources who shall be knowledgeable regarding hunting preserves.

2. The committee shall develop recommendations for industry standards and guidelines to be used by the natural resource commission when considering the granting of waivers for minimum acreage requirements for hunting preserves as provided in section 484C.5 as enacted in this Act.

3. The committee shall submit the recommendations required in this section to the natural resource commission by January 1, 2006.

Approved June 3, 2005

CHAPTER 140

TAXES, TAX POLICY, AND ADMINISTRATION

S.F. 413

AN ACT relating to sales and use tax changes, excise taxes on rental of rooms and sleeping quarters, and the sale and use of construction equipment, and relating to the policy and administration of other taxes and tax-related matters, and including effective and retroactive applicability date provisions.

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

DIVISION I
STREAMLINED SALES AND USE TAX CHANGES

Section 1. Section 34A.7, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. A local exchange service provider is not liable for an uncollected surcharge for which the local exchange service provider has billed a subscriber but not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing entitled, "E911 emergency telephone service surcharge". ~~The E911 service surcharge is not subject to sales or use tax.~~

Sec. 2. Section 34A.7A, subsection 1, paragraph c, subparagraph (1), Code 2005, is amended to read as follows:

(1) The surcharge shall be collected as part of the wireless communications service provider's periodic billing to a subscriber. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available. ~~The wireless E911 service surcharge is not subject to sales or use tax.~~

Sec. 3. Section 423.1, subsection 47, paragraph b, subparagraph (4), Code 2005, is amended by striking the subparagraph.

Sec. 4. Section 423.1, subsection 47, Code 2005, is amended by adding the following new paragraph and relettering the following paragraph:

NEW PARAGRAPH. c. The sales price does not include and the sales tax shall not apply to amounts received for charges included in paragraph "a", subparagraphs (3) through (7), if they are separately contracted for, separately stated on the invoice, billing, or similar document given to the purchaser, and the amounts represent charges which are not the sales price of a taxable sale or of the furnishing of a taxable service.

Sec. 5. Section 423.2, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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; transportation service consisting of the rental of recreational vehicles or recreational boats, or 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, or the rental of aircraft for a period of sixty days or less; 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.

Sec. 6. Section 423.3, subsection 2, Code 2005, is amended to read as follows:

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 except for sales, other than leases or rentals, which are sales, of machinery, equipment, attachments, and replacement parts specifically enumerated in subsection 37 and used in the manner described in subsection 37 or the purchase of tangible personal property, the leasing or rental of which is exempted from tax by subsection 49.

Sec. 7. Section 423.3, subsection 37, Code 2005, is amended to read as follows:

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. The exemption in this subsection also applies to the sales price on the lease or rental of ~~self-propelled building equipment, self-constructed cranes, pile drivers, structural concrete forms, regular and motorized scaffolding, generators, or attachments customarily drawn or attached to self-propelled building equipment, self-constructed cranes, pile drivers, structural concrete forms, regular and motorized scaffolding, and generators, including auxiliary attachments~~ all machinery, equipment, and replacement parts directly and primarily used by owners, contractors, subcontractors, and builders for new construction, reconstruction, alteration, expansion, or remodeling of real property or structures and of all machinery, equipment, and replacement parts which improve the performance, safety, operation, or efficiency of the machinery, 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~~ so used.

Sec. 8. Section 423.3, subsection 49, Code 2005, is amended to read as follows:

49. The sales price from the sale of carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services and the lease or rental of tangible personal property 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.

Sec. 9. Section 423.3, subsection 60, Code 2005, is amended to read as follows:

60. The sales price from the sale or rental of prescription drugs ~~or~~, durable medical equipment, mobility enhancing equipment, prosthetic devices, and other 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. "Durable medical equipment" means equipment, including repair and replacement parts, but does not include mobility enhancing equipment, to which all of the following apply:

(1) Can withstand repeated use.

(2) Is primarily and customarily used to serve a medical purpose.

(3) Generally is not useful to a person in the absence of illness or injury.

(4) Is not worn in or on the body.

(5) Is for home use only.

(6) Is prescribed by a practitioner.

c. "Mobility enhancing equipment" means equipment, including repair and replacement parts, but does not include durable medical equipment, to which all of the following apply:

(1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle.

(2) Is not generally used by persons with normal mobility.

(3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(4) Is prescribed by a practitioner.

~~b.~~ d. ~~"Medical~~ "Other 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,~~ that is not a drug, durable medical equipment, mobility enhancing equipment, or prosthetic device. "Other medical devices" includes, but is not limited to, 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,~~ and venous blood sets~~, and oxygen equipment,~~ intended to be dispensed for human use with or without a prescription to an ultimate user.

~~c.~~ e. "Practitioner" means a practitioner as defined in section 155A.3, or a person licensed to prescribe drugs.

f. "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a practitioner.

~~d.~~ g. "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.~~ h. "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.

"Prosthetic device" includes, but is not limited to, orthopedic or orthotic devices, ostomy equipment, urological equipment, tracheostomy equipment, and intraocular lenses.

~~f.~~ i. "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.

Sec. 10. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 69A. The sales price from surcharges paid for E911 service and wireless E911 service pursuant to chapter 34A.

Sec. 11. Section 423.3, subsection 70, Code 2005, is amended to read as follows:

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~~ of delivery charges. This exemption does not apply to the ~~transportation~~ delivery of electric energy or natural gas.

Sec. 12. Section 423.15, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Sales, excluding leases or rentals ~~other than leases or rentals set out in subsection 2~~, of products shall be sourced as follows:

Sec. 13. Section 423.43, subsection 3, Code 2005, is amended to read as follows:

3. All other revenue arising under the operation of ~~this chapter~~ the use tax under subchapter III shall be credited to the general fund of the state.

Sec. 14. Section 423B.5, unnumbered paragraph 1, Code 2005, 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 sales price taxed by the state under chapter 423, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G~~ and except the tax shall not be imposed on the sales price from the sale or use of

natural gas, natural gas service, electricity, or electric service in a city or county where the 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 sales taxes. ~~However, a person required to collect state retail sales tax under chapter 423, 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 favors its imposition.

Sec. 15. Section 423E.3, subsections 2 and 3, Code 2005, are 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G~~ and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the 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 sales or local excise taxes. ~~However, a person required to collect state sales tax under chapter 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 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 423.36 shall not be required by local authorities.

Sec. 16. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE. The sections of this division of this Act amending section 423.3, subsections 2, 37, and 49, section 423B.5, and section 423E.3, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 2004.

DIVISION II
EXCISE TAX ON HOTEL AND MOTEL ROOM RENTALS

Sec. 17. Section 331.427, subsection 1, unnumbered paragraph 1, Code 2005, 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 reve-

nues received under sections 9I.11, 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 321I.8, section 331.554, subsection 6, sections 341A.20, 364.3, 368.21, ~~423A.2~~ 423A.7, 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 the following:

Sec. 18. Section 423.2, subsection 1, paragraph a, subparagraph (5), Code 2005, is amended by striking the subparagraph.

Sec. 19. NEW SECTION. 423A.1 SHORT TITLE.
This chapter may be cited as the "Hotel and Motel Tax Act".

Sec. 20. NEW SECTION. 423A.2 DEFINITIONS.
For the purposes of this chapter, unless the context otherwise requires:
1. "Department" means the department of revenue.
2. "Lessor" means any person engaged in the business of renting lodging to users.
3. "Lodging" means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals.
4. "Person" means the same as the term is defined in section 423.1.
5. "Renting" or "rent" means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.
6. "Sales price" means the consideration for renting of lodging and means the same as the term is defined in section 423.1.
7. "User" means a person to whom lodging is rented.
All other words and phrases used in this chapter and defined in section 423.1 have the meaning given them by section 423.1 for the purposes of this chapter.

Sec. 21. NEW SECTION. 423A.3 STATE-IMPOSED HOTEL AND MOTEL TAX.
A tax of five percent is imposed upon the sales price for the rental of any lodging if the rental occurs in this state. The tax shall be collected by any lessor of lodging from the user of that lodging. The lessor shall add the tax to the sales price of the lodging, and the state-imposed tax, when collected, shall be stated as a distinct item, separate and apart from the sales price of the lodging and the local tax imposed, if any, under section 423A.4.

Sec. 22. NEW SECTION. 423A.4 LOCALLY IMPOSED HOTEL AND MOTEL TAX.
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 sales price from the renting of lodging. 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.
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 hotel and motel tax, the county auditor shall give written notice by sending a copy of the abstract of votes from the favorable election to the director of revenue.
A local hotel and motel tax shall be imposed on January 1 or July 1, following the notification of the director of revenue. 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 June 30 or December 31. At least forty-five 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.
A city or county shall impose or repeal a hotel and motel tax or increase or reduce the tax

rate only after an election at which a majority of those voting on the question favors imposition, repeal, or change in rate. However, a hotel and motel tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 423A.7, 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. The election shall be held at the time of the regular city election or the county's general election or at the time of a special election.

Sec. 23. NEW SECTION. 423A.5 EXEMPTIONS.

1. There are exempted from the provisions of this chapter and from the computation of any amount of tax imposed by section 423A.3 all of the following:

a. The sales price from the renting of lodging which is rented by the same person for a period of more than thirty-one consecutive days.

b. The 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.

2. There is exempted from the provisions of this chapter and from the computation of any amount of tax imposed by section 423A.4 all of the following:

a. The sales price from the renting of lodging or rooms exempt under subsection 1.

b. The sales price of lodging furnished to 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.

Sec. 24. NEW SECTION. 423A.6 ADMINISTRATION BY DIRECTOR.

The director of revenue shall administer the state and local hotel and motel tax as nearly as possible in conjunction with the administration of the state sales tax law, except that portion of the law which implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting state and local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city or county terminates its local hotel and motel tax and all moneys received from the state hotel and motel tax shall be deposited in or withdrawn from the general fund of the state.

The director, in consultation with local officials, shall collect and account for a local hotel and motel tax and shall credit all revenues to the local transient guest tax fund created in section 423A.7. Local authorities shall not require any tax permit not required by the director of revenue.

Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 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 state and local 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 and for other than quarterly filing of returns both as prescribed in section 423.31. The director may require all persons who are engaged in the business of deriving any sales price subject to tax under this chapter, to register with the department. All taxes collected under this chapter by a retailer or any individual are deemed to be held in trust for the state of Iowa and the local jurisdictions imposing the taxes.

Sec. 25. NEW SECTION. 423A.7 LOCAL TRANSIENT GUEST TAX FUND.

1. A local transient guest tax fund is created in the department which shall consist of all moneys credited to such fund under section 423A.6.

2. All moneys in the local transient guest tax fund shall be remitted at least quarterly by the department, pursuant to rules of the director of revenue, to each city in the amount collected from businesses in that city and to each county in the amount collected from businesses in the unincorporated areas of the county.

3. Moneys received by the city from this fund shall be credited to the general fund of the city, subject to the provisions of subsection 4.

4. The revenue derived from any local hotel and motel tax authorized by section 423A.4 shall be used as follows:

a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

b. The remaining revenues may be spent by the city or county which levies the tax for any city or county operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.

c. Any city or county which levies and collects the local hotel and motel tax authorized by section 423A.4 may pledge irrevocably an amount of the revenues derived therefrom for each of the years the bonds remain outstanding to the payment of bonds which the city or county may issue for one or more of the purposes set forth in paragraph "a". Any revenue pledged to the payment of such bonds may be credited to the spending requirement of paragraph "a".

d. The provisions of chapter 384, division III, relating to the issuance of corporate purpose bonds, apply to the issuance by a city of bonds payable as provided in this section and the provisions of chapter 331, division IV, part 3, relating to the issuance of county purpose bonds, apply to the issuance by a county of bonds payable as provided in this section. The provisions of chapter 76 apply to the bonds payable as provided in this section except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged portion of the local hotel and motel tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the city or county which levied the tax from the first available local hotel and motel tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes.

The amount of bonds which may be issued under section 76.3 shall be the amount which could be retired from the actual collections of the local hotel and motel tax for the last four calendar quarters, as certified by the director of revenue. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the local hotel and motel tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be adjusted to project the collections for the full year for the purpose of determining the amount of the bonds which may be issued.

e. A city or county, jointly with one or more other cities or counties as provided in chapter 28E, may pledge irrevocably any amount derived from the revenues of the local hotel and motel tax to the support or payment of bonds issued for a project within the purposes set forth in paragraph "a" and located within one or more of the participatory cities or counties or may apply the proceeds of its bonds to the support of any such project. Revenue so pledged or applied shall be credited to the spending requirement of paragraph "a".

f. A city or county acting on behalf of an unincorporated area may, in lieu of calling an election, institute proceedings for the issuance of bonds under this section by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within

the city or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

If at any time before the date fixed for taking action for the issuance of the bonds a petition signed by eligible electors residing in the city or the unincorporated area equal in number to at least three percent of the registered voters of the city or unincorporated area is filed, asking that the question of issuing the bonds be submitted to the registered voters of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds.

The proposition of issuing bonds under this section is not approved unless the vote in favor of the proposition is equal to a majority of the vote cast.

If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the council or board of supervisors acting on behalf of an unincorporated area may proceed with the authorization and issuance of the bonds.

Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this section without otherwise complying with this paragraph.

Sec. 26. Section 423B.5, unnumbered paragraph 1, Code 2005, 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 sales price taxed by the state under chapter 423, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed,~~ on the sales price from the sale of equipment by the state department of transportation, on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the 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 sales taxes. However, a person required to collect state retail sales tax under chapter 423, 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 favors its imposition.

Sec. 27. Section 423E.3, subsection 2, Code 2005, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed,~~ on the sales price from the sale of equipment by the state department of transportation, on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the 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.

Sec. 28. Chapter 423A, Code 2005, is repealed.

Sec. 29. TRANSITION. A hotel and motel tax imposed by a city or county under chapter 423A prior to the effective date of this division of this Act shall continue to be imposed and shall be considered a locally imposed hotel and motel tax under chapter 423A, as enacted by this division of this Act.

DIVISION III
SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

Sec. 30. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 85. The sales price from the sale of the following items: 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.

Sec. 31. Section 423B.5, unnumbered paragraph 1, Code 2005, 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 sales price taxed by the state under chapter 423, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, ~~on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the 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 sales taxes. However, a person required to collect state retail sales tax under chapter 423, 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 favors its imposition.

Sec. 32. Section 423E.3, subsection 2, Code 2005, 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 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 sales price from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 423A during the period the hotel and motel tax is imposed, on the sales price from the sale of equipment by the state department of transportation, ~~on the 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 sales price from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99G and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the 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.

Sec. 33. NEW SECTION. 423D.1 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Construction" means new construction, reconstruction, alterations, expansion, or remodeling of real property or structures.

2. "Contractor" includes contractors, subcontractors, and builders, but not owners.

3. "Department" means the department of revenue.

4. "Equipment" means 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.

5. "Sales price" or "purchase price" means the same as the term is defined in section 423.1.

All other words and phrases used in this chapter and defined in section 423.1 have the meaning given them by section 423.1 for the purposes of this chapter.

Sec. 34. NEW SECTION. 423D.2 TAX IMPOSED.

A tax of five percent is imposed on the sales price or purchase price of all equipment sold or used in the state of Iowa. This tax shall be collected and paid over to the department by any retailer, retailer maintaining a place of business in this state, or user who would be responsible for collection and payment of the tax if it were a sales or use tax imposed under chapter 423.

Sec. 35. NEW SECTION. 423D.3 EXEMPTION.

The sales price on the lease or rental of equipment to contractors for direct and primary use in construction is exempt from the tax imposed by this chapter.

Sec. 36. NEW SECTION. 423D.4 ADMINISTRATION BY DIRECTOR.

The director of revenue shall administer the excise tax on the sale and use of equipment as nearly as possible in conjunction with the administration of the state sales and use tax law, except that portion of the law which implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting the sale and use of equipment excise tax liability. All moneys received and all refunds shall be deposited in or withdrawn from the general fund of the state.

The director may require all persons who are engaged in the business of deriving any sales price or purchase price subject to tax under this chapter to register with the department. The director may also require a tax permit applicable only to this chapter for any retailer not collecting, or any user not paying, taxes under chapter 423.

Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to 423.42, and 423.47, consistent with the provisions of this chapter, apply with respect to the tax authorized under this chapter, in the same manner and with the same effect as if the excise taxes on equipment sales or use were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in section 423.31. All taxes collected under this chapter by a retailer or any user are deemed to be held in trust for the state of Iowa.

DIVISION IV
TAX POLICY AND ADMINISTRATION

Sec. 37. Section 422.9, subsection 1, Code 2005, 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. The amount of federal income tax deducted shall be computed as provided in subsection 2, paragraph "b".

Sec. 38. Section 422.9, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Add the amount of federal income taxes paid or accrued, as the case may be, during the tax year~~, adjusted by~~ and subtract any federal income tax refunds received during the tax year. ~~Provided, however, that where~~ Where married persons, who have filed a joint federal income tax return, file separately, such total shall be divided between them according to the portion ~~thereof~~ of the total paid or accrued, as the case may be, by each. Federal income taxes paid for a tax year in which an Iowa return was not required to be filed shall not be added and federal income tax refunds received from a tax year in which an Iowa return was not required to be filed shall not be subtracted.

Sec. 39. Section 422.9, subsection 2, paragraphs g and h, Code 2005, are amended by striking the paragraphs.

Sec. 40. Section 422.16, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A withholding agent required to deduct and withhold tax under subsections 1 and 12~~, except those required to deposit on a semimonthly basis, shall deposit for each calendar quarterly period,~~ shall file a return and remit to the department the amount of tax on or before the last day of the month following the close of the quarterly period~~, on a quarterly deposit form as~~ on forms prescribed by the director ~~and shall pay to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under subsections 1 and 12~~. However, a withholding agent who withholds more than ~~fifty~~ five hundred dollars in any one month~~, except those required to deposit on a semimonthly basis,~~ and not more than five thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for ~~the amount withheld in~~ the third month of the calendar quarter ~~but the total amount of withholding for the quarter shall be computed and the amount by which the deposits for that quarter fail to equal the total quarterly liability is due with the filing of the quarterly deposit form. The quarterly deposit form is due within the month following the end of the quarter. A~~ The total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly return due on or before the last day of the month following the close of the quarterly period on forms prescribed by the director. However, a withholding agent who withholds more than ~~eight~~ five thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a semimonthly deposit form as prescribed by the director. The first semimonthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semimonthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs. A withholding agent must also file a quarterly return which reconciles the amount of tax withheld for the quarter with the amount of semimonthly deposits. The quarterly return is due on or before the last day of the month following the close of the quarterly period on forms prescribed by the director.

Sec. 41. Section 422.35, subsection 15, Code 2005, is amended by striking the subsection.

Sec. 42. Section 423.1, subsection 50, Code 2005, is amended to read as follows:

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,~~ who pays the wages of an employee 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.

Sec. 43. Section 423.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. Any person or that person's affiliate, which is a retailer in this state or a retailer maintaining a business in this state under this chapter, that enters into a contract with an agency of this state must register, collect, and remit Iowa sales tax under this chapter on all sales of tangible personal property and enumerated services. Every bid submitted and each contract executed by a state agency shall contain a certification by the bidder or contractor stating that the bidder or contractor is registered with the department and will collect and remit Iowa sales tax due under this chapter. In the certification, the bidder or contractor shall also acknowledge that the state agency may declare the contract or bid void if the certification is false. Fraudulent certification, by act or omission, may result in the state agency or its representative filing for damages for breach of contract.

For the purposes of this subsection, the following definitions apply:

a. "Affiliate" means any entity to which any of the following applies:

(1) Directly, indirectly, or constructively controls another entity.

(2) Is directly, indirectly, or constructively controlled by another entity.

(3) Is subject to the control of a common entity. A common entity is one which owns directly or individually more than ten percent of the voting securities of the entity.

b. "State agency" means an authority, board, commission, department, instrumentality, or other administrative office or unit of this state, or any other state entity reported in the Iowa comprehensive annual financial report, including public institutions of higher education.

c. "Voting security" means a security to which any of the following applies:

(1) Confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the entity.

(2) Is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote.

(3) Is a general partnership interest.

Sec. 44. Section 423.3, subsection 5, Code 2005, is amended to read as follows:

5. a. 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.

b. The following enumerated materials associated with the installation of agricultural drain tile which is exempt pursuant to paragraph "a" shall also be exempt under paragraph "a":

(1) Tile intakes.

(2) Outlet pipes and guards.

(3) Aluminum and gabion structures.

(4) Erosion control fabric.

(5) Water control structures.

(6) Miscellaneous tile fittings.

Sec. 45. Section 423.3, subsection 39, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The exemption under this subsection does not apply to vehicles subject to registration, aircraft, or commercial or pleasure watercraft or water vessels.

Sec. 46. Section 423.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 85. The sales price from services performed on a vessel if all of the following apply:

a. The vessel is a licensed vessel under the laws of the United States coast guard.

b. The vessel is not moored or tied to a physical location in this state.

c. The service is used to repair or restore a defect in the vessel.

d. The vessel is engaged in interstate commerce and will continue in interstate commerce once the repairs or restoration is completed.

e. The vessel is in navigable water that borders the eastern boundary of this state.

Sec. 47. Section 423.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Any person or that person's affiliate, which is a retailer in this state or a retailer maintaining a business in this state under this chapter, that enters into a contract with an agency of this state must register, collect, and remit Iowa use tax under this chapter on all sales of tangible personal property and enumerated services. Every bid submitted and each contract executed by a state agency shall contain a certification by the bidder or contractor stating that the bidder or contractor is registered with the department and will collect and remit Iowa use tax due under this chapter. In the certification, the bidder or contractor shall

also acknowledge that the state agency may declare the contract or bid void if the certification is false. Fraudulent certification, by act or omission, may result in the state agency or its representative filing for damages for breach of contract.

For the purposes of this subsection, "affiliate", "state agency", and "voting security" mean the same as defined in section 423.2, subsection 9A.

Sec. 48. Section 423A.1, unnumbered paragraph 3, Code 2005, is amended to read as follows:

A local hotel and motel tax shall be imposed on January 1~~, April 1,~~ or July 1~~, or October 1,~~ following the notification of the director of revenue. 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 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.

Sec. 49. Section 423E.4, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The director of revenue by ~~June 1 preceding~~ August 15 of 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, and the supplemental school infrastructure amount for the coming fiscal year.

Sec. 50. Section 424.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The director may require by rule that reports and returns be filed by electronic transmission.

Sec. 51. Section 424.10, subsection 3, Code 2005, is amended to read as follows:

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest ~~after sixty days from the date of payment at the rate in effect under section 421.7~~, pursuant to rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within three years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 52. Section 425.1, subsection 4, Code 2005, is amended to read as follows:

4. Annually the department of revenue shall ~~estimate the credit not to exceed the actual levy on the first four thousand eight hundred fifty dollars of actual value of each eligible homestead, and shall~~ certify to the county auditor of each county the credit and its amount in dollars. Each county auditor shall then enter the credit against the tax levied on each eligible homestead in each county payable during the ensuing year, designating on the tax lists the credit as being from the homestead credit fund, and credit shall then be given to the several taxing districts in which eligible homesteads are located in an amount equal to the credits allowed on the taxes of the homesteads. The amount of credits shall be apportioned by each county treasurer to the several taxing districts as provided by law, in the same manner as though the amount of the credit had been paid by the owners of the homesteads. However, the several taxing districts shall not draw the funds so credited until after the semiannual allocations have been received by the county treasurer, as provided in this chapter. Each county treasurer shall show on each tax receipt the amount of credit received from the homestead credit fund.

Sec. 53. NEW SECTION. 427.3 ABATEMENT OF TAXES OF CERTAIN EXEMPT ENTITIES.

The board of supervisors may abate the taxes levied against property acquired by gift by a person or entity if the property acquired by gift was transferred to the person or entity after the deadline for filing for property tax exemption in the year in which the property was transferred and the property acquired by gift would have been exempt under section 427.1, subsection 7, 8, or 9, if the person or entity had been able to file for exemption in a timely manner.

Sec. 54. Section 441.6, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Upon receipt of the report of the examining board, the chairperson of the conference board shall by written notice call a meeting of the conference board to appoint an assessor. The meeting shall be held not later than seven days after the receipt of the report of the examining board by the conference board. ~~The physical condition, general reputation of the applicants, and their fitness for the position as determined by the examining board shall be taken into consideration in making the appointment.~~ At the meeting, the conference board shall appoint an assessor from the register of eligible candidates. However, if a special examination has not been conducted previously for the same vacancy, the conference board may request the director of revenue to hold a special examination pursuant to section 441.7. The chairperson of the conference board shall give written notice to the director of revenue of the appointment and its effective date within ten days of the decision of the board.

Sec. 55. Section 441.8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The term of office of an assessor appointed under this chapter shall be for six years. Appointments for each succeeding term shall be made in the same manner as the original appointment except that not less than ninety days before the expiration of the term of the assessor the conference board shall hold a meeting to determine whether or not it desires to reappoint the incumbent assessor to a new term. If the decision is made not to reappoint the assessor, the assessor shall be notified, in writing, of such decision not less than ninety days prior to the expiration of the assessor's term of office. Failure of the conference board to provide timely notification of the decision not to reappoint the assessor shall result in the assessor being reappointed.

Sec. 56. Section 441.8, unnumbered paragraphs 6 and 7, Code 2005, are amended to read as follows:

Upon receiving credit equal to one hundred fifty hours of classroom instruction during the assessor's current term of office of which at least ninety of the one hundred fifty hours are from courses requiring an examination upon conclusion of the course, the director of revenue shall certify to the assessor's conference board that the assessor is eligible to be reappointed to the position. For persons appointed to complete an unexpired term, the number of credits required to be certified as eligible for reappointment shall be prorated according to the amount of time remaining in the present term of the assessor. If the person was an assessor in another jurisdiction, the assessor may carry forward any credit hours received in the previous position in excess of the number that would be necessary to be considered current in that position. Upon written request by the person seeking a waiver of the continuing education requirements, the director may waive the continuing education requirements if the director determines good cause exists for the waiver.

Within each six-year period following the appointment of a deputy assessor, the deputy assessor shall comply with this section except that upon the successful completion of ninety hours of classroom instruction of which at least sixty of the ninety hours are from courses requiring an examination upon conclusion of the course, the deputy assessor shall be certified by the director of revenue as being eligible to remain in the position. If a deputy assessor fails to comply with this section, the deputy assessor shall be removed from the position until suc-

cessful completion of the required hours of credit. If a deputy is appointed to the office of assessor, the hours of credit obtained as deputy pursuant to this section shall be credited to that individual as assessor and for the individual to be reappointed at the expiration of the term as assessor, that individual must obtain the credits which are necessary to total the number of hours for reappointment. Upon written request by the person seeking a waiver of the continuing education requirements, the director may waive the continuing education requirements if the director determines good cause exists for the waiver.

Sec. 57. Section 441.37, subsection 1, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The property owner or aggrieved taxpayer may combine on one form protests of assessment on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of such protests, the person making the combined protests may request that the oral hearings be held consecutively.

Sec. 58. Section 441.37, subsection 3, Code 2005, is amended to read as follows:

3. After the board of review has considered any protest filed by a property owner or aggrieved taxpayer and made final disposition of the protest, the board shall give written notice to the property owner or aggrieved taxpayer who filed the protest of the action taken by the board of review on the protest. The written notice to the property owner or aggrieved taxpayer shall also specify the reasons for the action taken by the board of review on the protest. If protests of assessment on multiple parcels separately assessed were combined, the written notice shall state the action taken, and the reasons for the action, for each assessment protested.

Sec. 59. Section 441.38, subsection 2, Code 2005, is amended to read as follows:

2. Notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review ~~after the filing of notice under subsection 1 with the clerk of district court~~ within twenty days after its adjournment or May 31, whichever is later.

Sec. 60. Section 452A.2, subsection 19, unnumbered paragraph 2, Code 2005, is amended to read as follows:

"Motor fuel" does not include special fuel, and does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute, or naphthas and solvents unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within paragraph "b", in which event the resulting product shall be deemed to be motor fuel. "Motor fuel" does not include methanol unless blended with other motor fuels for use in an aircraft or for propelling motor vehicles.

Sec. 61. Section 452A.2, subsection 25, Code 2005, is amended to read as follows:

25. "Special fuel" means fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft, and includes any substance used for that purpose, except that it does not include motor fuel. Kerosene shall not be considered to be a special fuel, unless blended with other special fuels for use in a motor vehicle with a diesel engine. Methanol shall not be considered to be a special fuel unless blended with other special fuels for use in a motor vehicle with a diesel engine.

Sec. 62. Section 452A.8, subsection 2, paragraph e, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. The director may require by rule that reports and returns be filed by electronic transmission. For purposes of this paragraph, "dealer" and "user" mean a licensed compressed natural gas or liquefied petroleum gas

dealer or user and "fuel" means compressed natural gas or liquefied petroleum gas. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed shall be metered, inspected, tested for accuracy, and sealed and licensed by the state department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

Sec. 63. Section 452A.8, subsections 3 and 4, Code 2005, are amended to read as follows:

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline or a blend of special fuel products, each licensed blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly return, signed under penalty for false certificate, containing information required by rules adopted by the director. The director may require by rule that reports and returns be filed by electronic transmission.

4. A person who possesses fuel or uses fuel in a motor vehicle upon which no tax has been paid by a licensee in this state is subject to reporting and paying the applicable tax. The director may require by rule that reports and returns be filed by electronic transmission.

Sec. 64. Section 452A.10, Code 2005, is amended to read as follows:

452A.10 REQUIRED RECORDS.

A motor fuel or special fuel supplier, restrictive supplier, importer, exporter, blender, dealer, user, common carrier, contract carrier, ~~or~~ terminal, or nonterminal storage facility shall maintain, for a period of three years, records of all transactions by which the supplier, restrictive supplier, or importer withdraws from a terminal or nonterminal storage facility within this state or imports into this state motor fuel or undyed special fuel together with invoices, bills of lading, and other pertinent records and papers as required by the department.

If in the normal conduct of a supplier's, restrictive supplier's, importer's, exporter's, blender's, dealer's, user's, common carrier's, contract carrier's, ~~or~~ terminal's, or nonterminal storage facility's business the records are maintained and kept at an office outside this state, the records shall be made available for audit and examination by the department at the office outside this state, but the audit and examination shall be without expense to this state.

Each distributor handling motor fuel or special fuel in this state shall maintain for a period of three years records of all motor fuel or undyed special fuel purchased or otherwise acquired by the distributor, together with delivery tickets, invoices, and bills of lading, and any other records required by the department.

The department, after an audit and examination of records required to be maintained under this section, may authorize their disposal upon the written request of the supplier, restrictive supplier, importer, exporter, blender, dealer, user, carrier, terminal, nonterminal storage facility, or distributor.

Sec. 65. Section 452A.62, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. A distributor, supplier, restrictive supplier, importer, exporter, blender, terminal operator, nonterminal storage facility, common carrier, or contract carrier, pertaining to motor fuel or undyed special fuel withdrawn from a terminal or nonterminal storage facility, or brought into this state.

Sec. 66. Section 452A.62, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

To examine the records, books, papers, receipts, and invoices of any distributor, supplier,

restrictive supplier, importer, blender, exporter, terminal operator, nonterminal storage facility, licensed compressed natural gas or liquefied petroleum gas dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

Sec. 67. Section 452A.85, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This section does not apply to an increase in the tax rate of a specified fuel, except for compressed natural gas, unless the increase in the tax rate of that fuel is in excess of one-half cent per gallon.

Sec. 68. NEW SECTION. 602.6703 DECLARATORY JUDGMENT TO ADJUDICATE CONSTITUTIONAL NEXUS ISSUES REGARDING TAXATION.

1. District courts have original jurisdiction over civil actions seeking declaratory judgment when both of the following apply:

a. The party seeking declaratory relief is a business that is any of the following:

(1) Organized under the laws of this state.

(2) A sole proprietorship owned by a domiciliary of this state.

(3) Authorized to do business in this state.

b. The responding party is a government official of another state, or political subdivision of another state, who asserts that the business in question is obliged to collect sales or use taxes for such state or political subdivision based upon conduct of the business that occurs wholly or partially within that state or political subdivision.

2. A business meeting the requirements and facing the circumstances described in subsection 1 shall be entitled to declaratory relief on the issue of whether the requirement of another state, or political subdivision of another state, that the business collect and remit sales or use taxes to that state, or political subdivision, in the factual circumstances of the business' operations giving rise to the demand, constitutes an undue burden on interstate commerce within the meaning of the Constitution of the United States.

Sec. 69. Section 708.3A, subsections 1 through 4, Code 2005, are amended to read as follows:

1. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter and with the intent to inflict a serious injury upon the peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of

parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, or fire fighter, is a serious misdemeanor.

Sec. 70. Section 708.3A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. As used in this section, "employee of the department of revenue" means a person who is employed as an auditor, agent, tax collector, or any contractor or representative acting in the same capacity. The employee, contractor, or representative shall maintain current identification indicating that the person is an employee, contractor, or representative of the department.

Sec. 71. ABATEMENT OF PROPERTY TAXES. Notwithstanding the requirement for the filing of a claim for property tax exemption by February 1, as provided in section 427.1, subsection 9, the board of supervisors of a county having a population based upon the latest federal decennial census of more than one hundred eighty thousand but not more than two hundred thousand shall abate the property taxes owed, with all interest, fees, and costs, which were due and payable during the fiscal years beginning July 1, 2004, and July 1, 2005, on the land and buildings of an educational institution that received the property by gift and that did not receive a property tax exemption due to the inability or failure to file for the exemption. To receive the abatement provided for in this section, the educational institution shall apply to the county board of supervisors by October 1, 2005, and provide appropriate information establishing that the lands and buildings for which the abatement is sought were used by the educational institution for its appropriate objectives during the fiscal years beginning July 1, 2004, and July 1, 2005. The abatement allowed under this section only applies to property taxes, with all interests, fees, and costs, due and payable in the fiscal years beginning July 1, 2004, and July 1, 2005.

Sec. 72. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment to section 423.3, subsection 5, in this division of this Act, for the sale of agricultural drain tile materials occurring between January 1, 1998, and the effective date of the section amending section 423.3, subsection 5, in this division of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2005, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 73. RETROACTIVE APPLICABILITY.

1. The sections of this division of this Act amending Code sections 422.9 and 422.35 apply retroactively to January 1, 2005, for tax years beginning on or after that date.

2. The section of this division of this Act amending Code section 422.16, being deemed of immediate importance, takes effect upon enactment and applies to calendar quarters ending on or after the effective date of this Act for income taxes withheld for tax years beginning on or after January 1, 2005.

3. The section of this division of this Act relating to the abatement of property taxes due and payable in the fiscal years beginning July 1, 2004, and July 1, 2005, and section 427.1, subsection 9, being deemed of immediate importance, takes effect upon enactment, and applies ret-

roactively to property taxes due and payable in the fiscal years beginning July 1, 2004, and July 1, 2005.

4. The section of this division of this Act amending section 423.3, subsection 5, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to January 1, 1998.

5. The sections of this division of this Act amending section 441.37 apply to protests of assessment filed after January 1, 2006.

Approved June 3, 2005

CHAPTER 141

MOTOR VEHICLE FUEL THEFT —
MOTOR VEHICLE OPERATING PRIVILEGES

H.F. 440

AN ACT relating to sanctioning the motor vehicle operating privileges of a person upon a second or subsequent conviction for motor fuel theft from a retail dealer.

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

Section 1. Section 321.215, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, a temporary restricted license shall not be issued to a person whose license is revoked pursuant to a court order issued under section 901.5, subsection 10, or under section 321.209, subsections 1 through 5 or subsection 7, or to a juvenile whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3, or to a person whose license has been suspended pursuant to a court order under section 714.7D. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

Sec. 2. Section 321.215, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's noncommercial driver's license under section 321.209, subsection 5 or 6; section 321.210; 321.210A; or 321.513; or upon revocation pursuant to a court order issued under section 901.5, subsection 10; or upon the denial of issuance of a noncommercial driver's license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or a juvenile, whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3,; or upon suspension of a driver's license pursuant to a court order under section 714.7D, a person may petition the district court having jurisdiction over the residence of the person for a temporary restricted license to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied:

Sec. 3. NEW SECTION. 714.7D RETAIL MOTOR FUEL.

Upon a second or subsequent conviction of a person under section 714.2, subsection 5, for theft of motor fuel from a retail dealer as defined in section 214A.1, the court may order the state department of transportation to suspend the driver's license or nonresident operating privilege of the convicted person for up to thirty days in lieu of, or in addition to, a fine or imprisonment.

Approved June 3, 2005

CHAPTER 142

SECONDARY AND FARM-TO-MARKET ROADS

H.F. 674

AN ACT relating to distribution of secondary and farm-to-market road funds.

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

Section 1. Section 307.22, Code 2005, is amended to read as follows:

307.22 PLANNING AND RESEARCH.

The department's administrator of planning and research shall:

1. Assist the director in planning all modes of transportation in order to develop an integrated transportation system providing adequate transportation services for all citizens of the state.

2. Develop and maintain transportation statistical data for the department.

3. Assist the director in establishing, analyzing and evaluating alternative transportation policies for the state.

4. Coordinate planning and research duties and responsibilities with the planning functions carried on by other administrators of the department.

5. Conduct a study of the road and bridge facilities in state parks, state institutions, state fairgrounds, and on community college property. The study shall evaluate the construction and maintenance needs and projected needs based upon estimated growth for each type of facility to provide a quadrennially updated standard upon which to allocate funds appropriated for the purposes of this subsection.

6. a. Annually report by July 1 of each year, for both secondary and farm-to-market systems, miles of earth, granular, and paved surface roads; the daily vehicle miles of travel; and lineal feet of bridge deck under the jurisdiction of each county's secondary road department, as of the preceding January 1, taking into account roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year. The annual report shall include those roads transferred to a county pursuant to section 306.8A.

b. Miles of secondary and farm-to-market roads shall not include those miles of farm-to-market extensions within cities under five hundred population that are placed under county secondary road jurisdiction pursuant to section 306.4.

c. The annual report of updated road and bridge data of both the secondary and farm-to-market roads shall be submitted to the Iowa county engineers association service bureau.

~~6. Prepare, adopt, and cause to be published the results of a study of secondary roads in the state. The study shall be designed to investigate present deficiencies and future twenty-year~~

~~maintenance and construction needs of the roads. The study shall be referred to as the "quadrennial need study" for the purposes of this chapter, chapter 307A, and chapter 312. The department shall report the results of the study to the general assembly by July 1, 2002, and the study results shall take effect July 1, 2003.~~

~~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.~~

~~8.~~ 7. Perform such other planning functions as may be assigned by the director.

The functions of planning and research do not include the detailed design of highways or other modal transportation facilities, but are restricted to the needs of this state for multimodal transportation systems.

Sec. 2. Section 312.3, subsection 1, Code 2005, is amended to read as follows:

~~1. Apportion among the counties in the ratio that the needs of the secondary roads of each county bear to the total needs of the secondary roads of the state for each fiscal year based upon the total needs of secondary roads of the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department, seventy percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties, and apportion among the counties in the ratio that the area of each county bears to the total area of the state, thirty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties.~~

~~For the purposes of this subsection, "latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year as recalculated pursuant to section 307.22, subsection 7.~~

1. For the fiscal year ending June 30, 2006, apportion among the counties the road use tax funds credited to the secondary road fund by using the allocation method contained in section 312.3, subsection 1, Code 2005. For subsequent fiscal years, apportion among the counties the road use tax funds credited to the secondary road fund by using the distribution methodology adopted pursuant to section 312.3C.

Sec. 3. Section 312.3B, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The Iowa county engineers association service bureau shall annually compute the secondary road fund and farm-to-market road distributions using the methodology determined by the secondary road fund distribution committee pursuant to section 312.3C. The Iowa county engineers association service bureau shall report the computations to the secondary road fund distribution committee, the department, the treasurer of state, and the counties.

Sec. 4. Section 312.3C, Code 2005, is amended to read as follows:

312.3C SECONDARY ROAD FUND DISTRIBUTION ~~ADVISORY~~ COMMITTEE.

A secondary road fund distribution ~~advisory~~ committee is established to ~~consider~~ develop one or more alternative methodologies for distribution of moneys in the secondary road fund and farm-to-market road fund. The committee shall be comprised of representatives appointed by the president of the Iowa county engineers association, the president of the Iowa county supervisors association, and the department. ~~The committee shall recommend to the general assembly, for the general assembly's consideration and adoption, one or more alternative methodologies for distribution of moneys in the secondary road fund and the farm-to-market road fund.~~

The committee shall determine the methodology to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund. The methodology shall be phased in over a five-year time period, beginning July 1, 2006.

The committee shall adopt rules pursuant to chapter 17A to govern the determination and modification of the methodology to be used for distribution of moneys in the secondary road fund and the farm-to-market road fund.

Sec. 5. Section 312.5, Code 2005, is amended to read as follows:

312.5 DIVISION OF FARM-TO-MARKET ROAD FUNDS.

~~1. The road use tax funds credited to the farm-to-market road fund and federal aid secondary road funds received by the state by the treasurer of state are hereby divided as follows, and are to be known respectively as:~~

~~a. Need allotment farm-to-market road funds, seventy percent; and~~

~~b. Area allotment farm-to-market road funds, thirty percent.~~

1. For the fiscal year ending June 30, 2006, the treasurer of state shall apportion among the counties the road use tax funds credited to the farm-to-market road fund by using the allocation method contained in section 312.5, subsection 1, Code 2005. For subsequent fiscal years, the treasurer of state shall apportion among the counties the road use tax funds credited to the farm-to-market road fund by using the distribution methodology adopted pursuant to section 312.3C.

2. All farm-to-market road funds, except funds which under section 310.20 come from any county's allotment of the road use tax funds, shall be ~~allotted~~ apportioned among the counties ~~by the department~~ as provided by this section.

~~3. Area allotment farm-to-market road funds shall be allotted among all the counties of the state in the ratio that the area of each county bears to the total area of the whole state.~~

~~4. Need allotment farm-to-market road funds shall be allotted among the counties in the ratio that the needs of the farm-to-market roads in each county bear to the total needs of the farm-to-market roads in the state for each fiscal year based upon the total needs of the farm-to-market roads in the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department.~~

~~"Latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the prior year as recalculated pursuant to section 307.22, subsection 7.~~

Approved June 3, 2005

CHAPTER 143

CRIMINAL JUSTICE — MISCELLANEOUS PROVISIONS

H.F. 682

AN ACT relating to the assessment of a civil penalty and criminal penalty surcharge, and creating a criminalistics laboratory fund.

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

Section 1. Section 602.8108, subsection 3, Code 2005, is amended to read as follows:

3. The clerk of the district court shall remit to the state court administrator, not later than

the fifteenth day of each month, ninety-five percent of all moneys collected from the criminal penalty surcharge provided in section 911.1 during the preceding calendar month. The clerk shall remit the remainder to the county treasurer of the county that was the plaintiff in the action or to the city that was the plaintiff in the action. Of the amount received from the clerk, the state court administrator shall allocate ~~eighteen~~ seventeen percent to be deposited in the victim compensation fund established in section 915.94, and ~~eighty-two~~ eighty-three percent to be deposited in the general fund.

Sec. 2. Section 602.8108, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. A criminalistics laboratory fund is created as a separate fund in the state treasury under the control of the department of public safety. The fund shall consist of appropriations made to the fund and transfers of interest, and earnings. All moneys in the fund are appropriated to the department of public safety for use by the department in criminalistics laboratory equipment purchasing, maintenance, depreciation, and training. Any balance in the fund on June 30 of any fiscal year shall not revert to any other fund of the state but shall remain available for the purposes described in this subsection.

Sec. 3. Section 907.1, subsection 1, Code 2005, is amended to read as follows:

1. "Deferred judgment" means a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court and whereby the court assesses a civil penalty as provided in section 907.14 upon the entry of the deferred judgment. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment.

Sec. 4. Section 907.3, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon conditions as it may require. However, a civil penalty shall be assessed as provided in section 907.14 upon the entry of a deferred judgment. Upon a showing that the defendant is not cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon fulfillment of the conditions of probation and the payment of fees imposed and not waived by the judicial district department of correctional services under section 905.14, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 5. NEW SECTION. 907.14 DEFERRED JUDGMENT — CIVIL PENALTY — DISTRIBUTION.

1. Upon the entry of a deferred judgment pursuant to section 907.3, a defendant shall be assessed a civil penalty of an amount not less than the amount of any criminal fine authorized by law for the offense under section 902.9 or section 903.1.

2. The clerk of the district court shall collect and remit the civil penalty to the state court administrator for deposit in the general fund of the state as provided in section 602.8108.

Sec. 6. Section 911.1, subsection 1, Code 2005, is amended to read as follows:

1. A criminal penalty surcharge shall be levied against law violators as provided in this section. When a court imposes a fine or forfeiture for a violation of state law, or a city or county ordinance, except an ordinance regulating the parking of motor vehicles, the court or the clerk of the district court shall assess an additional penalty in the form of a criminal penalty surcharge equal to ~~thirty~~ thirty-two percent of the fine or forfeiture imposed.

Approved June 3, 2005

CHAPTER 144

EDUCATION TECHNOLOGY

H.F. 739

AN ACT relating to education technology, including the creation of an Iowa learning technology commission and pilot programs, and the establishment of a research triangle and clearinghouse, and providing for contingent effectiveness.

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

Section 1. Section 262.9, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Establish a research triangle, defined by the three institutions of higher learning under the board's control, and clearinghouse for purposes of sharing the projects and results of kindergarten through grade twelve education technology initiatives occurring in Iowa's school districts, area education agencies, community colleges, and other higher education institutions, with the education community within and outside of the state. Dissemination of and access to information regarding planning, financing, curriculum, professional development, preservice training, project implementation strategies, and results shall be centralized to allow school districts from across the state to gain ideas from each other regarding the integration of technology in the classroom.[1]

Sec. 2. Section 280A.1, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Public and private partners shall participate in the development of the planning, implementation, and outcomes for the initiative.

Sec. 3. NEW SECTION. 280A.2 IOWA LEARNING TECHNOLOGY COMMISSION — MEMBERS.

1. COMMISSION CREATED. An Iowa learning technology commission is created to administer the Iowa learning technology initiative, including creation of pilot programs pursuant to section 280A.4, to be implemented through local and public-private partnerships, that may include but shall not be limited to, use of one-to-one student learning technology.

2. MEMBERS. The commission shall initially be appointed no later than July 1, 2005, and shall consist of members appointed as follows:

a. Seven voting members who shall be members of the general public and shall be appointed as follows:

(1) Two members shall be appointed by the president of the senate.

(2) One member shall be appointed by the minority leader of the senate.

(3) Two members shall be appointed by the speaker of the house of representatives.

(4) One member shall be appointed by the minority leader of the house of representatives.

(5) One member who is the chairperson of the state board of education or the chairperson's designee.

b. Ex officio, nonvoting members as follows:

(1) The members of the state board of education technology advisory committee.

(2) One member who is a member of the senate shall be appointed by the president of the senate.

(3) One member who is a member of the senate shall be appointed by the minority leader of the senate.

(4) One member who is a member of the house of representatives shall be appointed by the speaker of the house of representatives.

(5) One member who is a member of the house of representatives shall be appointed by the minority leader of the house of representatives.

3. EXPERIENCE AND SPECIAL KNOWLEDGE. In appointing members to the commis-

[1] See chapter 179, §82 herein

sion, proper consideration shall be given to persons with experience or special knowledge in one or more of the following areas: education, including curriculum and content; business; economic development; technology; and finance.

4. BALANCE. Commission members shall be appointed in compliance with sections 69.16 and 69.16A. Appointments of public members shall be made to provide broad representation of the various geographical areas of the state insofar as possible.

5. CHAIRPERSONS. The commission shall elect a chairperson and a vice chairperson annually from among the voting members of the commission. A member shall not serve as a chairperson or vice chairperson for more than three consecutive years.

6. MEETINGS. The commission shall meet at least three times each year.

7. QUORUM. A majority of the voting members constitutes a quorum for the transaction of any official business.

8. TERMS OF MEMBERS. 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.

9. EXPENSES. Members of the commission are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties from funds appropriated to the department of education for that purpose, except that legislators' expenses shall be paid from funds appropriated by section 2.12.

Sec. 4. NEW SECTION. 280A.3 COMMISSION DUTIES.

The commission shall:

1. Develop and administer the Iowa learning technology pilot programs in accordance with section 280A.4. The commission shall determine application and selection processes, and the minimum requirements for selection of pilot program participants.

2. Develop an accurate assessment of the current status of technology in Iowa's public school classrooms supported by reliable data. Data collected and assessed shall include the number of computers and their appropriate corresponding use; the costs for hardware, software, staff development, instructional staff, and technology support staff; sources of funds used for school district technology budgets; and an inventory of technology-based kindergarten through grade twelve curricula.

3. Identify and gather data, in collaboration with the department of education, to determine the current public, private, federal, state, community college, and local revenue sources used for kindergarten through grade twelve educational technology at the school district, area education agency, and state levels.

4. Submit the data assessed determined pursuant to subsections 2 and 3 in a report to the house and senate standing education committees and the joint subcommittee on education appropriations of the general assembly by January 15, 2006.

Sec. 5. NEW SECTION. 280A.4 PILOT PROGRAMS.

1. The Iowa learning technology commission created in section 280A.2 shall develop and administer the Iowa learning technology pilot programs to encourage innovation, increase student achievement, and ensure that technology is used on the basis of best practices. The pilot programs should be designed to obtain valid and reliable evidence of the impact on student engagement and achievement from the use of technology, which may include but not be limited to a "one-to-one" initiative; further demonstrate successful district-to-vendor relationships and possibilities; provide for development of individual education plans for students; identify local district educational and fiscal planning and implementation strategies; and gain a better understanding of the current status of technology in Iowa schools. The goal for each pilot program is to provide results and additional information necessary for the general assembly to consider implementation of a statewide technology initiative. The commission shall make the final determination regarding pilot program grant awards, and shall notify the de-

partment of education of the amount of the grant amount to be awarded to a school district. From moneys appropriated to the department of education for purposes of the pilot programs, each pilot program shall consist of state-funded competitive grants to Iowa school districts that are matched locally with public or private, federal, state, or local financing as determined by the applicant school district. Administrative support and staffing shall be provided by the department of education.

2. Each pilot program shall be consistent with the following guiding principles:

a. FOCUS ON INCREASING STUDENT ACHIEVEMENT OPPORTUNITIES THROUGH QUALITY TEACHING AND LEARNING. The focus on student achievement should include identification of the age and developmentally appropriate use of educational technology that will engage the learner and result in improved student achievement opportunities.

b. PROFESSIONAL DEVELOPMENT. Quality, ongoing professional development shall be provided, including best practices in the effective use of technology in the classroom.

c. CURRICULUM AND ASSESSMENT. Students' technology skills shall be integrated into the curriculum and assessed through the demonstration of learning within content areas.

d. EQUITABLE ACCESS. Grant awards under the pilot program shall be distributed to school districts that meet the selection requirements established by the commission in a manner that ensures that students throughout the state have equitable access to education opportunities offered via the use of technology and telecommunications.

e. EDUCATIONAL TECHNOLOGY PLANNING. Due consideration shall be given to future sustainability of learning technology resources by adapting to future educational needs and technology changes and by avoiding obsolescence of learning technology resources.

f. ECONOMIC DEVELOPMENT. Grant moneys should be distributed in such a manner as to foster economic development across all regions of the state and to prepare students for an economy that embraces technology and innovation.

g. ACCOUNTABILITY. The pilot program shall include methods of measuring progress in the areas of increased student engagement; decreased disciplinary problems; increased use of computers for writing, analysis, and research; movement toward student-centered classrooms; increased parental involvement; and increased standardized test scores.

Sec. 6. NEW SECTION. 280A.5 FUTURE REPEAL.
This chapter is repealed effective July 1, 2011.

Sec. 7. CONTINGENT EFFECTIVENESS. The sections of this Act creating new[2] Code chapter 280A take effect only if the general assembly appropriates funds for the fiscal year beginning July 1, 2005, in an amount sufficient to implement the provisions of Code chapter 280A, if enacted.[3]

Approved June 3, 2005

[2] See chapter 179, §141 herein
[3] See chapter 179, §82 herein

CHAPTER 145

MIDWESTERN HIGHER EDUCATION COMPACT

S.F. 176

AN ACT entering Iowa into the midwestern higher education compact.

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

Section 1. NEW SECTION. 261D.1 DEFINITION.

As used in this chapter, unless the context otherwise requires, "commission" means the midwestern higher education compact commission.

Sec. 2. NEW SECTION. 261D.2 MIDWESTERN HIGHER EDUCATION COMPACT.

The midwestern higher education compact is entered into with all other states which enter into the compact in substantially the following form:

ARTICLE I
PURPOSE

The purpose of the midwestern higher education compact shall be to provide greater higher education opportunities and services in the midwestern region, with the aim of furthering regional access to, research in, and choice of higher education for the citizens residing in the several states which are parties to this compact.

ARTICLE II
THE COMMISSION

The compacting states create the midwestern higher education commission. The commission shall be a body corporate of each compacting state. The commission shall have all the responsibilities, powers, and duties set forth in this chapter, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The commission shall consist of five resident members of each state as follows: the governor or the governor's designee, who shall serve during the tenure of office of the governor; two legislators, one from each house (except Nebraska, which may appoint two legislators from its unicameral legislature), who shall serve two-year terms and be appointed by the appropriate appointing authority in each house of the legislature; and two other at-large members, at least one of whom shall be selected from the field of higher education. The at-large members shall be appointed in a manner provided by the laws of the appointing state. One of the two at-large members initially appointed in each state shall serve a two-year term. The other, and any regularly appointed successor to either at-large member, shall serve a four-year term. All vacancies shall be filled in accordance with the laws of the appointed states. Any commissioner appointed to fill a vacancy shall serve until the end of the incomplete term.

The commission shall select annually, from among its members, a chairperson, a vice chairperson, and a treasurer.

The commission shall appoint an executive director who shall serve at its pleasure and who shall act as secretary to the commission. The treasurer, the executive director, and such other personnel as the commission may determine shall be bonded in such amounts as the commission may require.

The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a majority of the commission members of three or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the commission.

ARTICLE III
POWERS AND DUTIES OF THE COMMISSION

The commission shall adopt a seal and suitable bylaws governing its management and operations.

Irrespective of the civil service, personnel, or other merit system laws of any of the compacting states, the commission in its bylaws shall provide for the personnel policies and programs of the compact.

The commission shall submit a budget to the governor and legislature of each compacting state at such time and for such period as may be required. The budget shall contain specific recommendations of the amount or amounts to be appropriated by each of the compacting states.

The commission shall report annually to the legislatures and governors of the compacting states, to the midwestern governors' conference, and to the midwestern legislative conference of the council of state governments concerning the activities of the commission during the preceding year. Such reports shall also embody any recommendations that may have been adopted by the commission.

The commission may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency, from any interstate agency, or from any institution, foundation, person, firm, or corporation.

The commission may accept for any of its purposes and functions under the compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, foundation, person, firm, or corporation, and may receive, utilize, and dispose of the same.

The commission may enter into agreements with any other interstate education organizations or agencies and with higher education institutions located in nonmember states and with any of the various states of these United States to provide adequate programs and services in higher education for the citizens of the respective compacting states. The commission shall, after negotiations with interested institutions and interstate organizations or agencies, determine the cost of providing the programs and services in higher education for use of these agreements.

The commission may establish and maintain offices, which shall be located within one or more of the compacting states.

The commission may establish committees and hire staff as it deems necessary for the carrying out of its functions.

The commission may provide for actual and necessary expenses for attendance of its members at official meetings of the commission or its designated committees.

ARTICLE IV
ACTIVITIES OF THE COMMISSION

The commission shall collect data on the long-range effects of the compact on higher education. By the end of the fourth year from the effective date of the compact and every two years thereafter, the commission shall review its accomplishments and make recommendations to the governors and legislatures of the compacting states on the continuance of the compact.

The commission shall study issues in higher education of particular concern to the midwestern region. The commission shall also study the needs for higher education programs and services in the compacting states and the resources for meeting such needs. The commission shall from time to time prepare reports on such research for presentation to the governors and

legislatures of the compacting states and other interested parties. In conducting such studies, the commission may confer with any national or regional planning body. The commission may redraft and recommend to the governors and legislatures of the various compacting states suggested legislation dealing with problems of higher education.

The commission shall study the need for provision of adequate programs and services in higher education, such as undergraduate, graduate, or professional student exchanges in the region. If a need for exchange in a field is apparent, the commission may enter into such agreements with any higher education institution and with any of the compacting states to provide programs and services in higher education for the citizens of the respective compacting states. The commission shall, after negotiations with interested institutions and the compacting states, determine the costs of providing the programs and services in higher education for use in its agreements. The contracting states shall contribute the funds not otherwise provided, as determined by the commission, for carrying out the agreements. The commission may also serve as the administrative and fiscal agent in carrying out agreements for higher education programs and services.

The commission shall serve as a clearinghouse on information regarding higher education activities among institutions and agencies.

In addition to the activities of the commission previously noted, the commission may provide services and research in other areas of regional concern.

ARTICLE V
FINANCE

The moneys necessary to finance the general operations of the commission, not otherwise provided for, in carrying forth its duties, responsibilities, and powers as stated herein shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states.

The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states and persons authorized by the commission.

ARTICLE VI
ELIGIBLE PARTIES AND ENTRY INTO FORCE

The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin shall be eligible to become party to this compact. Additional states will be eligible if approved by a majority of the compacting states.

As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law.

Amendments to the compact shall become effective upon their enactment by the legislatures of all compacting states.

ARTICLE VII
WITHDRAWAL, DEFAULT, AND TERMINATION

Any compacting state may withdraw from this compact by enacting a statute repealing the

compact, but such withdrawal shall not become effective until two years after the enactment of such statute. A withdrawing state shall be liable for any obligations which it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

If any compacting state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission, and the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other member states. Any such defaulting state may be reinstated by performing all acts and obligations as stipulated by the commission.

ARTICLE VIII
SEVERABILITY AND CONSTRUCTION

The provisions of this compact entered into hereunder shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any compacting state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact entered into hereunder shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

This compact is now in full force and effect, having been approved by the governors and legislatures of more than five of the eligible states.

Sec. 3. NEW SECTION. 261D.3 COMMISSION MEMBERS REPRESENTING IOWA — TERMS — VACANCIES.

1. The members of the commission representing this state shall consist of the following:

a. The governor or the governor's designee.

b. One member of the senate appointed by the president of the senate after consultation with the majority leader and minority leader of the senate.

c. One member of the house of representatives appointed by the speaker of the house of representatives after consultation with the majority leader and minority leader of the house of representatives.

d. One member appointed by the state board of regents.

e. One member appointed by the Iowa association of community college trustees.

2. In order to maximize participation in and knowledge of commission activities, alternate members of the commission representing Iowa shall be designated in the following manner:

a. One alternate member appointed by the governor.

b. One alternate member from the senate from the opposite political party of the commissioner appointed pursuant to subsection 1, paragraph "b", selected in the manner provided in subsection 1, paragraph "b".

c. One alternate member from the house of representatives from the opposite political party of the commissioner appointed pursuant to subsection 1, paragraph "c", selected in the manner provided in subsection 1, paragraph "c".

d. One alternate member appointed by the Iowa association of independent colleges and universities.

e. One alternate member appointed by the Iowa college student aid commission.

3. The members shall serve two-year terms except as otherwise provided under the terms of the compact. Nonlegislative members shall serve without compensation, but shall receive their actual and necessary expenses and travel. Legislative members shall receive actual and necessary expenses pursuant to sections 2.10 and 2.12. Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointments. If a member ceases to be a member of the general assembly, the member shall no longer serve as a member of the commission.

4. It is the intent of the general assembly that commissioners representing the senate and the house of representatives be members of different political parties from one another.

Approved June 6, 2005

CHAPTER 146

SOY-BASED CUTTING TOOL OIL INCOME TAX CREDIT

S.F. 389

AN ACT providing individual and corporate income tax credits for soy-based cutting tool oil and including an applicability date provision.

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

Section 1. NEW SECTION. 422.11K SOY-BASED CUTTING TOOL OIL TAX CREDIT.

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a soy-based cutting tool oil tax credit. A manufacturer, as defined in section 428.20, is eligible to receive a soy-based cutting tool oil tax credit which is equal to the costs incurred by the manufacturer during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil. The costs eligible for the credit are limited to those costs meeting all of the following requirements:

a. The costs were incurred after June 30, 2005, and before January 1, 2007.

b. The costs were incurred in the first twelve months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

c. The costs of the purchase and replacement do not exceed two dollars per gallon of soy-based cutting tool oil used in the transition. The total number of gallons used in the transition under this paragraph shall not exceed two thousand gallons.

If the manufacturer elects to take the soy-based cutting tool oil tax credit, the manufacturer shall not deduct for Iowa tax purposes any amount of the costs incurred in the transition to using soy-based cutting tool oil which is deductible for federal tax purposes.

2. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

3. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the 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 of the partnership, limited liability company, S corporation, estate, or trust.

4. For purposes of this section, "soy-based cutting tool oil" means cutting tool oil that contains at least fifty-one percent soy-based products.

5. This section is repealed December 31, 2007.

Sec. 2. Section 422.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 17. a. The taxes imposed under this division shall be reduced by a soy-based cutting tool oil tax credit. A manufacturer, as defined in section 428.20, is eligible to receive a soy-based cutting tool oil tax credit which is equal to the costs incurred by the manufacturer during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil. The costs eligible for the credit are limited to those costs meeting all of the following requirements:

(1) The costs were incurred after June 30, 2005, and before January 1, 2007.

(2) The costs were incurred in the first twelve months of the transition to using soy-based cutting tool oil.

(3) The costs of the purchase and replacement do not exceed two dollars per gallon of soy-based cutting tool oil used in the transition. The total number of gallons used in the transition under this subparagraph shall not exceed two thousand gallons.

If the manufacturer elects to take the soy-based cutting tool oil tax credit, the manufacturer shall not deduct for Iowa tax purposes any amount of the costs incurred in the transition to using soy-based cutting tool oil which is deductible for federal tax purposes.

b. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

c. For purposes of this subsection, "soy-based cutting tool oil" means cutting tool oil that contains at least fifty-one percent soy-based products.

d. This subsection is repealed December 31, 2007.

Sec. 3. APPLICABILITY DATES. This Act applies to tax years ending after June 30, 2005, and beginning before January 1, 2007.

Approved June 6, 2005

CHAPTER 147

IOWA EARLY INTERVENTION BLOCK GRANT PROGRAM

H.F. 742

AN ACT relating to the Iowa early intervention block grant program by changing the reporting requirements, extending the repeal of the chapter establishing the program, and providing an effective date.

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

Section 1. Section 256D.3, subsection 3, Code 2005, is amended to read as follows:

3. Beginning January 15, ~~2001~~ 2006, the department shall submit an annual report to the chairpersons and ranking members of the senate and house education committees that in-

cludes the statewide average school district class size in basic skills instruction in kindergarten through grade three, by grade level and by district size, and describes school district progress toward achieving early intervention block grant program goals and the ways in which school districts are using moneys received pursuant to ~~section 256D.4~~ this chapter and expended as provided in section 256D.2. The report shall include district-by-district information showing the allocation received for early intervention block grant program purposes, the total number of students enrolled in grade four in each district, and the number of students in each district who are not proficient in reading in grade four for the most recent reporting period, as well as for each reporting period starting with the school year beginning July 1, 2001.

Sec. 2. Section 256D.9, Code 2005, is amended to read as follows:
256D.9 FUTURE REPEAL.
This chapter is repealed effective July 1, ~~2005~~ 2006.

Sec. 3. EFFECTIVE DATE. The section of this Act amending section 256D.9, being deemed of immediate importance, takes effect upon enactment.

Approved June 6, 2005

CHAPTER 148

EARLY CARE, CHILD CARE, EDUCATION,
HEALTH, AND HUMAN SERVICES ASSISTANCE

H.F. 761

AN ACT relating to improvement of the early care, child care services, education, health, and human services systems, revising the child and dependent care tax credit, creating an early childhood development tax credit, and providing an applicability date.

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

DIVISION I
IOWA EMPOWERMENT BOARD

Section 1. Section 28.1, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. "Early care", "early care services", or "early care system" means the programs, services, support, or other assistance made available to a parent or other person who is involved with addressing the health and education needs of a child from birth through age five. "Early care", "early care services", or "early care system" includes but is not limited to public and private efforts and formal and informal settings.

Sec. 2. Section 28.2, subsection 3, Code 2005, is amended to read as follows:
3. To achieve the initial set of desired results, the initiative's primary focus shall first be on the efforts of the state and communities to work together to improve the efficiency and effectiveness of early care, education, health, and human services provided to families with children from birth through age five years.

Sec. 3. Section 28.3, subsections 1 and 2, Code 2005, are amended to read as follows:
1. An Iowa empowerment board is created to facilitate state and community efforts involv-

ing community empowerment areas, including strategic planning, funding identification, and guidance, and to promote collaboration among state and local early care, education, health, and human services programs.

2. The Iowa board shall consist of eighteen voting members with thirteen citizen members and five state agency members. The five state agency members shall be the directors of the following departments: economic development, education, human rights, human services, and public health. The thirteen citizen members shall be appointed by the governor, subject to confirmation by the senate. The governor's appointments of citizen members shall be made in a manner so that each of the state's congressional districts is represented by two citizen members and so that all the appointments as a whole reflect the ethnic, cultural, social, and economic diversity of the state. The governor's appointees shall be selected from individuals nominated by community empowerment area boards. The nominations shall reflect the range of interests represented on the community boards so that the governor is able to appoint one or more members each for early care, education, health, human services, business, faith, and public interests. At least one of the citizen members shall be a service consumer or the parent of a service consumer. Terms of office of all citizen members are three years. A vacancy on the board shall be filled in the same manner as the original appointment for the balance of the unexpired term.

Sec. 4. Section 28.3, subsection 5, Code 2005, is amended to read as follows:

5. A community empowerment assistance team or teams of state agency representatives shall be designated to provide technical assistance and other support to community empowerment areas and for the board's efforts to address early care, education, health, and human services. A technical assistance system shall be developed using local representatives of the state agencies represented on the Iowa board and other state agencies and individuals involved with local ~~community empowerment areas~~ early care, education, health, and human services. ~~The technical assistance shall be available in at least three levels of support as follows:~~

~~a. Support to areas experienced in operating an innovation zone or decategorization project with an extensive record of success in collaboration between education, health, or human services interests.~~

~~b. Support to areas experienced in operating an innovation zone or decategorization project.~~

~~c. Support to areas forming an initial community empowerment area with no previous experience operating an innovation zone or decategorization project.~~

Sec. 5. Section 28.3, subsection 6, paragraph b, Code 2005, is amended to read as follows:

b. In addition, a community empowerment office is established as a division of the department of management to provide a center for facilitation, communication, and coordination for community empowerment activities and funding and for improvement of the early care, education, health, and human services systems. Staffing for the community empowerment office shall be provided by a facilitator or coordinator appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor. A deputy and support staff may be designated, subject to appropriation made for this purpose. The facilitator or coordinator shall submit reports to the governor, the Iowa board, and the general assembly. The facilitator[1] shall provide primary staffing to the board, coordinate state technical assistance activities and implementation of the technical assistance system, and other communication and coordination functions to move authority and decision-making responsibility from the state to communities and individuals.

Sec. 6. Section 28.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The director of the department of management shall designate early care staff, as part of the community empowerment initiative, to provide coordination and other support to the state's early care system. The early care staff shall work with the state

[1] See chapter 179, §109 herein

and local components of the community empowerment initiative, shared visions programs funded under chapter 256A, and other public and private efforts to improve the early care system. The early care staff duties shall include but are not limited to the following:

a. Providing support to the public and private stakeholders who are involved with the early care system, acting to strengthen the early care system, and developing accountability measures for early care efforts.

b. Developing and disseminating accountability measures for assessing the outcomes produced by the department of education, the community empowerment initiative, and other publicly funded efforts to improve early care of young children, including but not limited to shared visions and other programs provided under the auspices of the child development coordinating council, high-quality preschool programs, head start programs, and school ready children grant programs. The initial measures utilized shall be the individual growth and development indicators developed by the early childhood research institute on measuring growth and development or other measures of high quality to be authorized by law.

c. Collecting, interpreting, and redisseminating data collected from the measures for assessing outcomes under paragraph "b". Factors subject to interpretation may include area demographics, relative expenditures, collaboration between programs in an area, and other factors impacting the outcomes produced by an individual program.

d. Annually providing information to the governor and general assembly regarding the outcomes produced by individual programs. The information shall be included in the Iowa empowerment board's annual report.

Sec. 7. Section 28.4, subsection 4, Code 2005, is amended to read as follows:

4. Identify boards, commissions, committees, and other bodies in state government with overlapping and similar purposes which contribute to redundancy and fragmentation in early care, education, health, and human services programs provided to the public. The board shall also make recommendations and provide an annually updated strategic plan to the governor and general assembly as appropriate for increasing coordination between these bodies, for eliminating bureaucratic duplication, for consolidation where appropriate, ~~and~~ for improving the efficiency of working with federally mandated bodies, for integration of services and service quality functions to achieve improved results, and for integration of state-administered funding streams directed to community empowerment areas and other community-based efforts for providing early care, education, health, and human services.

Sec. 8. Section 28.4, subsection 12, paragraph d, Code 2005, is amended to read as follows:

d. The Iowa empowerment board shall regularly make information available identifying community empowerment funding and funding distributed ~~through the funding streams listed under this paragraph "d" to communities~~ for purposes of the early care system. It is the intent of the general assembly that the community empowerment area boards and the administrators of the early care programs located within the community empowerment areas that are supported by ~~the listed funding streams~~ public funding shall fully cooperate with one another ~~on or before the indicated fiscal years,~~ in order to avoid duplication, enhance efforts, combine planning, and take other steps to best utilize the funding to meet the needs of the families in the areas. The community empowerment area boards and the program administrators shall annually submit a report concerning such efforts to the community empowerment office. If a community empowerment area is receiving a school ready children grant, this report shall be an addendum to the annual report required under section 28.8. The state community empowerment facilitator or coordinator shall compile and summarize the reports which shall be submitted to the governor, general assembly, and Iowa board. ~~The funding streams shall include all of the following:~~

~~(1) Moneys for the healthy opportunities for parents to experience success – healthy families Iowa program under section 135.106 by the fiscal year beginning July 1, 2000, and ending June 30, 2001.~~

~~(2) Moneys for parent education appropriated in section 279.51 and distributed through the~~

~~child development coordinating council, by the fiscal year beginning July 1, 2000, and ending June 30, 2001.~~

~~(3) Moneys for the preschool children at-risk program appropriated in section 279.51 and distributed through the child development coordinating council, by the fiscal year beginning July 1, 2001, and ending June 30, 2002.~~

~~(4) Moneys for home visitation and parent support annually appropriated to the department of human services and distributed or expended through child abuse prevention grants and the family preservation program, by the fiscal year beginning July 1, 2000, and ending June 30, 2001.~~

Sec. 9. Section 28.4, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 13. Integrate statewide quality standards and results indicators adopted by other boards and commissions into the Iowa empowerment board's funding requirements for investments in early care, education, health, and human services.

NEW SUBSECTION. 14. With the assistance of the state departments represented on the Iowa empowerment board and the community empowerment office, develop and implement requirements for community empowerment areas and the state administrators of programs providing early care or early care services to annually report to the public and the early care coordinator regarding the results produced by the community empowerment initiative and by the programs. Source data shall be made available to the early care coordinator.[2]

Sec. 10. Section 28.5, subsection 1, Code 2005, is amended to read as follows:

1. The purpose of a community empowerment area is to enable local citizens to lead collaborative efforts involving early care, education, health, and human services programs on behalf of the children, families, and other citizens residing in the area. Leadership functions may include but are not limited to strategic planning for and oversight and managing of such programs and the funding made available to the community empowerment area for such programs from federal, state, local, and private sources. The initial focus of the purpose is to improve results for families with young children.

Sec. 11. Section 28.6, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Community empowerment area functions shall be performed under the authority of a community empowerment area board. A majority of the members of a community board shall be elected officials and members of the public who are not employed by a provider of services to or for the community board. At least one member shall be a service consumer or the parent of a service consumer. Terms of office of community board members shall be not more than three years and the terms shall be staggered. The membership of a community empowerment area board shall include members with early care, education, health, human services, business, faith, and public interests.

Sec. 12. Section 28.8, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. A school ready children grant shall be awarded to a community board for a three-year period, with annual payments made to the community board. The Iowa empowerment board may grant an extension from the award date and any application deadlines based upon the award date, to allow for a later implementation date in the initial year in which a community board submits a comprehensive school ready grant plan to the Iowa empowerment board. However, receipt of continued funding is subject to submission of the required annual report and the Iowa board's determination that the community board is measuring, through the use of performance and results indicators developed by the Iowa board with input from community boards, progress toward and is achieving the desired results identified in the grant plan. If progress is not measured through the use of performance and results indicators toward achieving the identified results, the Iowa board may request a plan of corrective action, withhold any increase in funding, or ~~may~~ withdraw grant funding.

[2] See chapter 179, §110 herein

Sec. 13. Section 28.8, subsection 5, paragraph c, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A community board's readiness shall be ascertained by evidence of successful collaboration among public or private early care, education, ~~human services, or~~ health, or human services interests or a documented program design evincing a strong likelihood of leading to a successful collaboration between these interests. Other criteria which may be used by the Iowa board to ascertain readiness and to determine funding amounts include one or more of the following:

Sec. 14. Section 28.8, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The Iowa empowerment board shall identify and apply limitations on the carryforward of school ready children grant funding. The limitations shall address an unusually high percentage of a grant being carried forward, the number of years a grant has been carried forward which shall not exceed three years, and other objective criteria. The limitations shall make allowances for special circumstances such as the carryforward of funding that is designated for a particular purpose and is scheduled in the grant plan. The board may provide for redistribution or other redirection of the funding that meets the criteria.

Sec. 15. NEW SECTION. 28.10 EARLY CARE — INTERNET WEBPAGE.

1. The Iowa empowerment board shall provide for the operation of an internet webpage for purposes of widely distributing early care information provided by the departments represented on the board and the public and private agencies addressing the early care system.

2. Information provided on the internet webpage shall include but is not limited to all of the following:

a. The early learning standards for children ages three to five proposed by the early learning standards group created pursuant to federal child care and development block grant requirements and with assistance from the Iowa child care and early education network, department of education, department of human services, Iowa head start association, and Iowa state university of science and technology, as prepared with consideration of the standards and recommendations issued by the United States department of education regarding early childhood cognitive development and learning and preschool and research-based standards for high-quality early care, including but not limited to the practices identified by the institute of education sciences of the United States department of education. As early learning standards are identified in law, the proposed standards posted on the webpage shall be replaced with the standards identified in law.

b. A link to a special webpage directed to parents, including parent-specific information on early care, information regarding the early childhood development credits under section 422.12C, and links to other resources available on the internet and from other sources.

c. Program standards for early care that have been approved by state agencies.

d. A single point of contact for use by a parent in accessing the community empowerment area programs and early care programs that are available in the parent's area.

3. The Iowa empowerment board shall include information regarding the extent and frequency of usage of the webpage or webpages in the board's annual report to the governor and general assembly.

Sec. 16. NEW SECTION. 279.60 KINDERGARTEN ASSESSMENT.

Each school district shall administer the dynamic indicators of basic early literacy skills kindergarten benchmark assessment or other kindergarten benchmark assessment adopted by the department of education in consultation with the Iowa empowerment board to every kindergarten student enrolled in the district not later than October 1. The school district shall also collect information from each parent, guardian, or legal custodian of a kindergarten student enrolled in the district, including but not limited to whether the student attended preschool, factors identified by the early care staff pursuant to section 28.3, and other demographic factors. Each school district shall report the results of the assessment and the preschool informa-

tion collected to the department of education in the manner prescribed by the department not later than January 1 of that school year. The early care staff designated pursuant to section 28.3 shall have access to the raw data. The department shall review the information submitted pursuant to this section and shall submit its findings and recommendations annually in a report to the governor, the general assembly, the Iowa empowerment board, and the community empowerment area boards.

Sec. 17. EARLY CARE AND CHILD CARE PROVIDER INCENTIVES. The Iowa empowerment board shall conduct a study of incentives that can be made available to persons who provide early care, as defined in section 28.1, as amended in this Act, and child care, including but not limited to providers of child care regulated by the department of human services or the department of education, preschools, head start programs, and other persons who have no or limited benefit packages and provide services to children. The incentives studied shall include but are not limited to forgivable loans for higher education expenses, health care benefits, and retirement benefits. The board shall report to the governor and general assembly on or before December 16, 2005, with findings, recommendations, and a fiscal analysis of options.

Sec. 18. EARLY CARE INTEGRATION PLAN. The community empowerment office of the department of management, with the assistance of the departments represented on the Iowa empowerment board, shall develop a plan to integrate the efforts of the state agency staff who have job functions directed to the early care system, as defined in section 28.1, as amended in this Act. The plan shall be submitted to the chairpersons and ranking members of the committees on human resources and education of the senate and the house of representatives on or before December 16, 2006.

Sec. 19. IMPLEMENTATION OF INTERNET WEBPAGE. The internet webpage required pursuant to section 28.10, as enacted by this Act, shall be implemented on or before March 1, 2006.

DIVISION II
CHILD CARE QUALITY RATING

Sec. 20. Section 237A.30, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

237A.30 VOLUNTARY CHILD CARE QUALITY RATING SYSTEM.

1. The department shall work with the community empowerment office of the department of management established in section 28.3 and the state child care advisory council in designing and implementing a voluntary quality rating system for each provider type of child care facility.

2. The criteria utilized for the rating system may include but are not limited to any of the following: facility type; provider staff experience, education, training, and credentials; facility director education and training; an environmental rating score or other direct assessment environmental methodology; national accreditation; facility history of compliance with law and rules; child-to-staff ratio; curriculum, including the extent to which the curriculum focuses on the stages of child development and on child outcomes; business practices; staff retention rates; evaluation of staff members and program practices; staff compensation and benefit practices; provider and staff membership in professional early childhood organizations; and parental involvement with the facility.

3. A facility's quality rating may be included on the internet page and in the consumer information provided by the department pursuant to section 237A.25 and shall be identified in the child care provider referrals made by child care resource and referral service grantees under section 237A.26.

Sec. 21. PHASED IMPLEMENTATION.

1. Effective July 1, 2005, the department of human services shall no longer accept applica-

tions for the gold seal quality designation for child care providers under section 237A.30, Code 2005. However, if a child care provider has been awarded the designation prior to July 1, 2005, the designation may continue to be utilized for that provider until the designated period of nationally recognized accreditation for which the gold seal designation was awarded has ended.

2. The department of human services shall commence implementation of the voluntary child care quality rating system under section 237A.30, as amended by this Act, by awarding ratings beginning on or after January 1, 2006. The department may modify implementation of the rating system and the rating system itself as necessary to conform to the funding made available for the rating system for the fiscal year beginning July 1, 2005.

Sec. 22. FEDERAL COORDINATION INITIATIVE. If an opportunity is offered by the federal government and the department of management, in consultation with the relevant state agency directors and the Iowa head start association, has determined that participation in the opportunity would not adversely affect head start programs in Iowa, the Iowa empowerment board and the state agencies represented on the board shall apply for Iowa to participate in a head start pilot program designed to promote coordination of state head start, preschool, and child care programs into a comprehensive early childhood system.

DIVISION III
EARLY CHILDHOOD DEVELOPMENT TAX CREDIT

Sec. 23. Section 422.12C, subsection 1, paragraph f, Code 2005, is amended to read as follows:

f. For a taxpayer with net income of forty thousand dollars or more~~, zero~~ but less than forty-five thousand dollars, thirty percent.

Sec. 24. Section 422.12C, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For a taxpayer with net income of forty-five thousand dollars or more, zero percent.

Sec. 25. Section 422.12C, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. In lieu of the child and dependent care credit authorized in subsection 1, a taxpayer may claim an early childhood development tax credit equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent, as defined in the Internal Revenue Code, ages three through five for early childhood development expenses. In determining the amount of early childhood development expenses, such expenses paid during November and December of the previous tax year shall be considered paid in the tax year for which the tax credit is claimed. This credit is available to a taxpayer whose net income is less than forty-five thousand dollars. If the early childhood development tax credit is claimed for a tax year, the taxpayer and the taxpayer's spouse shall not claim the child and dependent care credit under subsection 1. As used in this subsection, "early childhood development expenses" means services provided to the dependent by a preschool, as defined in section 237A.1, materials, and other activities as follows:

(1) Books that improve child development, including textbooks, music books, art books, teacher's editions, and reading books.

(2) Instructional materials required to be used in a child development or educational lesson activity, including but not limited to paper, notebooks, pencils, and art supplies.

(3) Lesson plans and curricula.

(4) Child development and educational activities outside the home, including drama, art, music, and museum activities, and the entrance fees for such activities, but not including food or lodging, membership fees, or other nonacademic expenses.

"Early childhood development expenses" does not include services, materials, or activities for the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship.

b. Each taxpayer intending to claim a credit under this subsection shall apply, on forms provided by the department, for the credit by filing a notice with the department no later than November 1 of the tax year to which the credit is applicable. The notice shall provide supporting documentation as required by the department. The department shall compute the total amount of credits contained in the notices received by the department. The total amount of credits that may be approved for any fiscal year for purposes of this subsection is limited to two million five hundred thousand dollars. If tax credits under this subsection exceed this limit, each taxpayer shall receive a pro rata amount of the credit as determined by the department. The department shall notify the taxpayer of the amount of the taxpayer's credit no later than January 1 following the deadline for receipt of the notice.

Sec. 26. Section 422.12C, subsection 3, Code 2005, is amended to read as follows:

3. Married taxpayers who have filed joint federal returns electing to file separate returns or to file separately on a combined return form must determine the child and dependent care credit under subsection 1 or the early childhood development tax credit under subsection 1A based upon their combined net income and allocate the total credit amount to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa must determine their Iowa child and dependent care credit in the ratio of their Iowa source net income to their all source net income. Nonresidents or part-year residents who are married and elect to file separate returns or to file separately on a combined return form must allocate the Iowa child and dependent care credit between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers.

Sec. 27. APPLICABILITY DATE. This division of this Act applies to tax years beginning on or after January 1, 2006.

Approved June 6, 2005

CHAPTER 149

STUDENT ACHIEVEMENT AND SECONDARY SCHOOL CURRICULA

S.F. 245

AN ACT relating to a secondary school core curriculum, including requiring the state board of education to determine a model core curriculum and set a statewide core curriculum completion rate goal, requiring school districts to develop a core curriculum plan for eighth grade students and to report student core curriculum progress annually, requiring school districts and schools to report core curriculum completion percentages annually, and providing for the coordination of an educational data definitions working group.

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

Section 1. Section 256.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Develop a model core curriculum, taking into consideration the recommendations of the American college testing program, inc. The state board shall set a goal of increasing the number of students graduating from secondary school who have successfully completed a core curriculum, by July 1, 2009, to eighty percent of all students gradu-

ating from secondary schools in this state except that the goal shall be exclusive of students who have special or alternative means for satisfying graduation requirements under individualized educational plans developed for the students. For purposes of this section, "core curriculum" means the minimum number of specific high school courses that a student needs to take in preparation for advanced career and vocational purposes.

Sec. 2. Section 256.7, subsection 21, paragraph c, Code 2005, is amended to read as follows:

c. A requirement that all school districts and accredited nonpublic schools annually report to the department and the local community the district-wide progress made in attaining student achievement goals on the academic and other core indicators and the district-wide progress made in attaining locally established student learning goals. The school districts and accredited nonpublic schools shall demonstrate the use of multiple assessment measures in determining student achievement levels. The school districts and accredited nonpublic schools shall also report the number of students who enter ninth grade but do not graduate from the school or school district; ~~and~~ the number of students who are tested and the percentage of students who are so tested annually; and the percentage of students who graduated during the prior school year and who completed a core curriculum. The board shall develop and adopt uniform definitions consistent with the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110 and any federal regulations adopted pursuant to the federal Act. The school districts and accredited nonpublic schools may report on other locally determined factors influencing student achievement. The school districts and accredited nonpublic schools shall also report to the local community their results by individual attendance center.

Sec. 3. NEW SECTION. 279.60 STUDENT PLAN FOR PROGRESS TOWARD UNIVERSITY ADMISSIONS — REPORT.

1. For the school year beginning July 1, 2006, and each succeeding school year, the board of directors of each school district shall cooperate with each student enrolled in grade eight to develop for the student a core curriculum plan to guide the student toward the goal of successfully completing, at a minimum, the model core curriculum developed by the state board of education pursuant to section 256.7, subsection 26, by the time the student graduates from high school.

2. For the school year beginning July 1, 2006, and each succeeding school year, the board of directors of each school district shall report annually to each student enrolled in grades nine through twelve in the school district, and to each student's parent or guardian, the student's progress toward meeting the goal of successfully completing the model core curriculum developed by the state board of education pursuant to section 256.7, subsection 26.

Sec. 4. EDUCATIONAL DATA DEFINITIONS WORKING GROUP.

1. FINDINGS. The general assembly finds that individuals whose educational endeavors end without the receipt of a high school diploma have a much higher rate of unemployment and are much more likely to need welfare or other forms of government assistance. The economic implications of students' failure to earn at a minimum a high school diploma are staggering, and increasingly so as our economy becomes more dependent on the service and information industries. To understand the current state of educational achievement and future likelihood of success for Iowa's students, it is vital that state and local school district data on graduation rates be collectively understood and accurate.

2. The department of education shall coordinate a working group to develop clear, accurate, meaningful, and unambiguous definitions for the key data areas relating to, but not limited to, attrition, completion, and attendance rates, which school districts shall use in compiling state and local report cards. The working group shall determine the baseline data necessary to report on these terms and shall develop a strategy to contact school districts to ensure that the school districts are applying the definitions and consistently submitting data in accordance with the definitions. The working group shall consist of the following members:

a. Two senators appointed by the president of the senate after consultation with the majority leader and the minority leader of the senate.

b. Two representatives appointed by the speaker of the house after consultation with the minority leader of the house.

c. Members representing minority populations.

d. A member representing the largest school district in Iowa.

e. A member representing a school district with an enrollment of more than one thousand one hundred ninety-nine students but not more than four thousand seven hundred fifty students.

f. A member representing a school district with an enrollment of one thousand one hundred ninety-nine students or less.

g. Other members representing the education community as needed.

3. The working group shall submit its findings and recommendations to the department of education and the chairpersons and members of the committees on education in the senate and the house of representatives not later than January 15, 2006.

Approved June 7, 2005

CHAPTER 150

DEVELOPMENT AND OVERSIGHT OF STATE AND LOCAL ECONOMIC, CULTURAL, RESEARCH, AND TRANSPORTATION-RELATED RESOURCES

H.F. 868

AN ACT relating to economic development, business, workforce, and regulatory assistance and tax credits, property tax assessment, to excise taxes on E-85 gasoline, to issuance of revenue bonds, and to state developmental, research, and regulatory oversight, and including effective date and retroactive applicability provisions.

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

DIVISION I
GROW IOWA VALUES FUND

Section 1. NEW SECTION. 15G.108 GROW IOWA VALUES FUND.

1. A grow Iowa values fund is created in the state treasury under the control of the department of economic development consisting of moneys appropriated to the department. 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 department, 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.

2. In awarding financial assistance in a fiscal year from moneys appropriated to the grow Iowa values fund, the department shall commit, obligate, or promise not more than fifty percent of the moneys appropriated from the grow Iowa values fund pursuant to section 15G.111, subsection 1, if enacted,[1] for use during the first fiscal year following the fiscal year in which

[1] See chapter 170, §19 herein

the financial assistance is awarded and not more than twenty-five percent of the moneys appropriated from the grow Iowa values fund pursuant to section 15G.111, subsection 1, if enacted,[2] for use during the second fiscal year following the fiscal year in which the financial assistance is awarded.

Sec. 2. Section 15G.111, subsection 2, if enacted by 2005 Iowa Acts, House File 809,[3] is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. The department may expend additional moneys that may become available for purposes of financial assistance to a single bioscience development organization determined by the department to possess expertise in the promotion and commercialization of biotechnology entrepreneurship as described in and for the purposes set forth in unnumbered paragraph 2.

Sec. 3. NEW SECTION. 15G.112 FINANCIAL ASSISTANCE.

1. In order to receive financial assistance from the department from moneys appropriated from the grow Iowa values fund, the average annual wage, including benefits, of new jobs created must be equal to or greater than one hundred thirty percent of the average county wage. For purposes of this section, "average county wage" and "benefits" mean the same as defined in section 15H.1.

2. An applicant may apply to the Iowa economic development board for a waiver of the wage requirements in subsection 1.

3. In awarding moneys appropriated from the grow Iowa values fund, the department shall give special consideration to projects that include significant physical infrastructure components designed to increase property tax revenues to local governments.

DIVISION II
IOWA ECONOMIC DEVELOPMENT BOARD

Sec. 4. Section 15.103, Code 2005, is amended to read as follows:

15.103 ECONOMIC DEVELOPMENT BOARD.

1. a. The Iowa economic development board is created, consisting of ~~eleven~~ fifteen voting members appointed by the governor and seven ex officio nonvoting members. The ex officio nonvoting members are four legislative members; one president, or the president's designee, of the university of northern Iowa, the university of Iowa, or Iowa state university of science and technology designated by the state board of regents on a rotating basis; and one president, or the president's designee, of a private college or university appointed by the Iowa association of independent colleges and universities; and one superintendent, or the superintendent's designee, of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, one appointed by the speaker and one appointed by the minority leader of the house of representatives from their respective parties. Not more than ~~six~~ eight of the voting members shall be from the same political party. Beginning with the first appointment to the board made after the effective date of this Act,[4] at least one voting member shall have been less than thirty years of age at the time of appointment. ~~The secretary of agriculture or the secretary's designee shall be one of the voting members.~~ The governor shall appoint the ~~remaining ten~~ voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable of the various elements of the department's responsibilities.

b. 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:

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[2] See chapter 170, §19 herein

[3] Chapter 170, §19 herein

[4] The phrase "the effective date of this division of this Act" probably intended

(1) Finance, insurance, or 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.

c. At least nine members of the board shall be actively employed in the private, for-profit sector of the economy.

2. A vacancy on the board shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

3. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. However, the chairperson and the vice chairperson shall not be from the same political party. The board shall meet at the call of the chairperson or when any ~~six~~ eight members of the board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

4. Members of the board, the director, and other employees of the department shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes and the department is subject to the budget requirements of chapter 8. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

5. If a member of the board has an interest, either direct or indirect, in a contract to which the department is or is to be a party, the interest shall be disclosed to the board in writing and shall be set forth in the minutes of a meeting of the board. The member having the interest shall not participate in action by the board with respect to the contract. ~~This paragraph does not limit the right of a member of the board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the department are deposited or which is acting as trustee or paying agent under a trust indenture to which the department is a party.~~

6. As part of the organizational structure of the department, the board shall establish a due diligence committee and a loan and credit guarantee committee composed of members of the board. The committees shall serve in an advisory capacity to the board and shall carry out any duties assigned by the board in relation to programs administered by the department.

7. For the transitional period beginning July 1, 2005, and ending June 30, 2006, the composition of the voting members of the board shall be determined by the governor and shall be composed of members of the Iowa economic development board in existence on June 30, 2005, and members of the grow Iowa values board as it existed on June 15, 2004. During the transitional period stated in this subsection, the requirements of subsection 1, paragraphs "a" and "b", shall not apply. This subsection is repealed June 30, 2006.

Sec. 5. Section 15.104, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9. By January 15 of each year, submit a report to the general assembly and the governor that delineates expenditures made under each component of the grow Iowa values fund. In addition, the department shall provide in the report the following information regarding each business finance project and in the aggregate for projects funded during the previous fiscal year:

a. The number of net new jobs created as of the time of reporting. For purposes of this paragraph, "net new jobs" means the number of jobs that have been created pursuant to the new or retained positions identified in the contract.

b. The average wage of the jobs created as of the time of reporting.

c. The amount of capital investment invested as of the time of reporting.

d. The location.

e. The amount, if any, of private and local government moneys expended as of the time of reporting.

f. The amount of moneys expended on research and development activities that were not included in the jobs created and wages paid criteria.

g. The number of jobs retained as of the time of reporting.

NEW SUBSECTION. 10. By January 15 of each year, submit a report to the general assembly and the governor identifying the number of minority-owned businesses that received financial assistance from moneys appropriated from the grow Iowa values fund during the previous calendar year. The report shall provide an analysis as to the reasons why more minority-owned businesses have not applied for assistance and include recommendations regarding how to encourage the creation of more minority-owned businesses. This subsection is repealed June 30, 2007.

NEW SUBSECTION. 11. By January 15 of each year, submit a report to the general assembly and the governor identifying the number of woman-owned businesses that received financial assistance from moneys appropriated from the grow Iowa values fund during the previous calendar year. The report shall provide an analysis as to the reasons why more woman-owned businesses have not applied for assistance and include recommendations regarding how to encourage the creation of more woman-owned businesses. This subsection is repealed June 30, 2007.

Sec. 6. APPOINTMENTS DURING BIPARTISAN CONTROL. Appointments of general assembly members to the Iowa economic development board, which are to be made by the president of the senate or by the majority or minority leader of the senate during the period that the senate for the Eighty-first General Assembly is composed of an equal number of members of each major political party, shall be made jointly by the co-presidents or co-floor leaders, as appropriate, in accordance with Senate Resolution 1,[5] adopted during the 2005 legislative session.

DIVISION III
REGULATORY ASSISTANCE

Sec. 7. 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 administering 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 state agency's primary contact for regulatory affairs with the department of economic development.

b. Provide information regarding regulatory requirements to businesses and represent the state agency to the private sector.

c. Monitor permit applications and provide timely permit status information to the department of economic development.

d. 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.

[5] The text of this Resolution can be found on the Iowa general assembly's home page at www.legis.state.ia.us; click on Bill Book

DIVISION IV
ECONOMIC DEVELOPMENT REGIONS

Sec. 8. NEW SECTION. 15E.21 IOWA BUSINESS RESOURCE CENTERS.

The department shall establish an Iowa business resource center program for purposes of locating Iowa business resource centers in the state. The department shall partner with another entity wanting to assist with economic growth and establish an Iowa business resource center. Operational duties of a center shall focus on providing information and referrals to entrepreneurs and businesses. Operational duties of a center shall be determined pursuant to a memorandum of agreement between the department and the other entity.

Sec. 9. NEW SECTION. 15E.231 ECONOMIC DEVELOPMENT REGIONS.

1. In order for an economic development region to receive moneys from the grow Iowa values fund created in section 15G.108, an economic development region's regional development plan must be approved by the department. An economic development region shall consist of not less than three counties, unless two contiguous counties have a combined population of at least three hundred thousand based on the most recent federal decennial census. An economic development region shall establish a focused economic development effort that shall include a regional development plan relating to one or more of the following areas:

a. Regional marketing strategies.

b. Development of the information solutions sector.

c. Development of the advanced manufacturing sector.

d. Development of the life sciences and biotechnology sector.

e. Development of the insurance or financial services sector.

f. Physical infrastructure including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure.

g. Entrepreneurship.

2. An economic development region may create an economic development region revolving fund as provided in section 15E.232.

Sec. 10. NEW SECTION. 15E.232 ECONOMIC DEVELOPMENT REGION REVOLVING FUNDS — TAX CREDITS.

1. An economic development region may create an economic development region revolving fund.

2. a. A nongovernmental entity making a contribution to an economic development region revolving fund, except those described in paragraph "b", may claim a tax credit equal to twenty percent of the amount contributed to the revolving fund. The tax credit shall be allowed against 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. An individual may claim under this subsection the tax credit 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. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following ten 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. A tax credit under this section is not transferable.

b. Subject to the provisions of paragraph "c", an organization exempt from federal income tax pursuant to section 501(c) of the Internal Revenue Code making a contribution to an economic development region revolving fund, shall be paid from the general fund of the state an amount equal to twenty percent of such contributed amount within thirty days after the end of the fiscal year during which the contribution was made.

c. The total amount of tax credits and payments to contributors, referred to as the credit amount, authorized during a fiscal year shall not exceed two million dollars plus any unused

credit amount carried over from previous years. Any credit amount which remains unused for a fiscal year may be carried forward to the succeeding fiscal year. The maximum credit amount that may be authorized in a fiscal year for contributions made to a specific economic development region revolving fund is equal to two million dollars plus any unused credit amount carried over from previous years divided by the number of economic development region revolving funds existing in the state.

d. The department of economic development shall administer the authorization of tax credits under this section and payments to contributors described in paragraph "b" and shall, in cooperation with the department of revenue, adopt rules pursuant to chapter 17A necessary for the administration of this section.

3. An economic development region may apply for financial assistance from the grow Iowa values fund to assist with the installation of physical infrastructure needs including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure, related to the development of fully served business and industrial sites by one or more of the region's economic development partners or for the installation of infrastructure related to a new business location or expansion. In order to receive financial assistance pursuant to this subsection, the economic development region must demonstrate all of the following:

a. The ability to provide matching moneys on a basis of a one dollar contribution of local matching moneys for every two dollars received from the grow Iowa values fund.

b. The commitment of the specific business partner including, but not limited to, a letter of intent defining a capital commitment or a percentage of equity.

c. That all other funding alternatives have been exhausted.

4. The department may establish and administer a regional economic development revenue sharing pilot project for one or more regions. The department shall take into consideration the geographical dispersion of the pilot projects. The department shall provide technical assistance to the regions participating in a pilot project.

5. An economic development region may apply for financial assistance from the grow Iowa values fund to assist an existing business threatened with closure due to a potential consolidation to an out-of-state location. The economic development region may apply for financial assistance from the grow Iowa values fund for the purchase, rehabilitation, or marketing of a building that has become available due to the closing of an existing business due to a consolidation to an out-of-state location. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from the grow Iowa values fund.

6. An economic development region may apply for financial assistance from the grow Iowa values fund to establish and operate an entrepreneurial initiative. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every two dollars received from the grow Iowa values fund.

7. a. An economic development region may apply for financial assistance from the grow Iowa values fund to establish and operate a business succession assistance program for the region.

b. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every two dollars received from the grow Iowa values fund.

8. An economic development region may apply for financial assistance from the grow Iowa values fund to implement economic development initiatives that are either unique to the region or innovative in design and implementation. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a one-to-one basis.

9. Financial assistance under subsections 3, 5, 6, 7, and 8, and section 15E.233 shall be limited to a total of one million dollars each fiscal year for the fiscal period beginning July 1, 2005,

and ending June 30, 2015, and shall not be provided to assist in the establishment, operation, or installation of a project, initiative, or activity that may result in the provision, lease, or sale of goods or services by a government body that competes with private enterprise.

Sec. 11. NEW SECTION. 15E.233 ECONOMIC ENTERPRISE AREAS.

1. An economic development region may apply to the department for approval to be designated as an economic enterprise area based on criteria provided in subsection 3. The department shall approve no more than ten regions as economic enterprise areas.

2. a. An approved economic enterprise area may apply to the department for financial assistance from the grow Iowa values fund for up to seventy-five thousand dollars each fiscal year during the fiscal period beginning July 1, 2005, and ending June 30, 2015, for any of the following purposes:

(1) Economic development-related strategic planning and marketing for the region as a whole.

(2) Economic development of fully-served business sites.

(3) The construction of speculative buildings on a fully served lot.

(4) The rehabilitation of an existing building to marketable standards.

b. In order to receive financial assistance under this subsection, an economic enterprise area must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from the grow Iowa values fund.

3. An economic enterprise area shall consist of at least one county containing no city with a population of more than twenty-three thousand five hundred and shall meet at least three of the following criteria:

a. A per capita income of eighty percent or less than the national average.

b. A household median income of eighty percent or less than the national average.

c. Twenty-five percent or more of the population of the economic enterprise area with an income level of one hundred fifty percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

d. A population density in the economic enterprise area of less than ten people per square mile.

e. A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

f. An unemployment rate greater than the national rate of unemployment.

g. More than twenty percent of the population of the economic enterprise area consisting of people over the age of sixty-five.

Sec. 12. NEW SECTION. 15E.351 BUSINESS ACCELERATORS.

1. The department shall establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program shall be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance. The department shall use moneys appropriated to the department from the grow Iowa values fund pursuant to section 15G.111, subsection 1, if enacted,[6] subject to the approval of the economic development board, to provide financial assistance under this section.

2. In determining whether a business accelerator qualifies for financial assistance, the department must find that a business accelerator meets all of the following criteria:

a. The business accelerator must be a not-for-profit organization affiliated with an area chamber of commerce, a community or county organization, or economic development region.

b. The geographic area served by a business accelerator must include more than one county.

[6] See chapter 170, §19 herein

c. The business accelerator must possess the ability to provide service to a specific type of business as well as to meet the broad-based needs of other types of start-up entrepreneurs.

d. The business accelerator must possess the ability to market business accelerator services in the region and the state.

e. The business accelerator must possess the ability to communicate with and cooperate with other business accelerators and similar service providers in the state.

f. The business accelerator must possess the ability to engage various funding sources for start-up entrepreneurs.

g. The business accelerator must possess the ability to communicate with and cooperate with various entities for purposes of locating suitable facilities for clients of the business accelerator.

h. The business accelerator must possess the willingness to accept referrals from the department of economic development.

3. In determining whether a business accelerator qualifies for financial assistance, the department may consider any of the following:

a. The business experience of the business accelerator's professional staff.

b. The business plan review capacity of the business accelerator's professional staff.

c. The business accelerator's professional staff with demonstrated disciplines in all aspects of business experience.

d. The business accelerator's professional staff with access to external service providers including legal, accounting, marketing, and financial services.

4. In order to receive financial assistance under this section, the financial assistance recipient must demonstrate the ability to provide matching moneys on a basis of a two dollar contribution of recipient moneys for every one dollar received in financial assistance.

Sec. 13. NEW SECTION. 422.11K ECONOMIC DEVELOPMENT REGION REVOLVING FUND TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 14. Section 422.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 17. The taxes imposed under this division shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 15. Section 422.60, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The taxes imposed under this division shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 16. NEW SECTION. 432.12F ECONOMIC DEVELOPMENT REGION REVOLVING FUND CONTRIBUTION TAX CREDITS.

The tax imposed under this chapter shall be reduced by an economic development region tax credit authorized pursuant to section 15E.232.

Sec. 17. Section 533.24, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The moneys and credits tax imposed under this section shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 18. BUSINESS SUCCESSION — SMALL BUSINESS DEVELOPMENT CENTERS. As the loss of a community's small businesses is a major concern for communities around the state, small business development centers shall design a plan which includes all of the following:

1. The pursuit of public and private partnerships with family business consultants, experts in the area of employee stock ownership plans, attorneys, certified public accountants, the department of economic development, and other service providers to assist communities with issues related to business succession.

2. The development of a comprehensive internet website with resources related to business succession including a listing of family business consultants and service providers by area of expertise, appropriate articles, links to related resources, and a listing of businesses for sale. The internet website should also be designed to promote the state and to encourage former Iowa residents and others to locate in Iowa.

3. Basic training on business succession issues for all small business development center directors and staff counselors.

4. Courses on business succession issues available in person in communities and on the internet.

5. Small business development centers in the state shall develop and administer programs to assist small businesses to plan for the transfer of ownership of the business, including the transfer of all or a part of the ownership of a business to an employee stock ownership plan.

DIVISION V
CULTURAL AND ENTERTAINMENT DISTRICTS

Sec. 19. 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 is encouraged to include a unique form of transportation within the district and for transportation between the district and recreational trails. 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.

DIVISION VI
HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

Sec. 20. Section 404A.1, subsection 1, Code 2005, is amended to read as follows:

1. A ~~property rehabilitation~~ historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, is granted against the tax imposed under chapter 422, division II, III, or V, or chapter 432, for the rehabilitation of eligible property located in this state as provided in this chapter. Tax credits in excess of tax liabilities shall be refunded as provided in section 404A.4, subsection 3.

Sec. 21. Section 404A.1, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Eligible property for which a taxpayer may receive the ~~property rehabilitation~~ historic preservation and cultural and entertainment district tax credit computed under this chapter includes all of the following:

Sec. 22. Section 404A.3, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The selection standards shall provide that a person who qualifies for the rehabilitation tax credit under section 47 of the Internal Revenue Code shall automatically qualify for the state ~~property rehabilitation~~ historic preservation and cultural and entertainment district tax credit under this chapter.

Sec. 23. Section 404A.4, subsection 2, Code 2005, 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~~ historic preservation and cultural and entertainment district 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, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

Sec. 24. Section 404A.4, subsection 3, Code 2005, is amended to read as follows:

3. A person receiving a ~~property rehabilitation~~ historic preservation and cultural and entertainment district tax credit under this chapter which is in excess of the person's tax liability for the tax year is entitled to a refund of the excess at a discounted value. The discounted value of the tax credit refund, as calculated by the department of economic development, in consultation with the department of revenue, shall be determined based on the discounted value of the tax credit five years after the tax year of the project completion at an interest rate equivalent to the prime rate plus two percent. The refunded tax credit shall not exceed seventy-five percent of the allowable tax credit.

Sec. 25. Section 404A.4, subsection 4, Code 2005, 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~~ period beginning July 1, 2005, ~~and July 1, 2006~~ and ending June 30, 2015, an additional ~~five hundred thousand~~ four million 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. 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~~ shall be applied to reserved tax credits issued in accordance with section 404A.3 in order of original reservation. The department of cultural affairs shall establish by rule the procedures for the application, review, selection, and awarding of certifications of completion. The departments of economic development, cultural affairs, and revenue 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 available. With the exception of tax credits issued pursuant to contracts entered into prior to July 1, 2005, tax credits shall not be reserved for more than five years.

Sec. 26. Section 404A.5, Code 2005, is amended to read as follows:

404A.5 ECONOMIC IMPACT — RECOMMENDATIONS.

The department of cultural affairs, in consultation with the department of economic development, shall be responsible for keeping the general assembly and the legislative services agency informed on the overall economic impact to the state of the rehabilitation of eligible properties. An annual report shall be filed which shall include, but is not limited to, data on the number and potential value of rehabilitation projects begun during the latest twelve-month period, the total ~~property rehabilitation~~ historic preservation and cultural and entertainment district tax credits originally granted during that period, the potential reduction in state tax revenues as a result of all tax credits still unused and eligible for refund, and the potential

increase in local property tax revenues as a result of the rehabilitated projects. The department, to the extent it is able, shall provide recommendations on whether a limit on tax credits should be established, the need for a broader or more restrictive definition of eligible property, and other adjustments to the tax credits under this chapter.

DIVISION VII
COMMERCIALIZATION

Sec. 27. NEW SECTION. 15.115 TECHNOLOGY COMMERCIALIZATION SPECIALIST.

The department shall ensure that businesses in the state are well informed about the technology patents, licenses, and options available to them from colleges and universities in the state and to ensure the department's business development and marketing efforts are conducted in a way that maximizes the advantage to the state of research and technology commercialization efforts at colleges and universities in the state. The department shall establish a technology commercialization specialist position which shall be responsible for the obligations imposed by this section and for performance of all of the following activities:

1. Establishing and maintaining communication with personnel in charge of intellectual property management and technology at colleges and universities in the state.
2. Meeting at least quarterly with personnel in charge of intellectual property management and technology commercialization regarding new technology disclosures and technology patents, licenses, or options available to Iowa businesses at colleges and universities in the state.
3. Being knowledgeable regarding intellectual property, patent, license, and option policies of colleges and universities in the state as well as applicable federal law.
4. Establishing and maintaining an internet website to link other internet websites which provide electronic access to information regarding available patents, licenses, or options for technology at colleges and universities in the state.
5. Establishing and maintaining communications with business and development organizations in the state regarding available technology patents, licenses, and options.
6. Cooperating with colleges and universities in the state in establishing technology fairs or other public events designed to make businesses in the state aware of available technology patents, licenses, or options available to businesses in the state.

Sec. 28. NEW SECTION. 15.115A TECHNOLOGY COMMERCIALIZATION COMMITTEE.

To evaluate and approve funding for projects and programs under section 15G.111, subsection 2, if enacted,[7] the economic development board shall create a technology commercialization committee composed of members with expertise in the areas of biosciences, engineering, manufacturing, pharmaceuticals, materials, information solutions, software, and energy. At least one member of the technology commercialization committee shall be a member of the economic development board. An organization designated by the department, composed of members from both the public and private sectors and composed of subunits or subcommittees in the areas of already identified bioscience platforms, education and workforce development, commercialization, communication, policy and governance, and finance, shall provide funding recommendations to the technology commercialization committee.

Sec. 29. NEW SECTION. 15.116 CHIEF TECHNOLOGY OFFICER.

The governor shall appoint a chief technology officer for the state. The chief technology officer shall serve a four-year term and shall have national or international stature. The chief technology officer shall coordinate the activities of the technology commercialization specialist employed pursuant to section 15.115. The chief technology officer shall serve as a spokesperson for the department for purposes of promoting to private sector businesses the technology commercialization efforts of the department and the research and technology capabilities of institutions of higher learning in the state.

[7] See chapter 170, §19 herein

Sec. 30. Section 262B.1, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

262B.1 TITLE.

This chapter shall be known and may be cited as the "Commercialization of Research for Iowa Act".

Sec. 31. Section 262B.2, Code 2005, 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 missions 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, but not exclusively, in the area of high technology, and may result in investments by the private sector for commercialization of the technology and job creation. It is imperative that whenever possible, the investments and job creation be in Iowa but need not be in the proximity of the universities. The purpose of the investments and job creation shall be 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. Accredited private universities located in the state are encouraged to incorporate the intent of this section into the mission of their universities.

Sec. 32. Section 262B.3, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

262B.3 DUTIES AND RESPONSIBILITIES.

1. The state board of regents, as part of its mission and strategic plan, shall establish mechanisms for the purpose of carrying out the intent of this chapter. 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. The state board of regents, in cooperation with the department of economic development, shall implement this chapter through any of the following activities:

a. Developing strategies to market and disseminate information on university research for commercialization in Iowa.

b. Evaluating university research for commercialization potential, where relevant.

c. 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.

d. Identifying research and technical assistance needs of existing Iowa businesses and start-up companies and recommending ways in which the universities can meet these needs.

e. Linking research and instruction activities to economic development.

f. Reviewing and monitoring activities related to technology transfer.

g. Coordinating activities to facilitate a focus on research in the state's targeted industry clusters.

h. Surveying similar activities in other states and at other universities.

i. Establishing a single point of contact to facilitate commercialization of research.

j. Sustaining faculty and staff resources needed to implement commercialization.

k. Implementing programs to provide public recognition of university faculty and staff who demonstrate success in technology transfer and commercialization.

l. Implementing rural entrepreneurial and regional development assistance programs.

m. Providing market research ranging from early stage feasibility to extensive market research.

n. Creating real or virtual research parks that may or may not be located near universities, but with the goal of providing economic stimulus to the entire state.

o. Capacity building in key biosciences platform areas.

p. Encouraging biosciences entrepreneurship by faculty.

q. Providing matching grants for joint biosciences projects involving public and private entities.

r. Encouraging biosciences entrepreneurship by faculty using faculty research and entrepreneurship grants.

s. Pursuing bioeconomy initiatives in key platform areas as recommended by a consultant report on bioeconomy issues contracted for by the department of economic development.

3. Each January 15, the state board of regents shall submit a written report to the general assembly detailing the patents and licenses held by each institution of higher learning under the control of the state board of regents and by nonprofit foundations acting solely for the support of institutions governed by the state board of regents.

Sec. 33. Sections 262B.4, 262B.5, and 262B.12, Code 2005, are repealed.

Sec. 34. STUDIES.

1. The state board of regents shall conduct a study to determine the feasibility of establishing a graduate school in western Iowa in cooperation with other public or private institutions of higher learning. By December 15, 2005, the board shall submit a report to the general assembly and the governor regarding the findings and recommendations of the study.

2. The state board of regents shall conduct a study relating to cost-effective methods of recognizing the efforts of faculty to achieve commercialization. By December 15, 2005, the board shall submit a report to the general assembly and the governor regarding the findings and recommendations of the study.

DIVISION VIII
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

Sec. 35. Section 260C.18A, subsection 2, paragraph b, Code 2005, is amended to read as follows:

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. However, projects funded by moneys provided by a local workforce training and economic development fund of a community college are not subject to the maximum advance or award limitations contained in section 260F.6, subsection 2, or the allocation limitations contained in section 260F.8, subsection 1.

Sec. 36. Section 260C.18A, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Training and retraining programs for targeted industries as authorized in section 15.343, subsection 2, paragraph "a".

Sec. 37. Section 260C.18A, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 38. OPERATIONAL EXPENSES. Moneys that are appropriated to the department of economic development pursuant to section 15G.111, if enacted,[8] for deposit in workforce training and economic development funds of community colleges may be used by community colleges for operational expenses associated with vocational technical training.

DIVISION IX
LOAN AND CREDIT GUARANTEE PROGRAM

Sec. 39. Section 15E.224, subsections 1, 5, and 7, Code 2005, are amended to read as follows:

1. The department shall establish and administer a loan and credit guarantee program. The department, pursuant to agreements with financial institutions, shall provide loan and credit

[8] See chapter 170, §19 herein

guarantees, or other forms of credit guarantees for qualified businesses and targeted industry businesses for eligible project costs. The department may invest up to ten percent of the assets of the loan and credit guarantee fund, or five hundred thousand dollars, whichever is greater, to provide loan and credit guarantees or other forms of credit guarantees for eligible project costs to microenterprises located in a municipality with a population under fifty thousand that is not contiguous to a municipality with a population of fifty thousand or more. For purposes of this division, "microenterprise" means a business providing services with five or fewer full-time equivalent employee positions. 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.

5. The department shall adopt a loan or credit guarantee application procedure for a financial institution on behalf of a qualified business, microenterprise, or targeted industry business.

7. The department may adopt loan and credit guarantee application procedures that allow a qualified business, microenterprise, 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, microenterprise, 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. 40. Section 15E.225, subsection 3, Code 2005, is amended to read as follows:

3. For a preliminary guarantee commitment, the department may charge a qualified business, microenterprise, 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.

DIVISION X
ECONOMIC DEVELOPMENT TAX INCENTIVES

Sec. 41. Section 15.113, Code 2005, is amended to read as follows:

15.113 ECONOMIC DEVELOPMENT ASSISTANCE — REPORT.

In order for the general assembly to have accurate and complete information regarding expenditures for economic development and job training incentives and to respond to the job training needs of Iowa workers, the department shall provide to the legislative services agency by January 15 of each year data on all assistance or benefits provided under the community economic betterment program, the ~~new jobs and income program,~~ high quality job creation program, and the Iowa industrial new jobs training Act during the previous calendar year. The department shall meet with the legislative services agency prior to submitting the data to assure that its form and specificity are sufficient to provide accurate and complete information to the general assembly. The department shall also contact other state agencies providing financial assistance to Iowa businesses and, to the extent practical, coordinate the submission of the data to the legislative services agency.

Sec. 42. Section 15.326, Code 2005, is amended to read as follows:

15.326 SHORT TITLE.

This part shall be known and may be cited as the ~~"New Jobs and Income~~ "High Quality Job Creation Act".

Sec. 43. Section 15.327, Code 2005, is amended to read as follows:

15.327 DEFINITIONS.

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

1. "Community" means a city, county, or entity established pursuant to chapter 28E.

2. "Contractor or subcontractor" means a person who contracts with the eligible business ~~or a supporting business~~ or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility~~, located within the economic development area,~~ of the eligible business ~~or a supporting business~~.

3. "Department" means the Iowa department of economic development.

~~4. "Director" means the director of the department or the director's designee.~~

~~5. "Economic development area" means a site or sites designated by the department of economic development for the purpose of attracting an eligible business and supporting businesses to locate facilities within the state.~~

~~6.~~ 4. "Eligible business" means a business meeting the conditions of section 15.329.

~~7.~~ 5. "Program" means the ~~new jobs and income~~ high quality job creation program.

~~8.~~ 6. "Project completion" means the first date upon which the average annualized production of finished product for the preceding ninety-day period at the manufacturing facility operated by the eligible business ~~within the economic development area~~ is at least fifty percent of the initial design capacity of the facility. The eligible business shall inform the department of revenue in writing within two weeks of project completion.

~~9. "Supporting business" means a business under contract with the eligible business to provide property, materials, or services which are a necessary component of the operation of the manufacturing facility. To qualify as a supporting business, the business shall have a permanent facility or operations located within the economic development area and the revenue from fulfilling the contract with the eligible business shall constitute at least seventy-five percent of the revenue generated by the business from all activities undertaken from the facility within the economic development area.~~

7. "Qualifying investment" means a capital investment in real property including the purchase price of land and existing buildings and structures, site preparation, improvements to the real property, building construction, and long-term lease costs. "Qualifying investment" also means a capital investment in depreciable assets.

Sec. 44. Section 15.329, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.329 ELIGIBLE BUSINESS.

1. To be eligible to receive incentives under this part, a business shall meet all of the following requirements:

a. If the qualifying investment is ten million dollars or more, the community has approved by ordinance or resolution the start-up, location, or expansion of the business for the purpose of receiving the benefits of this part.

b. The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This subsection does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

c. The business is not a retail or service business.

2. In addition to the requirements of subsection 1, a business shall do at least four of the following in order to be eligible for incentives under the program:

a. Offer a pension or profit sharing plan to full-time employees.

b. Produce or manufacture high value-added goods or services or be engaged in one of the following industries:

(1) Value-added agricultural products.

(2) Insurance and financial services.

(3) Plastics.

(4) Metals.
(5) Printing paper or packaging products.
(6) Drugs and pharmaceuticals.
(7) Software development.
(8) Instruments and measuring devices and medical instruments.
(9) Recycling and waste management.
(10) Telecommunications.
(11) Trucking and warehousing.

Retail and service businesses shall not be eligible for benefits under this part.

c. Provide and pay at least eighty percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new investment occurred.

d. Make child care services available to its employees.

e. Invest annually no less than one percent of pretax profits, from the facility located to Iowa or expanded under the program, in research and development in Iowa.

f. Invest annually no less than one percent of pretax profits, from the facility located to Iowa or expanded under the program, in worker training and skills enhancement.

g. Have an active productivity and safety improvement program involving management and worker participation and cooperation with benchmarks for gauging compliance.

h. Occupy an existing facility, at least one of the buildings of which shall be vacant and shall contain at least twenty thousand square feet.

3. Any business located in a quality jobs enterprise zone is ineligible to receive the economic development incentives under the program.

4. If the department finds that a business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the business shall not qualify for economic development assistance under this part, unless the department finds that the violations did not seriously affect public health or safety, or the environment, or if it did, that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether the business is disqualified for economic development assistance under this part, the department shall be exempt from chapter 17A.

5. The department shall also consider a variety of factors, including but not limited to the following in determining the eligibility of a business to participate in the program:

a. The quality of the jobs to be created. In rating the quality of the jobs, the department shall place greater emphasis on those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, provide comprehensive health benefits, or have other related factors which could be considered to be higher in quality, than to other jobs. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.

b. The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

c. The impact to the state of the proposed project. In measuring the economic impact, the department shall place greater emphasis on projects which have greater consistency with the state strategic plan than other projects. Greater consistency may include any or all of the following:

(1) A business with a greater percentage of sales out-of-state or of import substitution.
(2) A business with a higher proportion of in-state suppliers.

(3) A project which would provide greater diversification of the state economy.
(4) A business with fewer in-state competitors.
(5) A potential for future job growth.
(6) A project which is not a retail operation.

d. If a business has, within three years of application for assistance, acquired or merged with an Iowa corporation or company and the business has made a good faith effort to hire the workers of the acquired or merged company.

e. Whether a business provides for a preference for hiring residents of the state, except for out-of-state employees offered a transfer to Iowa.

f. Whether all known required environmental permits have been issued and regulations met before moneys are released.

6. The department may waive any of the requirements of this section for good cause shown.

7. An application to receive incentives under this part may be submitted to the department at any time within one year from the time the job for which benefits are sought commences.

Sec. 45. Section 15.330, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.330 AGREEMENT.

A business shall enter into an agreement with the department specifying the requirements that must be met to confirm eligibility pursuant to this part. 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 department the compliance of the business with the requirements of the agreement. If the business receives a local property tax exemption, the business shall also certify annually to the community the compliance of the business with the requirements of the agreement.

2. The repayment of incentives by the business if the business does not meet 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.

4. A business creating fifteen or fewer new high quality jobs shall have up to three years to complete a project and shall be required to maintain the jobs for an additional two years. A business creating sixteen or more new high quality jobs shall have up to five years to complete a project and shall be required to maintain the jobs for an additional two years.

Sec. 46. Section 15.331A, Code 2005, is amended to read as follows:

15.331A SALES 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 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. However, an eligible business shall be entitled to a refund for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center subject to section 15.331C.

To receive the refund a claim shall be filed by the eligible business ~~or a supporting business~~ with the department of revenue as follows:

1. 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 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 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 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. 47. Section 15.331C, Code 2005, is amended to read as follows:

15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPER.

1. An eligible business ~~or a supporting business~~ may claim a corporate tax credit in an amount equal to the taxes paid by a third-party developer under chapters 422 and 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 supporting business~~. Taxes attributable to intangible property and furniture and furnishings shall not be included, but taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall be included. Any 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 earlier. An eligible business may elect to receive a refund of all or a portion of an unused tax credit.

2. A third-party developer shall state under oath, on forms provided by the department of economic development, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. After receiving the form from the third-party developer, the department shall issue a tax credit certificate to the eligible business ~~or supporting business~~ equal to the taxes paid by a third-party developer under chapters 422 and 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. The department shall also issue a tax credit certificate to the eligible business ~~or supporting business~~ equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall not exceed five hundred thousand dollars in a fiscal year. If an applicant for a tax credit certificate does not receive a certificate for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center, the application shall be considered in succeeding fiscal years. The eligible business ~~or supporting~~

~~business~~ 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. A tax credit certificate shall contain the eligible business's ~~or supporting business's~~ name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

Sec. 48. Section 15.333, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.333 INVESTMENT TAX CREDIT.

1. 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 amortized equally over five calendar years. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24. 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 determined as provided in section 15.335A. 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, 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, and against the moneys and credits tax imposed in section 533.24. 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.

2. 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. "New investment directly related to new jobs created by the location or expansion of an eligible business under the program" also means the annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. 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 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:

a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

3. a. 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.

b. A tax credit certificate issued under this subsection 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. The department of economic development shall not issue tax credit certificates under this subsection 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 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. 49. Section 15.333A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.333A INSURANCE PREMIUM TAX CREDITS.

1. 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 amortized equally over a five-year period. 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 determined as provided in section 15.335A.

2. For purposes of this section, "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. "New investment directly related to new jobs created by the location or expansion of an eligible business under the program" also means the annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. 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 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:

a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Sec. 50. NEW SECTION. 15.335A TAX INCENTIVES.

1. Tax incentives are available to eligible businesses as provided in this section. The incentives are based upon the number of new high quality jobs created and the amount of the qualifying investment made according to the following schedule:

a. The number of new high quality jobs created with an annual wage, including benefits, equal to or greater than one hundred thirty percent of the average county wage is one of the following:

(1) The number of jobs is zero and economic activity is furthered by the qualifying investment and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to one percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to one percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to one percent, the sales tax refund, and the additional research and development tax credit.

(2) The number of jobs is one but not more than five and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to two percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to two percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to two percent, the sales tax refund, and the additional research and development tax credit.

(3) The number of jobs is six but not more than ten and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to three percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to three percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to three percent, the sales tax refund, and the additional research and development tax credit.

(4) The number of jobs is eleven but not more than fifteen and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to four percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to four percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to four percent, the sales tax refund, and the additional research and development tax credit.

(5) The number of jobs is sixteen or more and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to five percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to five percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to five percent, the sales tax refund, and the additional research and development tax credit.

b. In lieu of paragraph "a", the number of new high quality jobs created with an annual wage, including benefits, equal to or greater than one hundred sixty percent of the average county wage is one of the following:

(1) The number of jobs is twenty-one but not more than thirty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to six percent, the sales tax refund, and the additional research and development tax credit.

(2) The number of jobs is thirty-one but not more than forty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to seven percent, the sales tax refund, and the additional research and development tax credit.

(3) The number of jobs is forty-one but not more than fifty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to eight percent, the sales tax refund, and the additional research and development tax credit.

(4) The number of jobs is fifty-one but not more than sixty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to nine percent, the sales tax refund, and the additional research and development tax credit.

(5) The number of jobs is at least sixty-one and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to ten percent, the sales tax refund, and the additional research and development tax credit.

2. For purposes of this section:

a. "Additional research and development tax credit" means the research activities credit as provided under section 15.335.

b. "Average county wage" means the same as defined in section 15H.1.

c. "Benefits" means the same as defined in section 15H.1.

d. "Investment tax credit" means the investment tax credit or the insurance premium tax credit as provided under section 15.333 or 15.333A, respectively.

e. "Local property tax exemption" means the property tax exemption as provided under section 15.332.

f. "Sales tax refund" means the sales and use tax refund as provided under section 15.331A or the corporate tax credit for certain sales taxes paid by third-party developers as provided under section 15.331C.

3. A community may apply to the Iowa economic development board for a project-specific waiver from the average county wage calculations provided in subsection 1 in order for an eligible business to receive tax incentives. The board may grant a project-specific waiver from the average county wage calculations in subsection 1 for the remainder of the calendar year, based on average county or regional wage calculations brought forth by the applicant county including, but not limited to, any of the following:

a. The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

b. The average regional wage calculated without wage data from up to two adjacent counties.

c. The average county wage calculated without wage data from the largest city in the county.

d. A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

e. The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.

f. The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

4. Average wage calculations made under this section shall be calculated quarterly using wage data submitted to the department of workforce development during the previous four quarters.

5. Each calendar year, the department shall not approve more than three million six hundred thousand dollars worth of investment tax credits for projects with qualifying investments of less than one million dollars.

6. The department shall negotiate the amount of tax incentives provided to an applicant under the program in accordance with this section.

Sec. 51. Section 15.336, Code 2005, is amended to read as follows:

15.336 OTHER INCENTIVES.

An eligible business may receive other applicable federal, state, and local incentives and 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 from the community economic development account under the community economic betterment program~~ wage-benefits tax credits under chapter 15H.

Sec. 52. Section 15E.196, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. New jobs credit from withholding, as provided in section ~~15.331~~ 15E.197.

Sec. 53. Section 15E.196, subsections 3 and 6, Code 2005, are amended to read as follows:

3. Investment tax credit of up to ten percent, as provided in section 15.333.

6. Insurance premium tax credit of up to ten percent, as provided in section 15.333A.

Sec. 54. NEW SECTION. 15E.197 NEW JOBS CREDIT FROM WITHHOLDING.

An eligible business may enter into an agreement with the department of revenue and a community college for a supplemental new jobs credit from withholding from jobs created under the program. The agreement shall be for program services for an additional job training project, as defined in chapter 260E. The agreement shall provide for the following:

1. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the eligible business pursuant to section 422.16 is authorized to fund the program services for the additional project.

2. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.

3. That the auditor of state shall perform an annual audit regarding how the training funds are being used.

To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including but not limited to providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this section is in addition to, and not in lieu of, the program and credit authorized in chapter 260E.

4. For purposes of this section, "eligible business" means a business which has been approved to receive incentives and assistance by the department of economic development pursuant to application as provided in section 15E.195.

Sec. 55. NEW SECTION. 15H.1 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Average county wage" means the annualized, average hourly wage based on wage information compiled by the department of workforce development.

2. "Benefits" means all of the following:

a. Medical and dental insurance plans.

b. Pension and profit sharing plans.

c. Child care services.

d. Life insurance coverage.

e. Other benefits identified by rule of the department.

3. "Department" means the department of revenue.

4. a. "Qualified new job" means a job that meets all of the following:

(1) Is a new full-time job that has not existed in the business within the previous twelve months in the state.

(2) Is filled by a new employee for at least twelve months.

(3) Is filled by a resident of the state.

(4) Is not created as a result of a change in ownership.

b. "Qualified new job" does not include any of the following:

(1) A job previously filled by the same employee in the state.

(2) A job that was relocated from another location in the state.

(3) A job that is created as a result of a consolidation, merger, or restructuring of a business entity if the job does not represent a new job in the state.

5. "Retained qualified new job" means the continued employment for another twelve months of the same employee in a qualified new job.

Sec. 56. NEW SECTION. 15H.2 WAGE-BENEFITS TAX CREDIT.

1. a. Any nonretail, nonservice business may claim a tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in the state. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and chapter 432 and against the moneys and credits tax imposed in section 533.24. The percentage shall be equal to the amount provided in subsection 2.

Any credit in excess of the tax liability shall be refunded. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

b. If the business is a partnership, S corporation, limited liability company, 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, or estate or trust.

2. The percentage of the annual wages and benefits paid for a qualified new job is determined as follows:

a. If the annual wage and benefits for the qualified new job equals less than one hundred thirty percent of the average county wage, zero percent.

b. If the annual wage and benefits for the qualified new job equals at least one hundred thirty percent but less than one hundred sixty percent of the average county wage, five percent.

c. If the annual wage and benefits for the qualified new job equals at least one hundred sixty percent of the average county wage, ten percent.

3. A qualified new job is entitled to the tax credit upon the end of the twelfth month of the job having been filled. Once a qualified new job is approved for a tax credit, tax credits for the next four subsequent tax years may be approved if the job continues to be filled and application is made as provided in section 15H.3. The percentage determined under subsection 2 for the first tax year shall continue to apply to subsequent tax credits as the credits relate to that qualified new job.

Sec. 57. NEW SECTION. 15H.3 TAX CREDIT CERTIFICATION — CREDIT LIMITATION.

1. In order for a wage-benefit tax credit to be claimed, the business shall submit an application to the department along with information on the qualified new job or retained qualified new job and any other information required. Applications for approval of the tax credit shall be on forms approved by the department. Within forty-five days of receipt of the application, the department shall either approve or disapprove the application. After the forty-five-day limit, the application is deemed approved.

2. Upon approval of the tax credit and subject to subsection 4, a tax credit certificate shall be issued by the department. A tax credit certificate shall identify the business claiming the tax credit under this chapter and the wage and benefit costs incurred during the previous twelve months.

3. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of the qualified new job, the amount of credit, and other information required by the department.

4. The total amount of tax credit certificates that may be issued for a fiscal year under this chapter shall not exceed ten million dollars. The department shall establish by rule the procedures for the application, review, selection, awarding of certificates, and the method to be used to determine for which fiscal year the tax credits are available. If the approved tax credits exceed the maximum amount for a fiscal year, tax credit certificates shall be issued on an earliest date applied basis.

5. a. A nonretail, nonservice business that has created a qualified new job for which a tax credit certificate under this chapter is issued is eligible to receive a tax credit certificate for each of the four subsequent tax years if the business retains the qualified new job during each of the twelve months ending in each of the tax years by applying for the credit under this section. Preference in issuing these tax credit certificates shall be given to businesses applying for the credit for retained qualified new jobs.

b. A nonretail, nonservice business that created a qualified new job but failed to receive all or part of the tax credit because of the limitation in subsection 4 is eligible to reapply for the tax credit for the retained qualified new job.

6. a. A business whose application has been disapproved by the department may appeal the decision to the Iowa economic development board within thirty days of notice of disapproval. If the board subsequently approves the application, the business shall receive the tax credit certificates subject to the availability of the amount of credits that may be issued as provided in subsection 4.

b. A nonretail, nonservice business may apply to the Iowa economic development board for a waiver of any provision of this chapter as it relates to the requirements for qualifying for the wage-benefits tax credit. The Iowa economic development board shall establish by rule the conditions under which a waiver of such requirements will be granted. A waiver from average county wage calculations shall be applied for and considered by the board according to the procedures provided in section 15.335A.

Sec. 58. NEW SECTION. 15H.4 MONITORING OF JOB CREATION.

The department shall develop definitions for the terms "job creation" and "job retention" to measure and identify the number of permanent, full-time positions which businesses actually create and retain and which can be documented by comparison of the payroll reports during the twenty-four-month period before and after tax credits are earned.

Sec. 59. NEW SECTION. 15H.5 OTHER INCENTIVES.

A nonretail, nonservice business may receive other applicable federal, state, and local incentives and tax credits in addition to those provided in this chapter. However, a business which has received a tax credit under this chapter shall not receive tax incentives under the high quality job creation program in chapter 15, subchapter II, part 13 or moneys from the grow Iowa values fund.

Sec. 60. NEW SECTION. 422.11L WAGE-BENEFITS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 61. Section 422.16A, Code 2005, is amended to read as follows:

422.16A JOB TRAINING WITHHOLDING — CERTIFICATION AND TRANSFER.

Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section ~~15.331~~ 15E.197, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. The department of economic development shall notify the department of revenue of that amount. The department shall credit to the workforce development fund account established in section 15.342A twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is four million dollars.

Sec. 62. Section 422.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 18. The taxes imposed under this division shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 63. Section 422.60, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The taxes imposed under this division shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 64. Section 427B.17, subsection 5, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Any electric power generating plant which operated during the preceding assessment year at a net capacity factor of more than twenty percent, shall not receive the benefits of this section or of ~~sections~~ section 15.332 ~~and 15.334~~. For purposes of this section, "electric power generating plant" means any nameplate rated electric power generating plant, in which electric

energy is produced from other forms of energy, including all taxable land, buildings, and equipment used in the production of such energy. "Net capacity factor" means net actual generation divided by the product of net maximum capacity times the number of hours the unit was in the active state during the assessment year. Upon commissioning, a unit is in the active state until it is decommissioned. "Net actual generation" means net electrical megawatt hours produced by the unit during the preceding assessment year. "Net maximum capacity" means the capacity the unit can sustain over a specified period when not restricted by ambient conditions or equipment deratings, minus the losses associated with station service or auxiliary loads.

Sec. 65. NEW SECTION. 432.12G WAGE-BENEFITS TAX CREDIT.

The taxes imposed under this chapter shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 66. Section 533.24, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The moneys and credits tax imposed under this section shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 67. Sections 15.331, 15.331B, 15.334, 15.334A, 15.337, and 15.381 through 15.387, Code 2005, are repealed.

Sec. 68. CONTRACT VALIDITY — NEW JOBS AND INCOME PROGRAM — NEW CAPITAL INVESTMENT PROGRAM. Any contract entered into for a project or activity approved by the department of economic development under the new jobs and income program and the new capital investment program remains valid. The elimination of the new jobs and income program and the new capital investment program under this Act shall not constitute grounds for recision or modification of contracts entered into with the department under the programs.

Sec. 69. EFFECTIVE AND APPLICABILITY DATE. The provisions of this division of this Act relating to Code chapter 15H, being deemed of immediate importance, take effect upon enactment and apply to qualified new jobs created on or after the effective date of this division of this Act. This division of this Act applies to tax years ending on or after the effective date of this division of this Act.

DIVISION XI
RESEARCH AND DEVELOPMENT TAX CREDIT

Sec. 70. Section 15.335, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. For purposes of this section, "research activities" includes the development and deployment of innovative renewable energy generation components manufactured or assembled in this state. For purposes of this section, "innovative renewable energy generation components" does not include a component with more than two hundred megawatts of installed effective nameplate capacity. The tax credits for innovative renewable energy generation components shall not exceed one million dollars.

DIVISION XII
ENDOW IOWA

Sec. 71. Section 15E.303, subsections 4 and 6, Code 2005, are amended to read as follows:

4. "Endowment gift" means an irrevocable contribution to a permanent endowment held by ~~a~~ an endow Iowa qualified community foundation.

6. ~~"Qualified~~ "Endow Iowa qualified community foundation" means a community foundation organized or operating in this state that ~~meets or exceeds~~ substantially complies with the national standards established by the national council on foundations as determined by the department in collaboration with the Iowa council of foundations.

Sec. 72. Section 15E.304, subsection 2, paragraphs c and d, Code 2005, are amended to read as follows:

c. Identify ~~a~~ an endow Iowa qualified community foundation to hold all funds. ~~A~~ An endow Iowa 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 endow Iowa qualified community foundation or the community affiliate organization.

Sec. 73. Section 15E.304, subsection 3, Code 2005, is amended to read as follows:

3. Endow Iowa grants awarded to new and existing endow Iowa 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.

Sec. 74. Section 15E.305, subsection 1, Code 2005, is amended to read as follows:

1. For tax years beginning on or after January 1, 2003, a tax credit shall be allowed against 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~~ an endow Iowa 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~~ an endow Iowa 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.

Sec. 75. Section 15E.305, subsection 2, Code 2005, is amended to read as follows:

2. The aggregate amount of tax credits authorized pursuant to this section shall not exceed a total of two million dollars annually. The maximum amount of tax credits granted to a taxpayer shall not exceed five percent of the aggregate amount of tax credits authorized.

Sec. 76. Section 15E.305, subsection 2, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Ten percent of the aggregate amount of tax credits authorized in a calendar year shall be reserved for those endowment gifts in amounts of thirty thousand dollars or less. If by September 1 of a calendar year the entire ten percent of the reserved tax credits is not distributed, the remaining tax credits shall be available to any other eligible applicants.

Sec. 77. Section 15E.305, subsection 4, Code 2005, is amended to read as follows:

4. A tax credit shall not be authorized pursuant to this section after December 31, ~~2005~~ 2008.

Sec. 78. Section 15E.311, subsection 3, paragraphs a and c, Code 2005, are amended to read as follows:

a. At the end of each fiscal year, moneys in the fund shall be transferred into separate ac-

counts within the fund and designated for use by each county in which no licensee authorized to conduct gambling games under chapter 99F was located during that fiscal year. Moneys transferred to county accounts shall be divided equally among the counties. Moneys transferred into an account for a county shall be transferred by the department to an eligible county recipient for that county. Of the moneys transferred, an eligible county recipient shall distribute seventy-five percent of the moneys as grants to charitable organizations for ~~educational, civic, public, charitable, patriotic, or religious uses, as defined in section 99B.7, subsection 3, paragraph "b",~~ charitable purposes in that county and shall retain twenty-five percent of the moneys for use in establishing a permanent endowment fund for the benefit of charitable organizations for ~~educational, civic, public, charitable, patriotic, or religious uses, as defined in section 99B.7, subsection 3, paragraph "b"~~ charitable purposes.

~~c. For purposes of~~

3A. As used in this ~~subsection~~ section, ~~an "eligible~~ unless the context otherwise requires:

a. "Charitable organization" means an organization that is described in section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Internal Revenue Code or an organization that is established for a charitable purpose.

b. "Charitable purpose" means a purpose described in section 501(c)(3) of the Internal Revenue Code, or a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary objective.

c. "Eligible county recipient" means ~~a~~ an endow Iowa qualified community foundation or community affiliate organization, as defined in section 15E.303, that is selected, in accordance with the procedures described in section 15E.304, to receive moneys from an account created in this section for a particular county. To be selected as an eligible county recipient, a community affiliate organization shall establish a county affiliate fund to receive moneys as provided by this section.

Sec. 79. Section 15E.311, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Three percent of the moneys deposited in the county endowment fund shall be used by the lead philanthropic organization identified by the department pursuant to section 15E.304 for purposes of administering and marketing the county endowment fund.

Sec. 80. LEGISLATIVE INTENT. It is the intent of the general assembly that the entire two million dollars worth of tax credits allowed under section 15E.305, subsection 2, shall be issued each calendar year.

Sec. 81. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This division of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2005.

DIVISION XIII
E-85 BLENDED GASOLINE

Sec. 82. NEW SECTION. 15.401 E-85 BLENDED GASOLINE.

The department shall provide a cost-share program for financial incentives for the installation or conversion of infrastructure used by service stations to sell and dispense E-85 blended gasoline and for the installation or conversion of infrastructure required to establish on-site and off-site terminal facilities that store biodiesel for distribution to service stations. The department shall provide for an addition of at least thirty new or converted E-85 retail outlets and four new or converted on-site or off-site terminal facilities with a maximum expenditure of three hundred twenty-five thousand dollars per year for the fiscal period beginning July 1, 2005, and ending June 30, 2008. The department may provide for the marketing of these products in conjunction with this infrastructure program.

Sec. 83. Section 452A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1B. An excise tax of seventeen cents is imposed on each gallon of E-85 gasoline, which contains at least eighty-five percent denatured alcohol by volume from the first day of April until the last day of October or seventy percent denatured alcohol from the first day of November until the last day of March, used for the privilege of operating motor vehicles in this state.

Sec. 84. Section 452A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1C. The rate of the excise tax on E-85 gasoline imposed in subsection 1B shall be determined based on the number of gallons of E-85 gasoline that is distributed in this state during the previous calendar year. The department shall determine the actual tax paid for E-85 gasoline for each period beginning January 1 and ending December 31. The amount of the tax paid on E-85 gasoline during the past calendar year shall be compared to the amount of tax on E-85 gasoline that would have been paid using the tax rate for gasoline imposed in subsection 1 or 1A and a difference shall be established. If this difference is equal to or greater than twenty-five thousand dollars, the tax rate for E-85 gasoline for the period beginning July 1 following the end of the determination period shall be the rate in effect as stated in subsection 1 or 1A.

Sec. 85. STUDY. The state department of transportation shall review the current revenue levels of the road use tax fund and its sufficiency for the projected construction and maintenance needs of city, county, and state governments in the future. The department shall submit a written report to the general assembly regarding its findings on or before December 31, 2006. The report may include recommendations concerning funding levels needed to support the future mobility and accessibility for users of Iowa's public road system.

Sec. 86. EFFECTIVE DATE. The sections of this division of this Act amending chapter 452A take effect January 1, 2006.

DIVISION XIV
IOWA GREAT PLACES

Sec. 87. NEW SECTION. 303.3C IOWA GREAT PLACES PROGRAM.

1. a. The department of cultural affairs shall establish and administer an Iowa great places program for purposes of combining resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make such places exceptional places to work and live. The department of cultural affairs shall provide administrative assistance to the Iowa great places board. The department of cultural affairs shall coordinate the efforts of the Iowa great places board with the efforts of state agencies participating in the program which shall include, but not be limited to, the department of economic development, the Iowa finance authority, the department of human rights, the department of natural resources, the department of transportation, and the department of workforce development.

b. The program shall combine resources from state government to capitalize on all of the following aspects of the chosen Iowa great places:

(1) Arts and culture.
(2) Historic fabric.
(3) Architecture.
(4) Natural environment.
(5) Housing options.
(6) Amenities.
(7) Entrepreneurial incentive for business development.
(8) Diversity.

c. Initially, three Iowa great places projects shall be identified by the Iowa great places

board. Two years after the third project is identified by the board, the board may identify additional Iowa great places for participation under the program.

2. a. The Iowa great places board is established consisting of twelve members. The board shall be located for administrative purposes within the department of cultural affairs 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.

b. The members of the board shall be appointed by the governor, subject to confirmation by the senate. At least one member shall be less than thirty years old on the date the member is appointed by the governor. The board shall include representatives of cities and counties, local government officials, cultural leaders, housing developers, business owners, and parks officials.

c. The chairperson and vice chairperson shall be elected by the board members from the membership of the board. In the 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, provided a quorum is present.

d. 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.

e. A majority of the members of the board constitutes a quorum.

f. 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.

g. 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.

3. The board shall do all of the following:

a. Organize.

b. Identify three Iowa great places for purposes of receiving a package of resources under the program.

c. Identify a combination of state resources which can be provided to Iowa great places.

DIVISION XV
PORT AUTHORITIES

Sec. 88. Section 12.30, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. "Authority" means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 12E, 16, 16A, 175, 257C, 261A, or 327I, which has the power to issue obligations, except that "authority" does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C. "Authority" also includes a port authority created under chapter 28J.

Sec. 89. NEW SECTION. 28J.1 DEFINITIONS.

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

1. "Authorized purposes" means an activity that enhances, fosters, aids, provides, or promotes transportation, economic development, housing, recreation, education, governmental operations, culture, or research within the jurisdiction of a port authority.

2. "Board" means the board of directors of a port authority established pursuant to section 28J.2.

3. "City" means the same as defined in section 362.2.

4. "Construction" means alteration, creation, development, enlargement, erection, improvement, installation, reconstruction, remodeling, and renovation.

5. "Contracting governmental agency" means any governmental agency or taxing district of the state that, by action of its legislative authority, enters into an agreement with a port authority pursuant to section 28J.17.

6. "Cost" as applied to a port authority facility means any of the following:

a. The cost of construction contracts, land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition or construction.

b. The cost of demolishing or removing any buildings or structures on land, including the cost of acquiring any lands to which those buildings or structures may be moved.

c. The cost of diverting a highway, interchange of a highway, and access roads to private property, including the cost of land or easements, and relocation of a facility of a utility company or common carrier.

d. The cost of machinery, furnishings, equipment, financing charges, interest prior to and during construction and for no more than twelve months after completion of construction, engineering, and expenses of research and development with respect to a facility.

e. Legal and administrative expenses, plans, specifications, surveys, studies, estimates of cost and revenues, engineering services, and other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing a facility.

f. The interest upon the revenue bonds and pledge orders during the period or estimated period of construction and for twelve months thereafter, or for twelve months after the acquisition date, reserve funds as the port authority deems advisable in connection with a facility and the issuance of port authority revenue bonds and pledge orders.

g. The costs of issuance of port authority revenue bonds and pledge orders.

h. The cost of diverting a rail line, rail spur track, or rail spur track switch, including the cost of land or easements, and relocation of a facility of a utility company or common carrier.

i. The cost of relocating an airport's runways, terminals, and related facilities including the cost of land or easements, and relocation of a facility of a utility company or common carrier.

7. "Facility" or "port authority facility" means real or personal property owned, leased, or otherwise controlled or financed by a port authority and related to or in furtherance of one or more authorized purposes.

8. "Governmental agency" means a department, division, or other unit of state government of this state or any other state, city, county, township, or other governmental subdivision, or any other public corporation or agency created under the laws of this state, any other state, the United States, or any department or agency thereof, or any agency, commission, or authority established pursuant to an interstate compact or agreement or combination thereof.

9. "Person" means the same as defined in section 4.1.

10. "Pledge order" means a promise to pay out of the net revenues of a port authority, which is delivered to a contractor or other person in payment of all or part of the cost of a facility.

11. "Political subdivision" means a city, county, city-county consolidation, or multicounty consolidation, or combination thereof.

12. "Political subdivisions comprising the port authority" means the political subdivisions which created or participated in the creation of the port authority under section 28J.2, or which joined an existing port authority under section 28J.4.

13. "Port authority" means an entity created pursuant to section 28J.2.

14. "Port authority revenue bonds" means revenue bonds and revenue refunding bonds issued pursuant to section 28J.21.

15. "Public roads" means all public highways, roads, and streets in this state, whether maintained by the state or by a county or city.

16. "Revenues" means rental fees and other charges received by a port authority for the use or services of a facility, a gift or grant received with respect to a facility, moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of a facility, moneys received in repayment of and for interest on any loans made by the port authority to a person or governmental agency, proceeds of port authority revenue bonds for payment of principal, premium, or interest on the bonds authorized by the port authority, proceeds from any insurance, condemnation, or guarantee pertaining to the financing

of the facility, and income and profit from the investment of the proceeds of port authority revenue bonds or of any revenues.

Sec. 90. NEW SECTION. 28J.2 CREATION AND POWERS OF PORT AUTHORITY.

1. Two or more political subdivisions may create a port authority under this chapter by resolution. If a proposal to create a port authority receives a favorable majority of the members of the elected legislative body of the political subdivision, the port authority is created at the time provided in the resolution. The jurisdiction of a port authority includes the territory described in section 28J.8.

2. A port authority created pursuant to this section may sue and be sued, complain, and defend in its name and has the powers and jurisdiction enumerated in this chapter.

3. At the time a port authority is created pursuant to this section, the political subdivisions comprising the port authority may restrict the powers granted the port authority pursuant to this chapter by specifically adopting such restrictions in the resolution creating the port authority.

4. The political subdivisions comprising the port authority whose powers have been restricted pursuant to subsection 3 may at any time adopt a resolution to grant additional powers to the port authority, so long as the additional powers do not exceed the powers permitted under this chapter.

Sec. 91. NEW SECTION. 28J.3 APPROPRIATION AND EXPENDITURE OF PUBLIC FUNDS — DISSOLUTION.

1. The political subdivisions comprising a port authority may appropriate and expend public funds to finance or subsidize the operation and authorized purposes of the port authority. A port authority shall control tax revenues allocated to the facilities the port authority administers and all revenues derived from the operation of the port authority, the sale of its property, interest on investments, or from any other source related to the port authority.

2. All revenues received by the port authority shall be held in a separate fund in a manner agreed to by the political subdivisions comprising the port authority. Revenues may be paid out only at the direction of the board of directors of the port authority.

3. A port authority shall comply with section 331.341, subsections 1, 2, 4, and 5, and section 331.342, when contracting for public improvements.

4. Subject to making due provisions for payment and performance of any outstanding obligations, the political subdivisions comprising the port authority may dissolve the port authority, and transfer the property of the port authority to the political subdivisions comprising the port authority in a manner agreed upon between the political subdivisions comprising the port authority prior to the dissolution of the port authority.

Sec. 92. NEW SECTION. 28J.4 JOINING AN EXISTING PORT AUTHORITY.

1. A political subdivision which is contiguous to either a political subdivision which participated in the creation of the port authority or a political subdivision which proposes to join the port authority at the same time which is contiguous to a political subdivision which participated in the creation of the port authority may join the port authority by resolution.

2. If more than one such political subdivision proposes to join the port authority at the same time, the resolution of each such political subdivision shall designate the political subdivisions which are to be so joined.

3. Any territory or city not included in a port authority which is annexed to a city included within the jurisdiction of a port authority shall, on such annexation and without further proceedings, be annexed to and be included in the jurisdiction of the port authority.

4. Before a political subdivision is joined to a port authority, other than by annexation to a city, the political subdivisions comprising the port authority shall agree upon the terms and conditions pursuant to which such political subdivision is to be joined.

5. For the purpose of this chapter, such political subdivision shall be considered to have par-

ticipated in the creation of the port authority, except that the initial term of any director of the port authority appointed by a joining political subdivision shall be four years.

6. After each resolution proposing a political subdivision to join a port authority has become effective and the terms and conditions of joining the port authority have been agreed to, the board of directors of the port authority shall by resolution either accept or reject the proposal. Such proposal to join a port authority shall be effective upon adoption of the resolution by the board of directors of the port authority and thereupon the jurisdiction of the port authority includes the joining political subdivision.

Sec. 93. NEW SECTION. 28J.5 MEMBERSHIP OF BOARD OF DIRECTORS.

1. A port authority created pursuant to section 28J.2 shall be governed by a board of directors. Members of a board of directors of a port authority shall be divided among the political subdivisions comprising the port authority in such proportions as the political subdivisions may agree and shall be appointed by the respective political subdivision's elected legislative body.

2. The number of directors comprising the board shall be determined by agreement between the political subdivisions comprising the port authority, and which number may be changed by resolution of the political subdivisions comprising the port authority.

3. A majority of the directors shall have been qualified electors of, or owned a business or been employed in, one or more political subdivisions within the area of the jurisdiction of the port authority for a period of at least three years preceding appointment.

4. The directors of a port authority first appointed shall serve staggered terms. Thereafter each successor director shall serve for a term of four years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. A director is eligible for reappointment.

5. The board may provide procedures for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is so removed, a successor shall be appointed for the remaining term of the removed director in the same manner provided for the original appointment. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

6. The board may adopt bylaws and shall elect one director as chairperson and one director as vice chairperson, designate terms of office, and appoint a secretary who need not be a director.

7. A majority of the board of directors shall constitute a quorum for the purpose of holding a meeting of the board. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the port authority unless the board determines that a greater number of affirmative votes is necessary for particular actions to be taken by the port authority. A vacancy in the membership of the board shall not impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

8. Each director shall be entitled to receive from the port authority such sum of money as the board may determine as compensation for services as a director and reimbursement for reasonable expenses in the performance of official duties.

Sec. 94. NEW SECTION. 28J.6 CIVIL IMMUNITY OF DIRECTORS.

A director of a port authority shall not be personally liable for any monetary damages that arise from actions taken in the performance of the director's official duties, except for acts or omissions that are not in good faith or that involve intentional misconduct, a knowing violation of law, or any transaction from which the director derived an improper personal benefit.

Sec. 95. NEW SECTION. 28J.7 EMPLOYEES, ADVISORY BOARD, PEACE OFFICERS.

1. A port authority shall employ and fix the qualifications, duties, and compensation of any employees and enter into contracts for any services that may be required to conduct the business of the port authority, and may appoint an advisory board, which shall serve without compensation.

2. An employee of a port authority is a public employee for the purposes of collective bargaining under chapter 20.

3. a. A port authority may provide for the administration and enforcement of the laws of the state by employing peace officers who shall have all the powers conferred by law on peace officers of this state with regard to the apprehension of violators upon all property under its control within and without the port authority. The peace officers may seek the assistance of other appropriate law enforcement officers to enforce its rules and maintain order.

b. Peace officers employed by a port authority shall meet all requirements as police officers appointed under the civil service law of chapter 400 and shall participate in the retirement system established by chapter 411.

c. Peace officers employed by a port authority shall serve as a peace officer force with respect to the property, grounds, buildings, equipment, and facilities under the control of the port authority, to prevent hijacking of aircraft or watercraft, protect the property of the authority and the property of others located thereon, suppress nuisances and disturbances and breaches of the peace, and enforce laws and the rules of the port authority for the preservation of good order. Peace officers are vested with the same powers of arrest as peace officers under section 804.7.

4. If an employee of a political subdivision comprising the port authority is transferred to a comparable position with the port authority, the employee is entitled to suffer no loss in pay, pension, fringe benefits, or other benefits and shall be entitled to a comparable rank and grade as the employee's prior position. Sick leave, longevity, and vacation time accrued to such employees shall be credited to them as employees of the port authority. All rights and accruals of such employees as members of the Iowa public employees' retirement system pursuant to chapter 97B and the retirement system for police officers pursuant to chapter 411 shall remain in force and shall be automatically transferred to the port authority.

Sec. 96. NEW SECTION. 28J.8 AREA OF JURISDICTION.

1. The area of jurisdiction of a port authority shall include all of the territory of the political subdivisions comprising the port authority and, if the port authority owns or leases a railroad line or airport, the territory on which the railroad's line, terminals, and related facilities or the airport's runways, terminals, and related facilities are located, regardless of whether the territory is located in the political subdivisions comprising the port authority.

2. A political subdivision that has created a port authority or joined an existing port authority shall not be included in any other port authority.

Sec. 97. NEW SECTION. 28J.9 POWERS OF PORT AUTHORITY.

A port authority may exercise all of the following powers:

1. Adopt bylaws for the regulation of the port authority's affairs and the conduct of the port authority's business.

2. Adopt an official seal.

3. Maintain a principal office and branch offices within the port authority's jurisdiction.

4. Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease, lease with an option to purchase, convey interests in real or personal property, and operate any property of the port authority in connection with transportation, recreational, governmental operations, or cultural activities in furtherance of an authorized purpose.

5. Straighten, deepen, and improve any channel, river, stream, or other watercourse or way which may be necessary or proper in the development of the facilities of the port authority.

6. Make available the use or services of any facility of the port authority to any person or governmental agency.

7. Issue bonds or pledge orders pursuant to the requirements and limitations in section 28J.21.

8. Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 28J.21, for the purpose of providing funds to pay the costs of any facility or facilities of the port authority or parts thereof.

9. Apply to the proper authorities of the United States for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property in accordance with the federal Foreign Trade Zones Act, 19 U.S.C. § 81a-81u.

10. Enjoy and possess the same legislative and executive rights, privileges, and powers granted cities under chapter 364 and counties under chapter 331, including the exercise of police power but excluding the power to levy taxes.

11. Maintain such funds as it considers necessary and adhere to the public funds investment standards of chapter 12B, as applicable.

12. Direct port authority agents or employees, after at least five days' written notice, to enter upon lands within the port authority's jurisdiction to make surveys and examinations preliminary to location and construction of works for the port authority, without liability of the port authority or its agents or employees except for actual damages.

13. Promote, advertise, and publicize the port authority and its facilities, and provide information to shippers and other commercial interests.

14. Adopt bylaws, not in conflict with state or federal law, necessary or incidental to the performance of the duties of and the execution of the powers of the port authority under this chapter.

15. Do any of the following in regard to interests in real or personal property, including machinery, equipment, plants, factories, offices, and other structures and facilities related to or in furtherance of any authorized purpose as the board in its sole discretion may determine:

a. Loan money to any person or governmental agency for the acquisition, construction, furnishing, or equipping of the property.

b. Acquire, construct, maintain, repair, furnish, or equip the property.

c. Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental agency.

d. Guarantee the obligations of any person or governmental agency.

e. Accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.

16. Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board shall specify the consideration and terms for the sale, lease, or conveyance of other interests in real and personal property. A determination made by the board under this subsection shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids.

17. Enter into an agreement with a political subdivision comprising the port authority for the political subdivision to exercise its right of eminent domain pursuant to chapters 6A and 6B on behalf of the port authority. However, a condemnation exercised on behalf of a port authority pursuant to this subsection shall not take or disturb property or a facility belonging to a governmental agency, utility company, or common carrier, which property or facility is necessary and convenient in the operation of the governmental agency, utility company, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facility, or upon the election of the governmental agency, utility company, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that both of the following apply:

a. If a restoration or duplication proposed to be made under this subsection involves a relocation of the property or facility, the new facility and location shall be of at least comparable utilitarian value and effectiveness and shall not impair the ability of the utility company or common carrier to compete in its original area of operation.

b. If a restoration or duplication made under this subsection involves a relocation of the property or facility, the port authority shall acquire no interest or right in or to the appropriated property or facility, until the relocated property or facility is available for use and until marketable title thereto has been transferred to the utility company or common carrier.

18. a. Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of the duties of and the execution of powers of the port authority under this chapter.

b. Except as provided in paragraph "c", when the cost of a contract for the construction of a building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding twenty-five thousand dollars, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, and signed by an authorized officer of the port authority and by the contractor.

c. The board of directors may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building or structure or other improvement under any of the following circumstances:

(1) A real and present emergency exists that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 7D.34.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of paragraph "b".

d. (1) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in paragraph "c", subparagraph (2), the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the person making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in paragraph "c", subparagraph (4), construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

e. A purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental agency that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, related to or in furtherance of economic development and the provision of adequate housing, shall be made in such manner and subject to such terms and conditions as may be determined in the board's discretion. This paragraph applies to all contracts that are subject to this section, notwithstanding any other provision of law that might otherwise apply, including a requirement of notice, competitive bidding or selection, or for the provision of security. However, this paragraph shall not apply to a contract secured exclusively by or to be paid exclusively from the general revenues of the port authority. For the purposes of this paragraph, any revenues derived by the port authority under a lease or other agreement that, by its terms, contemplates the use of amounts payable under the agreement either to pay the costs of the improvement that is the subject of the contract or to secure obligations of the port authority issued to finance costs of such improvement, are excluded from general revenues.

19. Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and any other consultants and independent contractors as are necessary in the port authority's judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any available funds of the port authority or from funds appropriated for that purpose by the political subdivisions comprising the port authority.

20. Receive and accept from a governmental agency grants and loans for the construction of a port authority facility, for research and development with respect to a port authority facility, or any other authorized purpose, and receive and accept aid or contributions from any source of moneys, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants, loans, aid, or contributions are made.

21. Engage in research and development with respect to a port authority facility.

22. Purchase fire and extended coverage and liability insurance for a port authority facility and for the principal office and branch offices of the port authority, insurance protecting the port authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the port authority may agree to provide under a resolution authorizing port authority revenue bonds, pledge orders, or in any trust agreement securing the same.

23. Charge, alter, and collect rental fees and other charges for the use or services of a port authority facility as provided in section 28J.16.

24. Perform all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 98. NEW SECTION. 28J.10 PARTICIPATION OF PRIVATE ENTERPRISE.

The port authority shall foster and encourage the participation of private enterprise in the development of the port authority facilities to the fullest extent practicable in the interest of limiting the necessity of construction and operation of the facilities by the port authority.

Sec. 99. NEW SECTION. 28J.11 PROVISIONS DO NOT AFFECT OTHER LAWS OR POWERS.

This chapter shall not do any of the following:

1. Impair a provision of law directing the payment of revenues derived from public property into sinking funds or dedicating those revenues to specific purposes.

2. Impair the powers of a political subdivision to develop or improve a port and terminal facility except as restricted by section 28J.15.

3. Enlarge, alter, diminish, or affect in any way, a lease or conveyance made, or action taken prior to the creation of a port authority under section 28J.2 by a city or a county.

4. Impair or interfere with the exercise of a permit for the removal of sand or gravel, or other similar permits issued by a governmental agency.

5. Impair or contravene applicable federal regulations.

Sec. 100. NEW SECTION. 28J.12 CONVEYANCE, LEASE, OR EXCHANGE OF PUBLIC PROPERTY.

A port authority may convey or lease, lease with an option to purchase, or exchange with any governmental agency or other port authority without competitive bidding and on mutually agreeable terms, any personal or real property, or any interest therein.

Sec. 101. NEW SECTION. 28J.13 ANNUAL BUDGET — USE OF RENTS AND CHARGES.

The board shall annually prepare a budget for the port authority. Revenues received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. Except as provided in section 28J.26, if there remains, at the end of any fiscal year, a surplus of such funds after providing for the above uses, the board shall pay such surplus into the general funds of the political subdivisions comprising the port authority as agreed to by the subdivisions.

Sec. 102. NEW SECTION. 28J.14 SECRETARY TO FURNISH BOND — DEPOSIT AND DISBURSEMENT OF FUNDS.

Before receiving any revenues, the secretary of a port authority shall furnish a bond in such amount as shall be determined by the port authority with sureties satisfactory to the port authority, and all funds coming into the hands of the secretary shall be deposited by the secretary to the account of the port authority in one or more such depositories as shall be qualified to receive deposits of county funds, which deposits shall be secured in the same manner as county funds are required to be secured. A disbursement shall not be made from such funds except in accordance with policies and procedures adopted by the port authority.

Sec. 103. NEW SECTION. 28J.15 LIMITATION ON CERTAIN POWERS OF POLITICAL SUBDIVISIONS.

A political subdivision creating or participating in the creation of a port authority in accordance with section 28J.2 shall not, during the time the port authority is in existence, exercise the rights and powers provided in chapters 28A, 28K, and 384 relating to the political subdivision's authority over a port, wharf, dock, harbor or other facility substantially similar to that political subdivision's authority under a port authority granted under this chapter.

Sec. 104. NEW SECTION. 28J.16 RENTALS OR CHARGES FOR USE OR SERVICES OF FACILITIES — AGREEMENTS WITH GOVERNMENTAL AGENCIES.

1. a. A port authority may charge, alter, and collect rental fees or other charges for the use or services of any port authority facility and contract for the use or services of a facility, and fix the terms, conditions, rental fees, or other charges for the use or services.

b. If the services are furnished in the jurisdiction of the port authority by a utility company or a common carrier, the port authority's charges for the services shall not be less than the charges established for the same services furnished by a utility company or common carrier in the port authority jurisdiction.

c. The rental fees or other charges shall not be subject to supervision or regulation by any other authority, commission, board, bureau, or governmental agency of the state and the contract may provide for acquisition of all or any part of the port authority facility for such consideration payable over the period of the contract or otherwise as the port authority determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of port authority revenue bonds or any trust agreement securing the bonds.

d. A governmental agency that has power to construct, operate, and maintain a port authority facility may enter into a contract or lease with a port authority for the use or services of a port authority facility as may be agreed to by the port authority and the governmental agency.

2. a. A governmental agency may cooperate with the port authority in the acquisition or construction of a port authority facility and shall enter into such agreements with the port authority as may be appropriate, which shall provide for contributions by the parties in a proportion as may be agreed upon and other terms as may be mutually satisfactory to the parties including the authorization of the construction of the facility by one of the parties acting as agent for all of the parties and the ownership and control of the facility by the port authority to the extent necessary or appropriate.

b. A governmental agency may provide funds for the payment of any contribution required under such agreements by the levy of taxes or assessments if otherwise authorized by the laws governing the governmental agency in the construction of the type of port authority facility provided for in the agreements, and may pay the proceeds from the collection of the taxes or assessments; or the governmental agency may issue bonds or notes, if authorized by law, in anticipation of the collection of the taxes or assessments, and may pay the proceeds of the bonds or notes to the port authority pursuant to such agreements.

c. A governmental agency may provide the funds for the payment of a contribution by the appropriation of moneys or, if otherwise authorized by law, by the issuance of bonds or notes and may pay the appropriated moneys or the proceeds of the bonds or notes to the port authority pursuant to such agreements.

3. When the contribution of any governmental agency is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of the assessments is collected, which is payable by the governmental agency on the contribution under the terms and provisions of the agreements, shall be treated as part of the cost of the improvement for which the assessments are levied, and that portion of the assessments that is collected in installments shall bear interest at the same rate as the governmental agency is obligated to pay on the contribution under the terms and provisions of the agreements and for the same period of time as the contribution is to be made under the agreements. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as the contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to the assessment and the penalty thereon as otherwise authorized by law.

4. A governmental agency, pursuant to a favorable vote in an election regarding issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for a port authority facility, whether or not the governmental agency at the time of the election had the authority to pay the proceeds from the bonds or notes issued in anticipation of the bonds to the port authority as provided in this section, may issue such bonds or notes in anticipation of the issuance of the bonds and pay the proceeds of the bonds or notes to the port authority in accordance with an agreement with the port authority; provided, that the legislative authority of the governmental agency finds and determines that the port authority facility to be acquired or constructed in cooperation with the governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of the bonds and notes.

Sec. 105. NEW SECTION. 28J.17 CONTRACTS, ARRANGEMENTS, AND AGREEMENTS.

1. a. A port authority may enter into a contract or other arrangement with a person, railroad, utility company, corporation, governmental agency including sewerage, drainage, conservation, conservancy, or other improvement districts in this or other states, or the governments or agencies of foreign countries as may be necessary or convenient for the exercise of the powers granted by this chapter. The port authority may purchase, lease, or acquire land or other property in any county of this state and in adjoining states for the accomplishment of authorized purposes of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction including development of port facilities in adjoining states. The authority granted in this section to enter into contracts or other arrangements with the federal government includes the power to enter into any contracts, arrangements, or agreements that may be necessary to hold and save harmless the United States from damages due to the construction and maintenance by the United States of work the United States undertakes.

b. A political subdivision that has participated in the creation of a port authority, or is within, or adjacent to a political subdivision that is within the jurisdiction of a port authority, may enter into an agreement with the port authority to accomplish any of the authorized purposes of the port authority. The agreement may set forth the extent to which the port authority shall act as the agent of the political subdivision.

2. A port authority may enter into an agreement with a contracting governmental agency, whereby the port authority or the contracting governmental agency undertakes, and is authorized by the port authority or a contracting governmental agency, to exercise any power, perform any function, or render any service, on behalf of the port authority or a contracting governmental agency, which the port authority or the contracting governmental agency is authorized to exercise, perform, or render.

Sec. 106. NEW SECTION. 28J.18 REVENUE BONDS ARE LAWFUL INVESTMENTS.

Port authority revenue bonds issued pursuant to this chapter are lawful investments of

banks, credit unions, trust companies, savings and loan associations, deposit guaranty associations, insurance companies, trustees, fiduciaries, trustees or other officers having charge of the bond retirement funds or sinking funds of port authorities and governmental agencies, and taxing districts of this state, the pension and annuity retirement system, the Iowa public employees' retirement system, the police and fire retirement systems under chapters 410 and 411, a revolving fund of a governmental agency of this state, and are acceptable as security for the deposit of public funds under chapter 12C.

Sec. 107. NEW SECTION. 28J.19 PROPERTY TAX EXEMPTION.

A port authority shall be exempt from and shall not be required to pay taxes on real property belonging to a port authority that is used exclusively for an authorized purpose as provided in section 427.1, subsection 34.

Sec. 108. NEW SECTION. 28J.20 LOANS FOR ACQUISITION OR CONSTRUCTION OF FACILITY — SALE OF FACILITY — POWER TO ENCUMBER PROPERTY.

1. With respect to the financing of a facility for an authorized purpose, under an agreement whereby the person to whom the facility is to be leased, subleased, or sold, or to whom a loan is to be made for the facility, is to make payments sufficient to pay all of the principal of, premium, and interest on the port authority revenue bonds issued for the facility, the port authority, in addition to other powers under this chapter, may do any of the following:

a. Make loans for the acquisition or construction of the facility to such person upon such terms as the port authority may determine or authorize including secured or unsecured loans, and enter into loan agreements and other agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take actions considered appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale.

b. Sell the facility under terms as the port authority may determine, including sale by conditional sale or installment sale, under which title may pass prior to or after completion of the facility or payment or provisions for payment of all principal of, premium, and interest on the revenue bonds, or at any other time provided in the agreement pertaining to the sale, and including sale under an option to purchase at a price which may be a nominal amount or less than true value at the time of purchase.

c. Grant a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to, all or any part of the facility, revenues, reserve funds, or other funds established in connection with the bonds or with respect to a lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sublease, sale, or other disposition of a facility or pertaining to a loan made for a facility, or a guaranty or insurance agreement made with respect thereto, or an interest of the port authority therein, or any other interest granted, assigned, or released to secure payments of the principal of, premium, or interest on the bonds or to secure any other payments to be made by the port authority, which mortgage, lien, encumbrance, pledge, assignment, or other security interest may be prior or subordinate to or on a parity with any other mortgage, assignment, or other security interest, or lien or encumbrance.

d. Contract for the acquisition or construction of the facility or any part thereof and for the leasing, subleasing, sale, or other disposition of the facility in a manner determined by the port authority in its sole discretion, without necessity for competitive bidding or performance bonds.

e. Make appropriate provision for adequate maintenance of the facility.

2. With respect to a facility referred to in this section, the authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority

granted by this section does not alter or impair a similar authority granted elsewhere in this chapter for or with respect to other facilities.

Sec. 109. NEW SECTION. 28J.21 ISSUANCE OF REVENUE AND REFUNDING BONDS.

1. A port authority may issue revenue bonds and pledge orders payable solely from the net revenues of the port authority including the revenues generated from a facility pursuant to section 28J.20. The revenue bonds may be issued in such principal amounts as, in the opinion of the port authority, are necessary for the purpose of paying the cost of one or more port authority facilities or parts thereof.

2. a. The resolution to issue the bonds must be adopted at a regular or special meeting of the board called for that purpose by a majority of the total number of members of the board. The board shall fix a date, time, and place of meeting at which it proposes to take action, and give notice by publication in the manner directed in section 331.305. The notice must include a statement of the date, time, and place of the meeting, the maximum amount of the proposed revenue bonds, the purpose for which the revenue bonds will be issued, and the net revenues to be used to pay the principal and interest on the revenue bonds.

b. At the meeting the board shall receive oral or written objections from any resident or property owner within the jurisdiction of the port authority. After all objections have been received and considered, the board, at the meeting or a date to which it is adjourned, may take additional action for the issuance of the bonds or abandon the proposal to issue bonds. Any resident or property owner within the jurisdiction of the port authority may appeal a decision of the board to take additional action in district court within fifteen days after the additional action is taken, but the additional action of the board is final and conclusive unless the court finds that the board exceeded its authority.

3. The board may sell revenue bonds or pledge orders at public or private sale and may deliver revenue bonds and pledge orders to the contractors, sellers, and other persons furnishing materials and services constituting a part of the cost of the port authority facility in payment therefor. The pledge of any net revenues of a port authority is valid and effective as to all persons including but not limited to other governmental bodies when it becomes valid and effective between the port authority and the holders of the revenue bonds or pledge orders.

4. A revenue bond is valid and binding for all purposes if it bears the signatures or a facsimile of the signature of the officer designated by the port authority. Port authority revenue bonds may bear dates, bear interest at rates not exceeding those permitted by chapter 74A, bear interest at a variable rate or rates changing from time to time in accordance with a base or formula, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the port authority deems advisable, consistent with this chapter, including provisions for creating and maintaining reserve funds, the issuance of additional revenue bonds ranking on a parity with such revenue bonds and additional revenue bonds junior and subordinate to such revenue bonds, and that such revenue bonds shall rank on a parity with or be junior and subordinate to any revenue bonds which may be then outstanding. Port authority revenue bonds are a contract between the port authority and holders and the resolution is a part of the contract.

5. The port authority may issue revenue bonds to refund revenue bonds, pledge orders, and other obligations which are by their terms payable from the net revenues of the same port authority, at lower, the same, or higher rates of interest. A port authority may sell refunding revenue bonds at public or private sale and apply the proceeds to the payment of the obligations being refunded, and may exchange refunding revenue bonds in payment and discharge of the obligations being refunded. The principal amount of refunding revenue bonds may exceed the principal amount of the obligations being refunded to the extent necessary to pay any pre-

mium due on the call of the obligations being refunded and to fund interest accrued and to accrue on the obligations being refunded.

6. The final maturity of any original issue of port authority revenue bonds shall not exceed forty years from the date of issue, and the final maturity of port authority revenue bonds that refund outstanding port authority revenue bonds shall not be later than the later of forty years from the date of issue of the original issue of bonds or the date by which it is expected, at the time of issuance of the refunding bonds, that the useful life of all of the property refinanced with the proceeds of the bonds, other than interests in land, will have expired. Such bonds or notes shall be executed in a manner as the resolution may provide.

7. The port authority may contract to pay an amount not to exceed ninety-five percent of the engineer's estimated value of the acceptable work completed during the month to the contractor at the end of each month for work, material, or services. Payment may be made in warrants drawn on any fund from which payment for the work may be made. If such funds are depleted, anticipatory warrants may be issued bearing a rate of interest not exceeding that permitted by chapter 74A even if income from the sale of bonds which have been authorized and are applicable to the public improvement takes place after the fiscal year in which the warrants are issued. If the port authority arranges for the private sale of anticipatory warrants, the warrants may be sold and the proceeds used to pay the contractor. The warrants may also be used to pay other persons furnishing services constituting a part of the cost of the public improvement.

8. Port authority revenue bonds, pledge orders, and warrants issued under this section are negotiable instruments.

9. The board may issue pledge orders pursuant to a resolution adopted by a majority of the total number of supervisors, at a regular or special meeting, ordering their issuance and delivery in payment for all or part of the cost of a project. Pledge orders may bear interest at rates not exceeding those permitted by chapter 74A.

10. Except as provided in section 28J.20, the physical properties of the port authority shall not be pledged or mortgaged to secure the payment of revenue bonds, pledge orders, or refunding bonds, or the interest thereon.

11. The members of the board of the port authority and any person executing the bonds or pledge orders shall not be personally liable on the bonds or pledge orders or be subject to any personal liability or accountability by reason of the issuance thereof.

Sec. 110. NEW SECTION. 28J.22 BONDS MAY BE SECURED BY TRUST AGREEMENT.

1. In the discretion of the port authority, a port authority revenue bond issued under this chapter may be secured by a trust agreement between the port authority and a corporate trustee that may be any trust company or bank having the powers of a trust company within this or any other state.

2. The trust agreement may pledge or assign revenues of the port authority to be received for payment of the revenue bonds. The trust agreement or any resolution providing for the issuance of revenue bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the port authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the port authority facility in connection with which the bonds are authorized, the rentals or other charges to be imposed for the use or services of any port authority facility, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of any port authority facility.

3. A bank or trust company incorporated under the laws of this state, that may act as the depository of the proceeds of bonds or of revenues, shall furnish any indemnifying bonds or may pledge any securities that are required by the port authority. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing similar bonds. The trust agreement may contain any other provisions that the

port authority determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the port authority facility.

Sec. 111. NEW SECTION. 28J.23 REMEDY OF HOLDER OF BOND OR COUPON — STATUTE OF LIMITATIONS.

1. The sole remedy for a breach or default of a term of a port authority revenue bond or pledge order is a proceeding in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this chapter and of the terms of the resolution authorizing the issuance of the revenue bonds or pledge orders, or to obtain the appointment of a receiver to take possession of and operate the port authority, and to perform the duties required by this chapter and the terms of the resolution authorizing the issuance of the port authority revenue bonds or pledge orders.

2. An action shall not be brought which questions the legality of port authority revenue bonds or pledge orders, the power of a port authority to issue revenue bonds or pledge orders, or the effectiveness of any proceedings relating to the authorization and issuance of revenue bonds or pledge orders, from and after fifteen days from the time the bonds or pledge orders are ordered issued by the port authority.

Sec. 112. NEW SECTION. 28J.24 BONDS ARE PAYABLE SOLELY FROM REVENUES AND FUNDS PLEDGED FOR PAYMENT.

Port authority revenue bonds and pledge orders issued under this chapter do not constitute a debt, or a pledge of the faith and credit, of the state or a political subdivision of the state, and the holders or owners of the bonds or pledge orders shall not have taxes levied by the state or by a taxing authority of a governmental agency of the state for the payment of the principal of or interest on the bonds or pledge orders, but the bonds and pledge orders are payable solely from the revenues and funds pledged for their payment as authorized by this chapter, unless the notes are issued in anticipation of the issuance of bonds or pledge orders or the bonds and pledge orders are refunded by refunding bonds issued under this chapter, which bonds, pledge orders, or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by those sections. All of the bonds or pledge orders shall contain a statement to the effect that the bonds or pledge orders, as to both principal and interest, are not debts of the state or a political subdivision of the state, but are payable solely from revenues and funds pledged for their payment.

Sec. 113. NEW SECTION. 28J.25 FUNDS AND PROPERTY HELD IN TRUST — USE AND DEPOSIT OF FUNDS.

All revenues, funds, properties, and assets acquired by the port authority under this chapter, whether as proceeds from the sale of port authority revenue bonds, pledge orders, or as revenues, shall be held in trust for the purposes of carrying out the port authority's powers and duties, shall be used and reused as provided in this chapter, and shall at no time be part of other public funds. Such funds, except as otherwise provided in a resolution authorizing port authority revenue bonds or in a trust agreement securing the same, or except when invested pursuant to section 28J.26, shall be kept in depositories selected by the port authority in the manner provided in chapter 12C, and the deposits shall be secured as provided in that chapter. The resolution authorizing the issuance of revenue bonds or pledge orders, or the trust agreement securing such bonds or pledge orders shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to such conditions as this chapter and such resolution or trust agreement provide.

Sec. 114. NEW SECTION. 28J.26 INVESTMENT OF EXCESS FUNDS.

1. If a port authority has surplus funds after making all deposits into all funds required by the terms, covenants, conditions, and provisions of outstanding revenue bonds, pledge orders,

and refunding bonds which are payable from the revenues of the port authority and after complying with all of the requirements, terms, covenants, conditions, and provisions of the proceedings and resolutions pursuant to which revenue bonds, pledge orders, and refunding bonds are issued, the board may transfer the surplus funds to any other fund of the port authority in accordance with this chapter and chapter 12C, provided that a transfer shall not be made if it conflicts with any of the requirements, terms, covenants, conditions, or provisions of a resolution authorizing the issuance of revenue bonds, pledge orders, or other obligations which are payable from the revenues of the port authority which are then outstanding.

2. This section does not prohibit or prevent the board from using funds derived from any other source which may be properly used for such purpose, to pay a part of the cost of a facility.

Sec. 115. NEW SECTION. 28J.27 CHANGE IN LOCATION OF PUBLIC WAY, RAILROAD, OR UTILITY FACILITY — VACATION OF HIGHWAY.

1. When a port authority changes the location of any portion of any public road, railroad, or utility facility in connection with the construction of a port authority facility, the port authority shall reconstruct at such location as the governmental agency having jurisdiction over such road, railroad, or utility facility finds most favorable. The construction of such road, railroad, or utility facility shall be of substantially the same type and in as good condition as the original road, railroad, or utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, railroad, or utility facility shall be paid by the port authority as a part of the cost of the port authority facility.

2. When the port authority finds it necessary that a public highway or portion of a public highway be vacated by reason of the acquisition or construction of a port authority facility, the port authority may request the director of the department of transportation to vacate such highway or portion in accordance with chapter 306 if the highway or portion to be vacated is on the state highway system, or, if the highway or portion to be vacated is under the jurisdiction of a county, the port authority shall petition the board of supervisors of that county, in the manner provided in chapter 306, to vacate such highway or portion. The port authority shall pay to the county, as a part of the cost of such port authority facility, any amounts required to be deposited with a court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

3. The port authority may adopt bylaws for the installation, construction, maintenance, repair, renewal, relocation, and removal of railroad or utility facilities in, on, over, or under any port authority facility. Whenever the port authority determines that it is necessary that any such facility installed or constructed in, on, over, or under property of the port authority pursuant to such bylaws be relocated, the utility company owning or operating such facility shall relocate or remove them in accordance with the order of the port authority. The cost and expenses of such relocation or removal, including the cost of installing such facility in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be paid by the port authority as a part of the cost of the port authority facility. In case of any such relocation or removal of such facilities, the railroad or utility company owning or operating them, its successors, or assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location in, on, over, or under the property of the port authority for as long a period and upon the same terms as the railroad or utility company had the right to maintain and operate such facilities in their former location.

Sec. 116. NEW SECTION. 28J.28 FINAL ACTIONS TO BE RECORDED — ANNUAL REPORT — CONFIDENTIALITY OF INFORMATION.

1. All final actions of the port authority shall be recorded and the records of the port authority shall be open to public examination and copying pursuant to chapter 22. Not later than the first day of April every year, a port authority shall submit a report to the director of the department of economic development detailing the projects and activities of the port authority during

the previous calendar year. The report shall include, but not be limited to, all aspects of those projects and activities, including the progress and status of the projects and their costs, and any other information the director determines should be included in the report.

2. Financial and proprietary information, including trade secrets, submitted to a port authority or the agents of a port authority, in connection with the relocation, location, expansion, improvement, or preservation of a business or nonprofit corporation is not a public record subject to chapter 22. Any other information submitted under those circumstances is not a public record subject to chapter 22 until there is a commitment in writing to proceed with the relocation, location, expansion, improvement, or preservation.

3. Notwithstanding chapter 21, the board of directors of a port authority, when considering information that is not a public record under this section, may close a meeting during the consideration of that information pursuant to a vote of the majority of the directors present on a motion stating that such information is to be considered. Other matters shall not be considered during the closed session.

Sec. 117. NEW SECTION. 28J.29 PROVISIONS TO BE LIBERALLY CONSTRUED.

This chapter shall be liberally construed to effect the chapter's purposes.

Sec. 118. Section 427.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 34. PORT AUTHORITY PROPERTY. The property of a port authority created pursuant to section 28J.2, when devoted to public use and not held for pecuniary profit.

DIVISION XVI
PROPERTY ASSESSMENT

Sec. 119. Section 7E.6, subsection 5, Code 2005, is amended to read as follows:

5. Any position of membership on the board of parole, the public employment relations board, the utilities board, ~~and~~ the employment appeal board, and the property assessment appeal board shall be compensated as otherwise provided in law.

Sec. 120. Section 13.7, Code 2005, is amended to read as follows:

13.7 SPECIAL COUNSEL.

Compensation shall not be allowed to any person for services as an attorney or counselor to an executive department of the state government, or the head thereof, or to a state board or commission. However, the executive council may employ legal assistance, at a reasonable compensation, in a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform the service, which reasons and action of the council shall be entered upon its records. When the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section does not affect the general counsel for the utilities board of the department of commerce, ~~or~~ the legal counsel of the department of workforce development, or the general counsel for the property assessment appeal board.

Sec. 121. NEW SECTION. 421.1A PROPERTY ASSESSMENT APPEAL BOARD.

1. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue for administrative

and budgetary purposes. The board's principal office shall be in the office of the department of revenue in the capital of the state.

2. a. The property assessment appeal board shall consist of three members appointed to staggered six-year terms, beginning and ending as provided in section 69.19, by the governor and subject to confirmation by the senate. Subject to confirmation by the senate, the governor shall appoint from the members a chairperson of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made. The term of office for the initial board shall begin January 1, 2007.

b. Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. One member of the board shall be a certified real estate appraiser or hold a professional appraisal designation, one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals, and one member shall be a professional with experience in the field of accounting or finance and with experience in state and local taxation matters. No more than two members of the board may be from the same political party as that term is defined in section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

3. At the election of a property owner or aggrieved taxpayer or an appellant described in section 441.42, the property assessment appeal board shall review any final decision, finding, ruling, determination, or order of a local board of review relating to protests of an assessment, valuation, or application of an equalization order.

4. The property assessment appeal board may do all of the following:

a. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

b. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

c. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

d. Subpoena documents and witnesses and administer oaths.

e. Adopt administrative rules pursuant to chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

f. Adopt administrative rules pursuant to chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

5. The property assessment appeal 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. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

6. The members of the property assessment appeal board shall receive compensation from the state commensurate with the salary of a district judge. The members of the board shall not

be considered state employees for purposes of salary and benefits. The members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of duties.

7. a. Effective January 1, 2012, a property assessment appeal board review committee is established. Staffing assistance to the committee shall be provided by the department of revenue. The committee shall consist of six members of the general assembly, two appointed by the majority leader of the senate, one appointed by the minority leader of the senate, two appointed by the speaker of the house of representatives, and one appointed by the minority leader of the house of representatives; the director of revenue or the director's designee; a county assessor appointed by the Iowa state association of counties; and a city assessor appointed by the Iowa league of cities.

b. The property assessment appeal board review committee shall review the activities of the property assessment appeal board since its inception. The review committee may recommend the revision of any rules, regulations, directives, or forms relating to the activities of the property assessment appeal board.

c. The review committee shall report to the general assembly by January 15, 2013. The report shall include any recommended changes in laws relating to the property assessment appeal board, the reasons for the committee's recommendations, and any other information the committee deems advisable.

Sec. 122. Section 428.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Property shall be assessed for taxation each year. Real estate shall be listed and assessed in 1981 and every two years thereafter. The assessment of real estate shall be the value of the real estate as of January 1 of the year of the assessment. The year 1981 and each odd-numbered year thereafter shall be a reassessment year. In any year, after the year in which an assessment has been made of all the real estate in an assessing jurisdiction, the assessor shall value and assess or revalue and reassess, as the case may require, any real estate that the assessor finds was incorrectly valued or assessed, or was not listed, valued, and assessed, in the assessment year immediately preceding, also any real estate the assessor finds has changed in value subsequent to January 1 of the preceding real estate assessment year. However, a percentage increase on a class of property shall not be made in a year not subject to an equalization order unless ordered by the department of revenue. The assessor shall determine the actual value and compute the taxable value thereof as of January 1 of the year of the revaluation and reassessment. The assessment shall be completed as specified in section 441.28, but no reduction or increase in actual value shall be made for prior years. If an assessor makes a change in the valuation of the real estate as provided for, sections 441.23, 441.37, 441.37A, 441.38 and 441.39 apply.

Sec. 123. Section 441.19, subsection 4, Code 2005, is amended to read as follows:

4. The supplemental returns ~~herein~~ provided for in this section shall be preserved in the same manner as assessment rolls, but shall be confidential to the assessor, board of review, property assessment appeal board, or director of revenue, and shall not be open to public inspection, but any final assessment roll as made out by the assessor shall be a public record, provided that such supplemental return shall be available to counsel of either the person making the return or of the public, in case any appeal is taken to the board of review, to the property assessment appeal board, or to the court.

Sec. 124. Section 441.21, subsection 1, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. h. The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the real property appraisal manual prepared by the department as updated from time to time. Such rules, forms, and guidelines shall not be inconsistent with or

change the means, as provided in this section, of determining the actual, market, taxable, and assessed values.

NEW PARAGRAPH. i. If the department finds that a city or county assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for the appropriate assessing jurisdiction. The notice shall be mailed by restricted certified mail. The notice shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

The conference board shall respond to the department within thirty days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a hearing before the director of revenue shall be scheduled on the matter.

A plan of action shall be submitted within sixty days of receipt of the notice of noncompliance. The plan shall contain a time frame under which compliance shall be achieved which shall be no later than January 1 of the following assessment year. The plan of action shall contain the signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within thirty days of receipt of the plan, the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

By January 1 of the assessment year following the calendar year in which the plan was submitted to the department, the conference board shall submit a report to the department indicating that the plan of action was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to five percent of the reimbursement payment authorized in section 425.1 until the director of revenue determines that the assessor is in compliance.

If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the state board of tax review.

The department shall adopt rules relating to the administration of this paragraph "i".

Sec. 125. Section 441.21, subsection 2, Code 2005, is amended to read as follows:

2. In the event market value of the property being assessed cannot be readily established in the foregoing manner, then the assessor may determine the value of the property using the other 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 good will or value of a business which 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 assessed

value. The property owner shall notify the assessor when property is withdrawn from section 42 eligibility under the Internal Revenue Code. The property shall not be subject to section 42 assessment procedures for the assessment year for which section 42 eligibility is withdrawn. This notification must be provided to the assessor no later than March 1 of the assessment year or the owner will be subject to a penalty of five hundred dollars for that assessment year. The penalty shall be collected at the same time and in the same manner as regular property taxes. Upon adoption of uniform rules by the ~~revenue~~ department of revenue or succeeding authority covering assessments and valuations of such properties, ~~said~~ the valuation on such properties shall be determined in accordance ~~therewith~~ with such rules and in accordance with forms and guidelines contained in the real property appraisal manual prepared by the department as updated from time to time for assessment purposes to assure uniformity, but such rules, forms, and guidelines shall not be inconsistent with or change the foregoing means of determining the actual, market, taxable and assessed values.

Sec. 126. Section 441.28, Code 2005, is amended to read as follows:

441.28 ASSESSMENT ROLLS — CHANGE — NOTICE TO TAXPAYER.

The assessment shall be completed not later than April 15 each year. If the assessor makes any change in an assessment after it has been entered on the assessor's rolls, the assessor shall note on ~~said~~ the roll, together with the original assessment, the new assessment and the reason for the change, together with the assessor's signature and the date of the change. Provided, however, in the event the assessor increases any assessment the assessor shall give notice of the increase in writing ~~thereof~~ to the taxpayer by mail ~~prior to the meeting of the board of review~~ postmarked no later than April 15. No changes shall be made on the assessment rolls after April 15 except by order of the board of review or of the property assessment appeal board, or by decree of court.

Sec. 127. Section 441.35, unnumbered paragraph 2, Code 2005, is amended to read as follows:

In any year after the year in which an assessment has been made of all of the real estate in any taxing district, ~~it shall be the duty of~~ the board of review ~~to~~ shall meet as provided in section 441.33, and where ~~it~~ the board finds the same has changed in value, ~~to~~ the board shall revalue and reassess any part or all of the real estate contained in such taxing district, and in such case, ~~it~~ the board shall determine the actual value as of January 1 of the year of the revaluation and reassessment and compute the taxable value thereof~~, and any~~. Any aggrieved taxpayer may petition for a revaluation of the taxpayer's property, but no reduction or increase shall be made for prior years. If the assessment of any such property is raised, or any property is added to the tax list by the board, the clerk shall give notice in the manner provided in section 441.36~~, provided, however, that~~. However, if the assessment of all property in any taxing district is raised, the board may instruct the clerk to give immediate notice by one publication in one of the official newspapers located in the taxing district, and such published notice shall take the place of the mailed notice provided for in section 441.36, but all other provisions of ~~said~~ that section shall apply. The decision of the board as to the foregoing matters shall be subject to appeal to the property assessment appeal board within the same time and in the same manner as provided in section 441.37A and to the district court within the same time and in the same manner as provided in section 441.38.

Sec. 128. NEW SECTION. 441.37A APPEAL OF PROTEST TO PROPERTY ASSESSMENT APPEAL BOARD.

1. For the assessment year beginning January 1, 2007, and all subsequent assessment years, appeals may be taken from the action of the board of review with reference to protests of assessment, valuation, or application of an equalization order to the property assessment appeal board created in section 421.1A. However, a property owner or aggrieved taxpayer or an appellant described in section 441.42 may bypass the property assessment appeal board and appeal the decision of the local board of review to the district court pursuant to section 441.38.

For an appeal to the property assessment appeal board to be valid, written notice must be filed by the party appealing the decision with the secretary of the property assessment appeal board within twenty days after the date the board of review's letter of disposition of the appeal is postmarked to the party making the protest. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. No new grounds in addition to those set out in the protest to the local board of review as provided in section 441.37 can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal to the assessment appeal board as an individual taxpayer, public body, or other public officer as provided in section 441.42.

Filing of the written notice of appeal and petition with the secretary of the property assessment appeal board shall preserve all rights of appeal of the appellant, except as otherwise provided in subsection 2. A copy of the appellant's written notice of appeal and petition shall be mailed by the secretary of the property assessment appeal board to the local board of review whose decision is being appealed. In all cases where a change in assessed valuation of one hundred thousand dollars or more is petitioned for, the local board of review shall mail a copy of the written notice of appeal and petition to all affected taxing districts as shown on the last available tax list.

2. A party to the appeal may request a hearing or the appeal may proceed without a hearing. If a hearing is requested, the appellant and the local board of review from which the appeal is taken shall be given at least thirty days' written notice by the property assessment appeal board of the date the appeal shall be heard and the local board of review may be present and participate at such hearing. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review. Failure by the appellant to appear at the property assessment appeal board hearing shall be grounds for dismissal of the appeal unless a continuance is granted to the appellant. If an appeal is dismissed for failure to appear, the property assessment appeal board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

An appeal may be considered by less than a majority of the members of the board, and the chairperson of the board may assign members to consider appeals. If a hearing is requested, it shall be open to the public and shall be conducted in accordance with the rules of practice and procedure adopted by the board. However, any deliberation of a board member considering the appeal in reaching a decision on any appeal shall be confidential. The property assessment appeal board or any member of the board may require the production of any books, records, papers, or documents as evidence in any matter pending before the board that may be material, relevant, or necessary for the making of a just decision. Any books, records, papers, or documents produced as evidence shall become part of the record of the appeal. Any testimony given relating to the appeal shall be transcribed and made a part of the record of the appeal.

3. a. The board member considering the appeal shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. All of the evidence shall be considered and there shall be no presumption as to the correctness of the valuation of assessment appealed from. The property assessment appeal board shall make a decision in each appeal filed with the board. If the appeal is considered by less than a majority of the board, the determination made by that member shall be forwarded to the full board for approval, rejection, or modification. If the initial determination is rejected by the board, it shall be returned for reconsideration to the board member making the initial determination. Any deliberation of the board regarding an initial determination shall be confidential.

b. The decision of the board shall be considered the final agency action for purposes of further appeal, except as otherwise provided in section 441.49. The decision shall be final unless appealed to district court as provided in section 441.38. The levy of taxes on any assessment appealed to the board shall not be delayed by any proceeding before the board, and if the assessment appealed from is reduced by the decision of the board, any taxes levied upon that portion of the assessment reduced shall be abated or, if already paid, shall be refunded. If the

subject of an appeal is the application of an equalization order, the property assessment appeal board shall not order a reduction in assessment greater than the amount that the assessment was increased due to application of the equalization order. Each party to the appeal shall be responsible for the costs of the appeal incurred by that party.

Sec. 129. Section 441.38, Code 2005, is amended to read as follows:

441.38 APPEAL TO DISTRICT COURT.

1. Appeals may be taken from the action of the local board of review with reference to protests of assessment, to the district court of the county in which the board holds its sessions within twenty days after its adjournment or May 31, whichever date is later. Appeals may be taken from the action of the property assessment appeal board to the district court of the county where the property which is the subject of the appeal is located within twenty days after the letter of disposition of the appeal by the property assessment appeal board is postmarked to the appellant. No new grounds in addition to those set out in the protest to the local board of review as provided in section 441.37, or in addition to those set out in the appeal to the property assessment appeal board, if applicable, can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal and in the same manner as an individual taxpayer, public body or other public officer as provided in section 441.42. Appeals shall be taken by filing a written notice of appeal with the clerk of district court. Filing of the written notice of appeal shall preserve all rights of appeal of the appellant.

2. Notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review, and on the secretary of the property assessment appeal board, if applicable, after the filing of notice under subsection 1 with the clerk of district court.

Sec. 130. Section 441.39, Code 2005, is amended to read as follows:

441.39 TRIAL ON APPEAL.

~~The~~ If the appeal is from a decision of the local board of review, 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 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. If the appeal is from a decision of the property assessment appeal board, the court's review shall be limited to the correction of errors at law. 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. 131. Section 441.43, Code 2005, is amended to read as follows:

441.43 POWER OF COURT.

Upon trial of any appeal from the action of the board of review or of the property assessment appeal board fixing the amount of assessment upon any property concerning which complaint is made, the court may increase, decrease, or affirm the amount of the assessment appealed from.

Sec. 132. Section 441.49, unnumbered paragraph 5, Code 2005, is amended to read as follows:

The local board of review shall reconvene in special session from October 15 to November 15 for the purpose of hearing the protests of affected property owners or taxpayers within the jurisdiction of the board whose valuation of property if adjusted pursuant to the equalization order issued by the director of revenue will result in a greater value than permitted under section 441.21. The board of review shall accept protests only during the first ten days following the date the local board of review reconvenes. The board of review shall limit its review to only the timely filed protests. The board of review may adjust all or a part of the percentage increase ordered by the director of revenue by adjusting the actual value of the property under protest to one hundred percent of actual value. Any adjustment so determined by the board of review shall not exceed the percentage increase provided for in the director's equalization order. The

determination of the board of review on filed protests is final, subject to appeal to the property assessment appeal board. A final decision by the local board of review, or the property assessment appeal board, if the local board's decision is appealed, is subject to review by the director of revenue for the purpose of determining whether the board's actions substantially altered the equalization order. In making the review, the director has all the powers provided in chapter 421, and in exercising the powers the director is not subject to chapter 17A. Not later than fifteen days following the adjournment of the board, the board of review shall submit to the director of revenue, on forms prescribed by the director, a report of all actions taken by the board of review during this session.

Sec. 133. Section 445.60, Code 2005, is amended to read as follows:

445.60 REFUNDING ERRONEOUS TAX.

The board of supervisors shall direct the county treasurer to refund to the taxpayer any tax or portion of a tax found to have been erroneously or illegally paid, with all interest, fees, and costs actually paid. A refund shall not be ordered or made unless a claim for refund is presented to the board within two years of the date the tax was due, or if appealed to the board of review, the property assessment appeal board, the state board of tax review, or district court, within two years of the final decision.

Sec. 134. FUTURE REPEAL.

1. The sections of this division of this Act amending sections 7E.6, 13.7, 428.4, 441.19, 441.35, 441.38, 441.39, 441.43, 441.49, and 445.60, and enacting sections 421.1A and 441.37A, are repealed effective July 1, 2013.

2. The portion of the section of this division of this Act amending section 441.28 relating only to the property assessment appeal board is repealed effective July 1, 2013.

Approved June 9, 2005

CHAPTER 151

VETERINARY EMERGENCY PREPAREDNESS AND RESPONSE SERVICES

S.F. 201

AN ACT providing for veterinary emergency preparedness and response by the department of agriculture and land stewardship.

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

Section 1. Section 163.3, Code 2005, is amended to read as follows:

163.3 VETERINARY ASSISTANTS.

The ~~department~~ secretary or the secretary's designee may appoint one or more ~~licensed~~ veterinarians licensed pursuant to chapter 169 in each county as assistant veterinarians. ~~It~~ The secretary may also appoint such special assistants as may be necessary in cases of emergency, including as provided in section 163.3A.

Sec. 2. NEW SECTION. 163.3A VETERINARY EMERGENCY PREPAREDNESS AND RESPONSE.

1. The department may provide veterinary emergency preparedness and response services

necessary to prevent or control a serious threat to the public health, public safety, or the state's economy caused by the transmission of disease among livestock as defined in section 717.1 or agricultural animals as defined in section 717A.1. The services may include measures necessary to ensure that that[1] all such animals carrying disease are properly identified, segregated, treated, or destroyed as provided in this Code.

2. The services shall be performed under the direction of the department and may be part of measures authorized by the governor under a declaration or proclamation issued pursuant to chapter 29C. In such case, the department shall cooperate with the Iowa department of public health under chapter 135; and the department of public defense, homeland security and emergency management division; and local emergency management agencies as provided in chapter 29C.

3. The secretary or the secretary's designee shall appoint veterinarians licensed pursuant to chapter 169 or persons in related professions or occupations who are qualified, as determined by the secretary, to serve on a voluntary basis as members of one or more veterinary emergency response teams. The secretary shall provide for the registration of persons as part of the appointment process. The secretary may cooperate with the Iowa board of veterinary medicine in implementing this section.

4. a. A registered member of an emergency response team who acts under the authority of the secretary shall be considered an employee of the state for purposes of defending a claim on account of damage to or loss of property or on account of personal injury or death under chapter 669. The registered member shall be afforded protection under section 669.21. The registered member shall also be considered an employee of the state for purposes of disability, workers' compensation, and death benefits under chapter 85.

b. The department shall provide and update a list of the registered members of each emergency response team, including the members' names and identifying information, to the department of administrative services. Upon notification of a compensable loss suffered by a registered member, the department of administrative services shall seek funding from the executive council for those costs associated with covered benefits.

Approved June 10, 2005

CHAPTER 152

ELECTION OF TOWNSHIP OFFICERS

H.F. 222

AN ACT relating to the nonpartisan election of township officers.

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

Section 1. Section 39.21, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Township officers as provided in section 39.22, subsection 2.

Sec. 2. Section 39.22, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The election of the trustees and clerk of a township may be restored after approval of the

[1] According to enrolled Act

appointment process under this subsection by a resolution of the board of supervisors submitting the question to the registered voters who are eligible to vote for township officers of the township at the next general election. If the proposition to restore the election process is approved by a majority of those voting on the question, the election of the township officers shall commence with the next ~~primary and~~ general ~~elections~~ election. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon receipt of a petition signed by eligible electors residing in the township equal in number to at least ten percent of the registered voters of a township. The initial terms of the trustees shall be determined by lot, one for two years, and two for four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

Sec. 3. Section 39.22, subsection 2, Code 2005, is amended to read as follows:

2. BY ELECTION. If the county board of supervisors does not have the power provided under subsection 1 to fill the offices of trustee and clerk within a township by appointment, then the offices of township trustee and township clerk shall be filled by election on a nonpartisan basis. Township trustees and the township clerk, in townships which do not include a city, shall be elected by the voters of the entire township. In townships which include a city, the officers shall be elected by the voters of the township who reside outside the corporate limits of the city, but a township officer may be a resident of the city.

a. TOWNSHIP OFFICERS. The election of township officers shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections and shall be filed with the county commissioner of elections. A plurality is sufficient to elect the township officers.

~~a.~~ b. TOWNSHIP TRUSTEES. Township trustees shall be elected biennially to succeed those whose terms of office expire on the first day of January following the election which is not a Sunday or legal holiday. The term of office of each elected township trustee is four years, except as provided in subsection 1 for initial terms following restoration of the election process.

~~b.~~ c. TOWNSHIP CLERK. At the general election held in the year 1990 and every four years thereafter, in each civil township one township clerk shall be elected who shall hold office for the term of four years.

Sec. 4. Section 43.26, Code 2005, is amended to read as follows:

43.26 BALLOT — FORM.

The official primary election ballot shall be prepared, arranged, and printed substantially in the following form:

PRIMARY ELECTION BALLOT
(Name of Party) of
County of
. . . . . ., State of Iowa,
. . . Rotation (if any).
Primary election held on
the . . . day of June, ... (year)
FOR UNITED STATES SENATOR
(Vote for no more than one.)
___ CANDIDATE'S NAME
___ CANDIDATE'S NAME
___ . . . . . .

FOR UNITED STATES
REPRESENTATIVE
(Vote for no more than one.)
___ CANDIDATE'S NAME
___ CANDIDATE'S NAME
___ . . . . . .
FOR GOVERNOR
(Vote for no more than one.)
___ CANDIDATE'S NAME
___ CANDIDATE'S NAME
___ . . . . . .

(Followed by other elective state officers in the order in which they appear in section 39.9 and district officers in the order in which they appear in sections 39.15 and 39.16.)

FOR BOARD OF SUPERVISORS
(Vote for no more than two.)
___ CANDIDATE'S NAME
___ CANDIDATE'S NAME
___ . . . . . .
___ . . . . . .
FOR COUNTY AUDITOR
(Vote for no more than one.)
___ CANDIDATE'S NAME
___ CANDIDATE'S NAME
___ . . . . . .

(Followed by other elective county officers in the order in which they appear in section 39.17.)

~~FOR TOWNSHIP CLERK~~
~~(Vote for no more than one.)~~
~~___ CANDIDATE'S NAME~~
~~___ CANDIDATE'S NAME~~
~~___ . . . . . .~~
~~FOR TOWNSHIP TRUSTEES~~
~~(Vote for no more than two.)~~
~~___ CANDIDATE'S NAME~~
~~___ CANDIDATE'S NAME~~
~~___ CANDIDATE'S NAME~~
~~___ . . . . . .~~
~~___ . . . . . .~~

Sec. 5. Section 43.53, Code 2005, is amended to read as follows:

43.53 NOMINEES FOR SUBDIVISION OFFICE — WRITE-IN CANDIDATES.

The nominee of each political party for any office to be filled by the voters of any ~~township or other~~ political subdivision within the county shall be the person receiving the highest number of votes cast in the primary election by the voters of that party for the office. That person shall appear as the party's candidate for the office on the general election ballot. A person whose name is not printed on the official primary ballot shall not be declared nominated as a candidate for such office in the general election unless that person receives at least five votes. Nomination of a candidate for the office of county supervisor elected from a district within the county shall be governed by section 43.52 and not by this section.

Sec. 6. Section 43.67, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Each candidate nominated pursuant to section 43.52 or 43.65 is entitled to have the candi-

date's name printed on the official ballot to be voted at the general election without other certificate unless the candidate was nominated by write-in votes. Immediately after the completion of the canvass held under section 43.49, the county auditor shall notify each person who was nominated by write-in votes for a county ~~or township~~ office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. Immediately after the completion of the canvass held under section 43.63, the secretary of state shall notify each person who was nominated by write-in votes for a state or federal office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. If the affidavit is not filed by five p.m. on the seventh day after the completion of the canvass, that person's name shall not be placed upon the official general election ballot. The affidavit shall be signed by the candidate, notarized, and filed with the county auditor or the secretary of state, whichever is applicable.

Sec. 7. Section 49.30, subsection 1, Code 2005, is amended to read as follows:

1. Where special paper ballots are used, if it is not possible to include all offices and public measures on a single ballot, separate ballots may be provided for ~~township offices,~~ nonpartisan offices, judges, or public measures.

Sec. 8. Section 49.30, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. If it is impossible to place the names of all candidates on the machine ballot, the commissioner may provide a separate paper ballot for the candidates for judge of the district court, ~~the township offices,~~ and the nonpartisan offices listed in section 39.21. One of the paper ballots shall be furnished to each registered voter.

Sec. 9. Section 49.37, subsection 3, Code 2005, is amended to read as follows:

3. The commissioner shall arrange the partisan county offices on the ballot with the board of supervisors first, followed by the other county offices ~~and township offices~~ in the same sequence in which they appear in ~~sections~~ section 39.17 ~~and 39.22~~. Nonpartisan offices shall be listed after partisan offices.

Sec. 10. Section 43.21, Code 2005, is repealed.

Approved June 10, 2005

CHAPTER 153

COMMERCIAL CLEANING OF TOILET UNITS
AND PRIVATE SEWAGE DISPOSAL FACILITIES

H.F. 834

AN ACT relating to persons commercially cleaning toilet units and private sewage disposal facilities by providing regulations, fees, and civil penalties, and making appropriations.

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

Section 1. Section 455B.171, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 32A. "Toilet unit" means a portable or fixed tank or vessel holding un-

treated human waste without secondary wastewater treatment that is emptied for disposal. "Toilet unit" does not include a portable or fixed tank or vessel holding untreated human waste that is part of a recreational vehicle or marine vessel.

Sec. 2. Section 455B.172, subsection 5, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department shall by rule adopt standards for the commercial cleaning of private sewage disposal facilities, including but not limited to septic tanks ~~and pits used to collect waste in livestock confinement structures~~, and for the disposal of waste from the facilities. The standards shall not be in conflict with the state building code adopted pursuant to section 103A.7. A person shall not commercially clean such facilities or dispose of waste from such facilities unless the person has been issued a license by the department. The department shall be exclusively responsible for adopting the standards and issuing licenses. However, county boards of health shall enforce the standards and licensing requirements established by the department. The department may contract for the delegation of the authority for inspection of land application sites, record reviews, and equipment inspections to a county board of health. In the event of entering into such a contract, the department shall retain concurrent authority over such activities. Application for the license shall be made in the manner provided by the department. Licenses expire one year from the date of issue unless revoked and may be renewed in the manner provided by the department. ~~The license or license renewal fee is twenty-five dollars.~~ A license application shall include registration applications for each vehicle used by the applicant for purposes of collecting septage from private sewage disposal facilities and each vehicle used by the applicant for purposes of applying septage to land. Septic disposal management plans shall be submitted to the department and approved annually as a condition of licensing and shall also be filed annually with the county board of health in the county where a proposed septage application site is located. The septic disposal management plan shall include, but not be limited to, the sites of septage application, the anticipated volume of septage applied to each site, the area of each septage application site, the type of application to be used at each site, the volume of septage expected to be collected from private sewage disposal facilities, and a list of registered vehicles collecting septage from private sewage disposal facilities and applying septage to land. The annual license or license renewal fee for a person commercially cleaning private sewage disposal facilities shall be established by the department based on the volume of septage that is applied to land. A septic management fund is created in the state treasury under the control of the department. Annual license and license renewal fees collected pursuant to this section shall be deposited in the septic management fund and are appropriated to the department for purposes of contracting with county boards of health to conduct land application site inspections, record reviews, and septic cleaning equipment inspections. A person violating this section or the rules adopted pursuant to this section as determined by the department is subject to a civil penalty of not more than ~~twenty-five~~ two hundred fifty dollars. The department shall adopt rules related to, but not limited to, recordkeeping requirements, application procedures and limitations, contamination issues, loss of septage, failure to file a septic disposal management plan, application by vehicles that are not properly registered, wrongful application, and violations of a septic disposal management plan. Each day that a violation continues constitutes a separate offense. ~~However, the total civil penalty shall not exceed five hundred dollars per year.~~ The penalty shall be assessed ~~for a violation occurring ten days following written notice of the violation delivered to the person by the department or a county board of health~~ for the duration of time commencing with the time the violation begins and ending the time the violation is corrected. The septic disposal management plan may be examined to determine the duration of the violation. Moneys collected by the department ~~or a county board of health~~ from the imposition of civil penalties shall be deposited in the general fund of the state. Moneys collected by a county board of health from the imposition of civil penalties shall be deposited in the general fund of the county.

Sec. 3. Section 455B.172, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. a. The department shall by rule adopt standards for the commercial cleaning of toilet units and for the disposal of waste from toilet units. Waste from toilet units shall be disposed of at a wastewater treatment facility and shall not be applied to land. The department may contract for the delegation of the authority for inspection of record reviews and equipment inspections for such units to a county board of health. In the event of entering into such a contract, the department shall retain concurrent authority over such activities.

b. A person shall not commercially clean toilet units or dispose of waste from such units unless the person has been issued a license by the department. The department shall be exclusively responsible for adopting the standards and issuing licenses. However, county boards of health shall enforce the standards and licensing requirements established by the department. Application for the license shall be made in the manner provided by the department. Licenses expire one year from the date of issue unless revoked and may be renewed in the manner provided by the department. A license application shall include registration applications for each vehicle used by the applicant for purposes of collecting waste from toilet units and each vehicle used by the applicant for purposes of transporting waste from toilet units to a wastewater treatment facility. The annual license or license renewal fee for a person commercially cleaning toilet units shall be established by the department based on the number of trucks or vehicles used by the licensee for purposes of commercial cleaning of toilet units and for the disposal of waste from the toilet units. For purposes of this subsection, "vehicle" includes a trailer.

c. A toilet unit fund is created in the state treasury under the control of the department. Annual license and license renewal fees collected pursuant to this subsection shall be deposited in the toilet unit fund and are appropriated to the department for purposes of contracting with county boards of health to conduct record reviews and toilet unit cleaning equipment inspections.

d. A person violating this section or the rules adopted pursuant to this section as determined by the department is subject to a civil penalty of not more than five hundred dollars. Each day that a violation continues constitutes a separate offense. The penalty shall be assessed for the duration of time commencing with the time the violation begins and ending with the time the violation is corrected. Moneys collected by the department from the imposition of civil penalties shall be deposited in the general fund of the state. Moneys collected by a county board of health from the imposition of civil penalties shall be deposited in the general fund of the county.

Sec. 4. STUDY. By January 1, 2006, the department of natural resources shall submit a written report to the general assembly regarding the land application and treatment of septage. The report shall include a county-by-county analysis of the amount of septage collected at sources in each county, the amount of septage applied to land in each county, and the treatment capacity of wastewater treatment facilities in each county. The report shall include an analysis of the environmental impact of land application of septage and the fiscal impact of a statewide prohibition of the land application of septage.

Approved June 10, 2005

CHAPTER 154

WORK-BASED LEARNING INTERMEDIARY NETWORK PROGRAM

H.F. 858

AN ACT establishing a statewide work-based learning intermediary network program and creating a fund.

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

Section 1. NEW SECTION. 256.40 STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK — FUND — STEERING COMMITTEE — REGIONAL NETWORKS.

1. A statewide work-based learning intermediary network program is established in the department and shall be administered by the department. A separate, statewide work-based learning intermediary network fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund, including any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from federal or private sources for purposes of the program. Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2. The purpose of the program shall be to build a seamless system of career, future workforce, and economic development in Iowa to accomplish all of the following:

a. Better prepare students to make informed postsecondary education and career decisions.

b. Provide communication and coordination in order to build and sustain relationships between employers and local youth, the education system, and the community at-large.

c. Connect students to local career opportunities, creating economic capital for the region using a skilled and available workforce.

d. Facilitate the sharing of best practices statewide by business and education leaders.

e. Provide a one-stop contact point for information useful to both educators and employers, including a state-level clearinghouse for internships, job shadowing experiences, and other workplace learning opportunities for students that are linked to the state's economic goals.

f. Implement services for all students, staff, and districts within the region and integrate workplace skills into the curriculum.

g. Develop work-based capacity with employers.

h. Improve the skills of Iowa's future workforce.

i. Provide core services, which may include student job shadowing, student internships, and teacher or student tours.

3. The department shall establish and facilitate a steering committee comprised of representatives from the department of workforce development, the department of economic development, the community colleges, the institutions under the control of the state board of regents, accredited private institutions, area education agencies, school districts, and the workplace learning connection. The steering committee shall be responsible for the development and implementation of the statewide work-based learning intermediary network.

4. The steering committee shall develop a design for a statewide network comprised of fifteen regional work-based learning intermediary networks. The design shall include network specifications, strategic functions, and desired outcomes.

5. Each regional network shall establish an advisory council to develop and implement the regional network.

6. Funds deposited in the statewide work-based learning intermediary fund[1] created in subsection 1 shall be distributed to each region for the implementation of the statewide work-based learning intermediary network based upon the distribution of the kindergarten through grade twelve student enrollments in each region. The amount shall not exceed three dollars per student.

[1] The phrase "intermediary network fund" probably intended

7. The department shall provide oversight of the statewide work-based learning intermediary network and shall annually evaluate the statewide and regional network progress toward the outcomes identified by the steering committee pursuant to subsection 4.

8. Each regional network shall match the funds received pursuant to subsection 6 with financial resources equal to at least twenty-five percent of the amount of the funds received pursuant to subsection 6. The financial resources used to provide the match may include private donations, in-kind contributions, or public funds other than the funds received pursuant to subsection 6.

Approved June 10, 2005

CHAPTER 155

LEGALIZING ACT — CEDAR RAPIDS, COLLEGE,
AND LINN-MAR COMMUNITY SCHOOL DISTRICTS' BOUNDARIES

H.F. 883

AN ACT to legalize actions taken and proceedings conducted by the state of Iowa, Linn county, the city of Cedar Rapids, and three school districts including the Cedar Rapids community school district, the College community school district, and the Linn-Mar community school district, which relate to erroneously established boundaries, and providing an effective date.

WHEREAS, the boundary between the Cedar Rapids community school district and the College community school district was changed in 1985 and the boundary between the Cedar Rapids community school district and the Linn-Mar community school district was changed in 1998; and

WHEREAS, the boundary changes were erroneously made by the office of city assessor of the city of Cedar Rapids as a result of the annexation of land in Linn county by the city of Cedar Rapids for inclusion within the territorial jurisdiction of the city; and

WHEREAS, the state of Iowa, Linn county, the city of Cedar Rapids, and the three school districts have continuously operated as if the erroneous boundaries were correct; NOW THEREFORE,

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

Section 1. PRIOR PROCEEDINGS AND ACTIONS. All proceedings conducted or actions taken by or on behalf of the state of Iowa, Linn county, the city of Cedar Rapids, the Cedar Rapids community school district, the College community school district, and the Linn-Mar community school district which were conducted or taken prior to the effective date of this Act are legalized, validated, and confirmed, if the proceedings were conducted or the actions were taken in reliance on the erroneous boundaries being correct, and if the actions taken or proceedings conducted were otherwise in accordance with state law.

Sec. 2. PROCEEDINGS AND ACTIONS DESCRIBED. The proceedings conducted or actions taken as provided in section 1 include but are not limited to the appropriation or allocation and expenditure of moneys, budgeting practices and decisions, the levy and collection of taxes, and the enrollment of students.

Sec. 3. FUTURE PROCEEDINGS AND ACTIONS. All proceedings conducted or actions taken by or on behalf of the state of Iowa, Linn county, the city of Cedar Rapids, the Cedar Rapids community school district, the College community school district, and the Linn-Mar community school district which are conducted or taken on or after the effective date of this Act until June 30, 2006, as provided in sections 1 and 2 of this Act, are legalized, validated, and confirmed in the same manner as the proceedings conducted or actions taken pursuant to those sections.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 10, 2005

CHAPTER 156

PRESCRIPTION DRUG ASSISTANCE CLEARINGHOUSE PROGRAM

H.F. 821

AN ACT relating to the establishment of a prescription drug assistance clearinghouse program by the commissioner of insurance, and providing for a contingent appropriation.

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

Section 1. NEW SECTION. 505.26 PRESCRIPTION DRUG ASSISTANCE CLEARINGHOUSE PROGRAM.

1. The commissioner of insurance shall establish and administer a prescription drug assistance clearinghouse program to improve access to prescription drugs for individuals who have no or inadequate health insurance or other resources for the purchase of medically necessary prescription drugs and to assist individuals in accessing programs offered by pharmaceutical manufacturers that provide free or discounted prescription drugs or provide coverage for prescription drugs.

2. The commissioner of insurance shall utilize computer software programs to do all of the following:

a. Provide a clearinghouse to assist individuals in accessing manufacturer-sponsored prescription drug assistance programs for which they may be eligible, including listing the eligibility requirements for pharmaceutical assistance programs offered by manufacturers.

b. Disseminate information about and assist individuals in assessing pharmaceutical discount or insurance programs that may be beneficial.

c. Serve as a resource for pharmaceutical benefit issues.

d. Assist individuals in making application to and enrolling in the pharmaceutical assistance program most appropriate for the individual.

e. Maintain a listing of community-based pharmacy assistance programs for additional assistance.

3. The commissioner of insurance shall provide information to pharmacies, physicians, other appropriate health care providers, and the general public regarding the program and about manufacturer-sponsored prescription drug assistance programs.

4. The commissioner of insurance shall notify pharmaceutical manufacturers doing business in this state of the prescription drug assistance clearinghouse program, and every phar-

maceutical manufacturer that does business in this state that offers a pharmaceutical assistance program shall notify the commissioner of the existence of the program, the prescription drugs covered by the program, and all information necessary for application for assistance through the program. The commissioner of insurance shall provide for ongoing review and assessment of pharmaceutical discount or insurance programs.

5. The commissioner of insurance may work with pharmaceutical manufacturers to develop a simplified system to assist individuals in accessing pharmaceutical assistance programs. The system may include a simplified, uniform application process or a voucher system for dispensing prescription drugs through local pharmacies.

6. The commissioner of insurance shall monitor and evaluate the prescription drug assistance clearinghouse program including but not limited to the number of individuals served, the length and types of services provided, and any other measurable data available to assess the effectiveness of the program. The commissioner shall make recommendations for improvement of the program and shall identify and make recommendations regarding additional strategies to improve access to prescription drugs for citizens who have no or inadequate health insurance or other resources for the purchase of prescription drugs.

7. The commissioner of insurance shall submit a report regarding the effectiveness of the program and including any recommendations for improvement of the program to the governor and the general assembly on or before December 15, annually. If a national pharmaceutical assistance program is established by a public or private entity, the commissioner of insurance shall include in the annual report a recommendation regarding the continuation or elimination of the state prescription drug assistance clearinghouse program.

Sec. 2. PRESCRIPTION DRUG ASSISTANCE CLEARINGHOUSE PROGRAM — FUNDING — CONTINGENT APPROPRIATION.

1. The commissioner of insurance shall seek federal funding to establish and administer the prescription drug assistance clearinghouse program pursuant to section 505.26.

*2. *If federal funding is not received pursuant to subsection 1 before October 1, 2005, as certified by the commissioner of insurance, there is appropriated from the senior living trust fund created in section 249H.4 to the insurance division of the department of commerce beginning October 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For the establishment and administration of the prescription drug assistance clearinghouse program pursuant to section 505.26:

. . . . . *$ 250,000**

Approved June 10, 2005, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 821, an Act relating to the establishment of a prescription drug assistance program by the commissioner of insurance, and providing for a contingent appropriation.

Assisting all Iowans with access to lower cost prescription drugs continues to be one of my top priorities. Prescription drug assistance programs similar to the one established in House File 821 have been valuable tools in other states, and this program is estimated to save Iowans between $6 and $10 million. Furthermore, House File 821 will compliment the initiatives of the new IowaCare Act (House File 841[1]). I have directed the Insurance Commissioner to work with

* Item veto; see message at end of the Act

[1] Chapter 167 herein

the Department of Human Services during the implementation process to ensure an efficient and effective use of resources in providing prescription drug assistance to Iowans.

House File 821 is approved on this date with the following exception, which I hereby disapprove. I am unable to approve the item designated as Section 2, subsection 2 in its entirety. I remain concerned that this section unnecessarily diverts resources away from the Senior Living Trust, which provides seniors vital health care and living option services. This section also implies the program is targeted towards older Iowans when its benefits should serve all Iowans who need assistance accessing prescription drugs to protect their health security. If necessary, any future appropriation should come from the state general fund. I cannot and will not support an unnecessary diversion of resources from the Senior Living Trust.

For the above reasons, I respectfully disapprove of the designated item in accordance with Article III, Section 16, of the Constitution of the State of Iowa. All other items in House File 821 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 157

INVESTMENTS IN QUALIFYING BUSINESSES AND
COMMUNITY-BASED SEED CAPITAL FUNDS — TAX CREDITS

H.F. 831

AN ACT relating to tax credits for equity investments in qualifying businesses or community-based seed capital funds.

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

Section 1. Section 15E.43, subsection 4, Code 2005, is amended to read as follows:

4. The aggregate amount of tax credits issued pursuant to this division shall not exceed a total of ten million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2002, shall not exceed three million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2003, shall not exceed three million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2004, shall not exceed four million dollars. Any amount of the maximum aggregate limit of tax credits that have not been issued by June 30, 2005, may be issued in any subsequent fiscal year. Not more than three million dollars of tax credits may be issued in any one subsequent fiscal year.

Sec. 2. Section 15E.44, subsection 2, paragraphs b and e, Code 2005, are amended to read as follows:

b. The business has been in operation for ~~three~~ six years or less.

e. The business shall not have a net worth that exceeds ~~three~~ ten million dollars.

Sec. 3. Section 15E.45, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The fund has, on or after January 1, 2002, a total of both capital commitments from investors and investments in qualifying businesses of at least one hundred twenty-five thousand dollars, but not more than three million dollars. However, if a fund is either a rural business investment company under the rural business investment program of the federal Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, or an Iowa-based seed capital fund with at least forty percent of its committed capital subscribed by community-based seed capital funds, the fund may qualify notwithstanding having capital in excess of the limits set forth in this paragraph as long as the fund otherwise meets the requirements of this subsection.

Sec. 4. Section 15E.45, subsections 6, 7, and 8, Code 2005, are amended to read as follows:

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 at least thirty-three percent of the invested capital of the community-based seed capital fund has not been invested ~~at least thirty-three percent of its invested capital~~ in one or more separate qualifying businesses, measured at the end of the ~~thirty-sixth~~ forty-eighth 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 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 of the requirements of this subsection.

7. An investor in a community-based seed capital fund shall receive a tax credit pursuant to this division only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments ~~in a qualifying business~~ made by the community-based seed capital fund in a qualifying business or in an Iowa-based seed capital fund with at least forty percent of its committed capital subscribed by community-based seed capital funds. However, an investor in a community-based seed capital fund may receive a tax credit under this division with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.

8. A community-based seed capital fund shall not invest in the Iowa fund of funds, if organized pursuant to section 15E.65, but may invest up to sixty percent of its committed capital in an Iowa-based seed capital fund with at least forty percent of its committed capital subscribed by community-based seed capital funds.

Approved June 13, 2005

CHAPTER 158

CRIMINAL JUSTICE — DNA SAMPLING,
SEX OFFENDERS AND OFFENSES, AND VICTIM RIGHTS

H.F. 619

AN ACT relating to criminal sentencing, victim notification, and the sex offender registry, by establishing a special sentence for certain offenders, requiring DNA testing of certain offenders and lengthening the time an information or indictment may be found in certain offenses where DNA evidence is available, requiring sex offender treatment in order to accumulate earned time, restricting certain persons from residing with sex offenders, establishing a sex offender treatment and supervision task force, providing penalties, and providing effective dates.

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

DIVISION I
DNA PROFILING

Section 1. NEW SECTION. 81.1 DEFINITIONS.

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

1. "DNA" means deoxyribonucleic acid.

2. "DNA data bank" means the repository for DNA samples obtained pursuant to section 81.4.

3. "DNA database" means the collection of DNA profiles and DNA records.

4. "DNA profile" means the objective form of the results of DNA analysis performed on a DNA sample. The results of all DNA identification analysis on an individual's DNA sample are also collectively referred to as the DNA profile of an individual.

5. "DNA profiling" means the procedure established by the division of criminal investigation, department of public safety, for determining a person's genetic identity.

6. "DNA record" means the DNA sample and DNA profile, and other records in the DNA database and DNA data bank used to identify a person.

7. "DNA sample" means a biological sample provided by any person required to submit a DNA sample or a DNA sample submitted for any other purpose under section 81.4.

8. "Person required to submit a DNA sample" means a person convicted, adjudicated delinquent, receiving a deferred judgment, or found not guilty by reason of insanity of an offense requiring DNA profiling pursuant to section 81.2. "Person required to submit a DNA sample" also means a person determined to be a sexually violent predator pursuant to section 229A.7.

Sec. 2. NEW SECTION. 81.2 PERSONS REQUIRED TO SUBMIT A DNA SAMPLE.

1. A person who receives a deferred judgment for a felony or against whom a judgment or conviction for a felony has been entered shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4.

2. A person determined to be a sexually violent predator pursuant to chapter 229A shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 prior to discharge or placement in a transitional release program.

3. A person found not guilty by reason of insanity of an offense that requires DNA profiling shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 as part of the person's treatment management program.

4. A juvenile adjudicated delinquent of an offense that requires DNA profiling of an adult offender shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 as part of the disposition of the juvenile's case.

5. An offender placed on probation shall immediately report to the judicial district department of correctional services after sentencing so it can be determined if the offender has been

convicted of an offense requiring DNA profiling. If it is determined by the judicial district that DNA profiling is required, the offender shall immediately submit a DNA sample.

6. A person required to register as a sex offender.[1]

Sec. 3. NEW SECTION. 81.3 ESTABLISHMENT OF DNA DATABASE AND DNA DATA BANK.

1. A state DNA database and a state DNA data bank are established under the control of the division of criminal investigation, department of public safety. The division of criminal investigation shall conduct DNA profiling of a DNA sample submitted in accordance with this section.

2. A DNA sample shall be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for persons required to submit a DNA sample.

3. A DNA sample may be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for any of the following:

a. Crime scene evidence and forensic casework.

b. A relative of a missing person.

c. An anonymous DNA profile used for forensic validation, forensic protocol development, or quality control purposes, or for the establishment of a population statistics database.

4. A fingerprint record of a person required to submit a DNA sample shall also be submitted to the division of criminal investigation with the DNA sample to verify the identity of the person required to submit a DNA sample.

Sec. 4. NEW SECTION. 81.4 COLLECTING, SUBMITTING, ANALYZING, IDENTIFYING, AND STORING DNA SAMPLES AND DNA RECORDS.

1. The division of criminal investigation shall adopt rules for the collection, submission, analysis, identification, storage, and disposition of DNA records.

2. A supervising agency having control, custody, or jurisdiction over a person shall collect a DNA sample from a person required to submit a DNA sample. The supervising agency shall collect a DNA sample, upon admittance to the pertinent institution or facility, of the person required to submit a DNA sample or at a determined date and time set by the supervising agency. If a person required to submit a DNA sample is confined at the time a DNA sample is required, the person shall submit a DNA sample as soon as practicable. If a person required to submit a DNA sample is not confined after the person is required to submit a DNA sample, the supervising agency shall determine the date and time to collect the DNA sample.

3. A person required to submit a DNA sample who refuses to submit a DNA sample may be subject to contempt proceedings pursuant to chapter 665 until the DNA sample is submitted.

4. The division of criminal investigation shall conduct DNA profiling on a DNA sample or may contract with a private entity to conduct the DNA profiling.

Sec. 5. NEW SECTION. 81.5 CIVIL AND CRIMINAL LIABILITY — LIMITATION.

A person who collects a DNA sample shall not be civilly or criminally liable for the collection of the DNA sample if the person performs the person's duties in good faith and in a reasonable manner according to generally accepted medical practices or in accordance with the procedures set out in the administrative rules of the department of public safety adopted pursuant to section 81.4.

Sec. 6. NEW SECTION. 81.6 CRIMINAL OFFENSE.

1. A person who knowingly or intentionally does any of the following commits an aggravated misdemeanor:

a. Discloses any part of a DNA record to a person or agency that is not authorized by the division of criminal investigation to have access to the DNA record.

b. Uses or obtains a DNA record for a purpose other than what is authorized under this chapter.

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[1] According to enrolled Act

2. A person who knowingly or intentionally alters or attempts to alter a DNA sample, falsifies the source of a DNA sample, or materially alters a collection container used to collect the DNA sample, commits a class "D" felony.

Sec. 7. NEW SECTION. 81.7 CONVICTION OR ARREST NOT INVALIDATED.

The detention, arrest, or conviction of a person based upon a DNA database match is not invalidated if it is determined that the DNA sample or DNA profile was obtained or placed into the DNA database by mistake or error.

Sec. 8. NEW SECTION. 81.8 CONFIDENTIAL RECORDS.

1. A DNA record shall be considered a confidential record and disclosure of a DNA record is only authorized pursuant to this section.

2. Confidential DNA records under this section may be released to the following agencies for law enforcement identification purposes:

a. Any criminal or juvenile justice agency as defined in section 692.1.

b. Any criminal or juvenile justice agency in another jurisdiction that meets the definition of a criminal or juvenile justice agency as defined in section 692.1.

3. The division of criminal investigation shall share the DNA record information with the appropriate federal agencies for use in a national DNA database.

4. A DNA record or other forensic information developed pursuant to this chapter may be released for use in a criminal or juvenile delinquency proceeding in which the state is a party and where the DNA record or forensic information is relevant and material to the subject of the proceeding. Such a record or information may become part of a public transcript or other public recording of such a proceeding.

5. A DNA record or other forensic information may be released pursuant to a court order for criminal defense purposes to a defendant, who shall have access to DNA samples and DNA profiles related to the case in which the defendant is charged.

Sec. 9. NEW SECTION. 81.9 EXPUNGEMENT OF DNA RECORDS.

1. A person whose DNA record has been included in the DNA database or DNA data bank established pursuant to section 81.3 may request, in writing to the division of criminal investigation, expungement of the DNA record from the DNA database and DNA data bank based upon the person's conviction, adjudication, or civil commitment which caused the submission of the DNA sample being reversed on appeal and the case dismissed. The written request shall contain a certified copy of the final court order reversing the conviction, adjudication, or civil commitment, and a certified copy of the dismissal, and any other information necessary to ascertain the validity of the request.

2. The division of criminal investigation, upon receipt of a written request that validates reversal on appeal of a person's conviction, adjudication, or commitment, and subsequent dismissal of the case, or upon receipt of a written request by a person who voluntarily submitted a DNA sample pursuant to section 81.3, subsection 3, paragraph "b", shall expunge all of the DNA records and identifiable information of the person in the DNA database and DNA data bank. However, if the division of criminal investigation determines that the person is otherwise obligated to submit a DNA sample, the DNA records shall not be expunged. If the division of criminal investigation denies an expungement request, the division shall notify the person requesting the expungement of the decision not to expunge the DNA record and the reason supporting its decision. The division of criminal investigation decision is subject to judicial review pursuant to chapter 17A. The department of public safety shall adopt rules governing the expungement procedure and a review process.

3. The division of criminal investigation is not required to expunge or destroy a DNA record pursuant to this section, if expungement or destruction of the DNA record would destroy evidence related to another person.

Sec. 10. NEW SECTION. 81.10 DNA PROFILING AFTER CONVICTION.

1. A defendant who has been convicted of a felony and who has not been required to submit

a DNA sample for DNA profiling may make a motion to the court for an order to require that DNA analysis be performed on evidence collected in the case for which the person stands convicted.

2. The motion shall state the following:

a. The specific crimes for which the defendant stands convicted in this case.

b. The facts of the underlying case, as proven at trial or admitted to during a guilty plea proceeding.

c. Whether any of the charges include sexual abuse or involve sexual assault, and if so, whether a sexual assault examination was conducted and evidence preserved, if known.

d. Whether identity was at issue or contested by the defendant.

e. Whether the defendant offered an alibi, and if so, testimony corroborating the alibi and, from whom.

f. Whether eyewitness testimony was offered, and if so from whom.

g. Whether any issues of police or prosecutor misconduct have been raised in the past or are being raised by the motion.

h. The type of inculpatory evidence admitted into evidence at trial or admitted to during a guilty plea proceeding.

i. Whether blood testing or other biological evidence testing was conducted previously in connection with the case and, if so, by whom and to[2] the result, if known.

j. What biological evidence exists and, if known, the agency or laboratory storing the evidence that the defendant seeks to have tested.

k. Why the requested analysis of DNA evidence is material to the issue in the case and not merely cumulative or impeaching.

l. Why the DNA evidence would have changed the outcome of the trial or invalidated a guilty plea if DNA profiling had been conducted prior to the conviction.

3. A motion filed under this section shall be filed in the county where the defendant was convicted, and notice of the motion shall be served by certified mail upon the county attorney and, if known, upon the state, local agency, or laboratory holding evidence described in subsection 2, paragraph "k". The county attorney shall have sixty days to file an answer to the motion.

4. Any DNA profiling of the defendant or other biological evidence testing conducted by the state or by the defendant shall be disclosed and the results of such profiling or testing described in the motion or answer.

5. If the evidence requested to be tested was previously subjected to DNA or other biological analysis by either party, the court may order the disclosure of the results of such testing, including laboratory reports, notes, and underlying data, to the court and the parties.

6. The court may order a hearing on the motion to determine if evidence should be subjected to DNA analysis.

7. The court shall grant the motion if all of the following apply:

a. The evidence subject to DNA testing is available and in a condition that will permit analysis.

b. A sufficient chain of custody has been established for the evidence.

c. The identity of the person who committed the crime for which the defendant was convicted was a significant issue in the crime for which the defendant was convicted.

d. The evidence subject to DNA analysis is material to, and not merely cumulative or impeaching of, evidence included in the trial record or admitted to at a guilty plea proceeding.

e. DNA analysis of the evidence would raise a reasonable probability that the defendant would not have been convicted if DNA profiling had been available at the time of the conviction and had been conducted prior to the conviction.

8. Upon the court granting a motion filed pursuant to this section, DNA analysis of evidence shall be conducted within the guidelines generally accepted by the scientific community. The defendant shall provide DNA samples for testing if requested by the state.

9. Results of DNA analysis conducted pursuant to this section shall be reported to the parties and to the court and may be provided to the board of parole, department of corrections, and criminal and juvenile justice agencies, as defined in section 692.1, for use in the course

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[2] According to enrolled Act

of investigations and prosecutions, and for consideration in connection with requests for parole, pardon, reprieve, and commutation. DNA samples obtained pursuant to this section may be included in the DNA data bank, and DNA profiles and DNA records developed pursuant to this section may be included in the DNA database.

10. A criminal or juvenile justice agency, as defined in section 692.1, shall maintain DNA samples and evidence that could be tested for DNA for a period of three years beyond the limitations for the commencement of criminal actions as set forth in chapter 802. This section does not create a cause of action for damages or a presumption of spoliation in the event evidence is no longer available for testing.

11. If the court determines a defendant who files a motion under this section is indigent, the defendant shall be entitled to appointment of counsel as provided in chapter 815.

12. If the court determines after DNA analysis ordered pursuant to this section that the results indicate conclusively that the DNA profile of the defendant matches the profile from the analyzed evidence used against the defendant, the court may order the defendant to pay the costs of these proceedings, including costs of all testing, court costs, and costs of court-appointed counsel, if any.

Sec. 11. Section 229A.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. If the court or jury determines that the respondent is a sexually violent predator, the court shall order the respondent to submit a DNA sample for DNA profiling pursuant to section 81.4.

Sec. 12. Section 232.52, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The court shall order a juvenile adjudicated a delinquent for an offense that requires DNA profiling under section 81.2 to submit a DNA sample for DNA profiling pursuant to section 81.4.

Sec. 13. Section 669.14, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Any claim arising from or related to the collection of a DNA sample for DNA profiling pursuant to section 81.4 or a DNA profiling procedure performed by the division of criminal investigation, department of public safety.

Sec. 14. Section 901.5, subsection 8A, Code 2005, is amended to read as follows:

8A. a. The court shall order DNA profiling of a defendant convicted of an offense that requires profiling under section ~~13.10~~ 81.2.

b. Notwithstanding section ~~13.10~~ 81.2, the court may order the defendant to provide a ~~physical specimen~~ DNA sample to be submitted for DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Sec. 15. Section 906.4, unnumbered paragraph 3, Code 2005, is amended to read as follows:

~~Notwithstanding section 13.10, the~~ The board may order the defendant to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release, if ~~appropriate~~ a DNA profile has not been previously conducted pursuant to chapter 81. In determining the appropriateness of ordering DNA profiling, the board shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Sec. 16. 2002 Iowa Acts, chapter 1080, is repealed.

Sec. 17. Section 13.10, Code 2005, is repealed.

Sec. 18. PERSONS REQUIRED TO SUBMIT A DNA SAMPLE PRIOR TO EFFECTIVE DATE OF THIS DIVISION OF THIS ACT. A person convicted, adjudicated a delinquent, civilly committed as a sexually violent predator, or found not guilty by reason of insanity, prior to the effective date of this Act,[3] who would otherwise be required to submit a DNA sample under this Act, and who is under the custody, control, or jurisdiction of a supervising agency, shall submit a DNA sample prior to being released from the supervising agency's custody, control, or jurisdiction.

Sec. 19. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
SEX OFFENDER REGISTRY — TREATMENT — STUDY

Sec. 20. Section 232.68, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Cohabitation with a person on the sex offender registry under chapter 692A in violation of section 726.6.

Sec. 21. Section 692A.1, subsection 8, Code 2005, is amended to read as follows:

8. "Residence" means the place where a person sleeps, which may include more than one location, and may be mobile or transitory, including a shelter or group home.

Sec. 22. Section 692A.2, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. If a person is required to register for a period of ten years under subsection 1 and the period under subsection 1 has expired, the person shall be required to remain on the registry if the person has been sentenced to a special sentence as required under section 903B.0A or 903B.0B, for a period equal to the term of the special sentence.

NEW SUBSECTION. 2A. If a person violates any of the requirements of section 692A.4, the person shall register for an additional ten years beginning from the date the first registration period ends as calculated under subsection 1 or from the date the special sentence ends under subsection 1A if the person received a special sentence, whichever is longer.

Sec. 23. Section 692A.4, Code 2005, is amended to read as follows:

692A.4 VERIFICATION OF ADDRESS AND TAKING OF PHOTOGRAPH.

1. The address of a person required to register under this chapter shall be verified annually as follows:

a. On a date which falls within the month in which the person was initially required to register, the department shall mail a verification form to the last reported address of the person. Verification forms shall not be forwarded to the person who is required to register under this chapter if the person no longer resides at the address, but shall be returned to the department.

b. The person shall complete and mail the verification to the department within ten days of receipt of the form.

c. The verification form shall be signed by the person, and state the address at which the person resides. If the person is in the process of changing residences, the person shall state that fact as well as the old and new addresses or places of residence.

2. Verification of address for a person who has been convicted of an offense under the laws of this state or of another state which would qualify the person as a sexually violent predator shall be accomplished in the same manner as in subsection 1, except that the verification shall be done every three months at times established by the department.

3. A photograph of a person required to register under this chapter shall be updated, at a minimum, annually. When the department mails the address verification notice in subsection 1, the department shall also enclose a form informing the person to annually submit to being photographed by the sheriff of the county of the person's residence within ten days of receipt

[3] The phrase "the effective date of this division of this Act" probably intended

of the address verification form. The sheriff shall send the updated photograph to the department within ten days of the photograph being taken and the department shall post the updated photograph on the sex offender registry's web page. The sheriff may require the person to submit to being photographed by the sheriff more than once a year by mailing another notice informing the person to submit to being photographed.

Sec. 24. NEW SECTION. 692A.4A ELECTRONIC MONITORING.

A person required to register under this chapter who is placed on probation, parole, work release, special sentence, or any other type of conditional release, may be supervised by an electronic tracking and monitoring system in addition to any other conditions of supervision. However, if the person committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor, the person shall be supervised[4] by an electronic tracking and monitoring system in addition to any other conditions of release.

Sec. 25. Section 692A.5, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Inform the person that the person must, at a minimum, annually submit to being photographed by the sheriff of the county of the person's residence.

Sec. 26. Section 692A.13, subsection 3, Code 2005, is amended to read as follows:

3. Any member of the public may contact a county sheriff's office or police department to request relevant information from the registry regarding a specific person required to register under this chapter. ~~The request for information shall be in writing, and~~ A person making a request for relevant information may make the request by telephone, in writing, or in person, and the request shall include the name of the person and at least one of the following identifiers pertaining to the person about whom the information is sought:

a. The date of birth of the person.

b. The social security number of the person.

c. The address of the person.

A county sheriff or police department shall not charge a fee relating to a request for relevant information.

Sec. 27. Section 692A.13, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The general public, including public and private agencies, organizations, public places, ~~public and private schools,~~ child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. Registry information may be distributed to the public through printed materials, visual or audio press releases, radio communications, or through a criminal or juvenile justice agency's web page.

Sec. 28. Section 692A.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. When a person required to register under this chapter moves into a school district or moves within a school district, the county sheriff of the county of the person's new residence shall provide relevant information from the sex offender registry to the administrative office of the school district in which the person required to register resides, and shall also provide relevant information to any private school near the person's residence.

Sec. 29. Section 692A.13, subsection 5, Code 2005, is amended to read as follows:

5. Relevant information provided to the general public may include the offender's name, address, a photograph, the results of any risk assessment, locations frequented by the offender, relevant criminal history information from the registry, and any other relevant information. Relevant information provided to the public shall not include the identity of any victim. For purposes of inclusion in the sex offender registry's web page or dissemination to the general public, a conviction for incest shall be disclosed as either a violation of section 709.4 or 709.8.

[4] See chapter 179, §77 herein

Sec. 30. NEW SECTION. 692A.13A ASSESSMENT OF RISK.

1. The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk for persons[5] required to register under this chapter on or after the effective date of this division of this Act, who have committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, the juvenile court, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

a. The department of corrections or a judicial district department of correctional services shall perform the assessment of risk for persons who are incarcerated in institutions under the control of the director of the department of corrections, persons who are under the supervision of the department of corrections or a judicial district department of correctional services, and persons who are under the supervision or control of the department of corrections or a judicial district department of correctional services through an interstate compact.

b. The department of human services shall perform the assessment of risk for persons who are confined in institutions under the control of the director of human services, persons who are under the supervision of the department of human services, and persons who are under the supervision or control of the department of human services through an interstate compact.

c. The division of criminal investigation of the department of public safety shall perform the assessment of risk for persons who have moved to Iowa but are not under the supervision of the department of corrections, a judicial district department of correctional services, or the department of human services; federal parolees or probationers; persons who have been released from a county jail but are not under the supervision of the department of corrections, a judicial district department of correctional services, a juvenile court officer of the judicial branch, or the department of human services; and persons who are convicted and released by the courts and are not incarcerated or placed under supervision pursuant to the court's sentencing order. Assessments of persons who have moved to Iowa and persons on federal parole or probation shall be performed on an expedited basis if the person was classified as a person with a high degree of likelihood of reoffending by the other jurisdiction or the federal government.

d. A juvenile court officer shall perform the assessment of risk for a juvenile who is adjudicated delinquent for a criminal offense listed in section 692A.1 and who is under the juvenile court officer's supervision.

2. The department of public safety shall be responsible for disclosing the assessment of risk information to a criminal or juvenile justice agency for law enforcement, prosecution, or for public notification purposes. The results of the assessment of risk shall be disclosed as other relevant information is disclosed under section 692A.13.

Sec. 31. Section 726.6, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Cohabits with a person after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent, guardian, or a person having custody or control over a child or a minor who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

Sec. 32. Section 903A.2, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Category "A" sentences are those sentences which are not subject to a maximum accu-

[5] See chapter 179, §78 herein

mulation 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.

However, an inmate required to participate in a sex offender treatment program shall not be eligible for a reduction of sentence unless the inmate participates in and completes a sex offender treatment program established 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. 33. Section 903B.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A person who administers medroxyprogesterone acetate or any other pharmaceutical agent shall not be liable for civil damages for administering such pharmaceutical agents pursuant to this chapter.

Sec. 34. SEX OFFENDER INTERIM STUDY COMMITTEE. The legislative council is requested to authorize a study for the 2005 legislative interim on sexual abuse-related criminal offenses and the sex offender registry. The study recommendations and findings shall include but are not limited to identifying possible changes to sexual abuse-related offenses and the sex offender registry. The study report, including findings and recommendations, shall be submitted to the general assembly for consideration during the 2006 legislative session. The study shall be conducted by a study committee consisting of up to nine members of the general assembly. A chairperson or co-chairpersons shall be designated by the legislative council.

DIVISION III
ENHANCED CRIMINAL PENALTIES AND STATUTE OF LIMITATIONS

Sec. 35. Section 709.8, Code 2005, is amended to read as follows:

709.8 LASCIVIOUS ACTS WITH A CHILD.

It is unlawful for any person ~~eighteen~~ sixteen years of age or older to perform any of the following acts with a child with or without the child's consent unless married to each other, for the purpose of arousing or satisfying the sexual desires of either of them:

1. Fondle or touch the pubes or genitals of a child.
2. Permit or cause a child to fondle or touch the person's genitals or pubes.
3. Solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child.
4. Inflict pain or discomfort upon a child or permit a child to inflict pain or discomfort on the person.

Any person who violates a provision of this section involving an act included in subsection 1 or 2 shall, upon conviction, be guilty of a class ~~"D"~~ "C" felony. ~~A person who violates a provision of this section and who is sentenced to a term of confinement shall also be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of an additional term of parole or work release supervision shall com-~~

~~mence immediately upon the expiration of the preceding sentence and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. The sentence of an additional term of parole or work release shall be consecutive to the original term of confinement.~~ Any person who violates a provision of this section involving an act included in subsection 3 or 4 shall, upon conviction, be guilty of a class "D" felony.

Sec. 36. Section 802.2, Code 2005, is amended to read as follows:

802.2 SEXUAL ABUSE — FIRST, SECOND, OR THIRD DEGREE.

1. An information or indictment for sexual abuse in the first, second, or third degree committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the identity of the person against whom the information or indictment is sought is established through the use of a DNA profile, an information or indictment shall be found within three years from the date the identity of the person is identified by the person's DNA profile, whichever is later.

2. An information or indictment for any other sexual abuse in the first, second, or third degree shall be found within ten years after its commission, or if the identity of the person against whom the information or indictment is sought is established through the use of a DNA profile, an information or indictment shall be found within three years from the date the identity of the person is identified by the person's DNA profile, whichever is later.

3. As used in this section, "identified" means a person's legal name is known and the person has been determined to be the source of the DNA.

Sec. 37. Section 901.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 13. In addition to any other sentence or other penalty imposed against the defendant, the court shall impose a special sentence if required under section 903B.0A or 903B.0B.

Sec. 38. NEW SECTION. 902.15 ENHANCED PENALTY — SEXUAL ABUSE OR LASCIVIOUS ACTS WITH A CHILD.

1. A person commits a class "A" felony if the person commits a second or subsequent offense involving any combination of the following offenses:

a. Sexual abuse in the second degree in violation of section 709.3.

b. Sexual abuse in the third degree in violation of section 709.4.

c. Lascivious acts with a child in violation of section 709.8, subsection 1 or 2.

2. In determining if a violation charged is a second or subsequent offense for purposes of criminal sentencing in this section, each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense, regardless of whether the previous offense occurred before, on, or after the effective date of this Act.[6] Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to the offenses listed in subsection 1 shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses listed in subsection 1 and can therefore be considered corresponding statutes.

Sec. 39. NEW SECTION. 903B.0A SPECIAL SENTENCE — CLASS "B" OR CLASS "C" FELONIES.

A person convicted of a class "C" felony or greater offense under chapter 709, or a class "C" felony under section 728.12, shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for the rest of the person's life, with eligibility for parole as provided in chapter 906. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provi-

[6] The phrase "the effective date of this division of this Act" probably intended

sions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and chapter 908, and rules adopted under those chapters for persons on parole. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

Sec. 40. NEW SECTION. 903B.0B SPECIAL SENTENCE — CLASS "D" FELONIES OR MISDEMEANORS.

A person convicted of a misdemeanor or a class "D" felony offense under chapter 709, section 726.2, or section 728.12 shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for a period of ten years, with eligibility for parole as provided in chapter 906. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and 908, and rules adopted under those chapters for persons on parole. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

Sec. 41. Section 903B.1, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 42. Section 906.15, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Unless sooner discharged, a person released on parole shall be discharged when the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement. Discharge from parole may be granted prior to such time, when an early discharge is appropriate. The board shall periodically review all paroles, and when the board determines that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the board shall discharge the person from parole. A parole officer shall periodically review all paroles assigned to the parole officer, and when the parole officer determines that any person assigned to the officer is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the officer may discharge the person from parole after notification and approval of the district director and notification of the board of parole. In any event, discharge from parole shall terminate the person's sentence. If a person has been sentenced to a special sentence under section 903B.0A or 903B.0B, the person may be discharged early from the sentence in the same manner as any other person on parole. However, a person convicted of a violation of section 709.3, 709.4, or 709.8 committed on or with a child, or a person serving a sentence under section 902.12, shall not be discharged from parole until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

Sec. 43. Section 908.5, Code 2005, is amended to read as follows:

908.5 DISPOSITION.

1. If a violation of parole is established, the administrative parole judge may continue the parole with or without any modification of the conditions of parole. The administrative parole judge may revoke the parole and require the parolee to serve the sentence originally imposed, or may revoke the parole and reinstate the parolee's work release status.

2. If the person is serving a special sentence under chapter 903B, the administrative parole judge may revoke the release. Upon the revocation of release, the person shall not serve the entire length of the special sentence imposed, and the revocation shall be for a period not to exceed two years in a correctional institution upon a first revocation and for a period not to exceed five years in a correctional institution upon a second or subsequent revocation.

3. The order of the administrative parole judge shall contain findings of fact, conclusions of law, and a disposition of the matter.

DIVISION IV
VICTIM RIGHTS

Sec. 44. NEW SECTION. 235D.1 CRIMINAL HISTORY CHECK — APPLICANTS AT DOMESTIC ABUSE OR SEXUAL ASSAULT CENTERS.

An applicant for employment at a domestic abuse or sexual assault center shall be subject to a national criminal history check through the federal bureau of investigation. The domestic abuse or sexual assault center shall request the criminal history check and shall provide the applicant's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the domestic abuse or sexual assault center. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ninety calendar days prior to the date the application is received by the domestic abuse or sexual assault center, the center shall reject and return the application to the applicant. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22. For purposes of this section, "domestic abuse or sexual assault center" means a crime victim center as defined in section 915.20A.

Sec. 45. NEW SECTION. 709.22 PREVENTION OF FURTHER SEXUAL ASSAULT — NOTIFICATION OF RIGHTS.

If a peace officer has reason to believe that a sexual assault as defined in section 915.40 has occurred, the officer shall use all reasonable means to prevent further violence including but not limited to the following:

1. If requested, remaining on the scene of the alleged sexual assault as long as there is a danger to the victim's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the victim in leaving the residence.

2. Assisting a victim in obtaining medical treatment necessitated by the sexual assault, including providing assistance to the victim in obtaining transportation to the emergency room of the nearest hospital.

3. Providing a victim with immediate and adequate notice of the victim's rights. The notice shall consist of handing the victim a copy of the following statement written in English and Spanish, asking the victim to read the statement, and asking whether the victim understands the rights:

"You have the right to ask the court for help with any of the following on a temporary basis:

a. Keeping your attacker away from you, your home, and your place of work.

b. The right to stay at your home without interference from your attacker.

c. The right to seek a no-contact order under section 709.20 or 915.22, if your attacker is arrested for sexual assault.

You have the right to register as a victim with the county attorney under section 915.12.

You have the right to file a complaint for threats, assaults, or other related crimes.

You have the right to seek restitution against your attacker for harm to you or your property.

You have the right to apply for victim compensation.

You have the right to contact the county attorney or local law enforcement to determine the status of your case.

If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

You have the right to a sexual assault examination performed at state expense.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured."

The notice shall also contain the telephone numbers of shelters, support groups, and crisis lines operating in the area.

4. A peace officer is not civilly or criminally liable for actions taken in good faith pursuant to this section.

Sec. 46. Section 915.10, subsections 1 and 2, Code 2005, are amended to read as follows:

1. "Notification" means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an office, agency, or department from also providing appropriate information to a registered victim by telephone, electronic mail, or other means.

2. "Registered" means having provided the county attorney with the victim's written request for registration and current mailing address and telephone number. If an automated victim notification system is implemented pursuant to section 915.10A, "registered" also means having filed a request for registration with the system.

Sec. 47. NEW SECTION. 915.10A AUTOMATED VICTIM NOTIFICATION SYSTEM.

1. An automated victim notification system may be utilized to assist public officials in informing crime victims, the victim's family, or other interested persons as provided in this subchapter and where otherwise specifically provided. The system shall disseminate the information to registered users through telephonic, electronic, or other means of access.

2. An office, agency, or department may satisfy a notification obligation to registered victims required by this subchapter through participation in the system to the extent information is available for dissemination through the system. Nothing in this section shall relieve a notification obligation under this subchapter due to the unavailability of information for dissemination through the system.

3. Notwithstanding section 232.147, information concerning juveniles charged with a felony offense shall be released to the extent necessary to comply with this section.

Sec. 48. Section 915.11, Code 2005, is amended to read as follows:

915.11 INITIAL NOTIFICATION BY LAW ENFORCEMENT.

A local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim. If an automated victim notification system is available pursuant to section 915.10A, a local police department or county sheriff's department shall provide a telephone number and website to each victim to register with the system.

Sec. 49. Section 915.12, Code 2005, is amended to read as follows:

915.12 REGISTRATION.

~~1. The county attorney shall be the sole registrar of victims under this subchapter.~~

~~2.~~ 1. A victim may register by filing a written request-for-registration form with the county attorney. The county attorney shall notify the victims in writing and advise them of their registration and rights under this subchapter.

~~3.~~ The county attorney shall provide a registered victim list to the offices, agencies, and departments required to provide information under this subchapter for notification purposes.

2. If an automated victim notification system is available pursuant to section 915.10A, a victim, the victim's family, or other interested person may register with the system by filing a request for registration through written, telephonic, or electronic means.

~~4.~~ 3. Notwithstanding chapter 22 or any other contrary provision of law, ~~a victim's~~ the

registration of a victim, victim's family, or other interested person shall be strictly maintained in a separate confidential file or other confidential medium, and shall be available only to the offices, agencies, and departments required to provide information under this subchapter.

Sec. 50. Section 915.29, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

Sec. 51. Section 915.45, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

DIVISION V
TASK FORCE

Sec. 52. SEX OFFENDER TREATMENT AND SUPERVISION TASK FORCE.

1. The division of criminal and juvenile justice planning shall establish a task force to study and make periodic recommendations for treating and supervising sex offenders in correctional institutions and in the community. The task force shall file a report with recommendations with the general assembly by January 15, 2006. The task force shall study the effectiveness of electronic monitoring and the potential effects and costs associated with the special sentence created in this Act. The task force shall study risk assessment models created for sex offenders. The task force shall also review this state's efforts and the efforts of other states to implement treatment programs and make recommendations as to the best treatment options available for sex offenders. The task force shall also develop a plan to integrate state government databases for the purpose of updating addresses of persons on the sex offender registry.

2. Members of the task force shall include members of the general assembly selected by the legislative council and representatives of the following:

a. One representative from the state department of transportation.
b. One representative of the Iowa civil liberties union.
c. One representative of the department of human services.
d. One representative of the department of public safety.
e. One representative of the Iowa state sheriffs and deputies association.
f. One representative of the Iowa county attorneys association.
g. One representative of the department of corrections.
h. One representative of the board of parole.
i. One representative of a judicial district department of correctional services.
j. One representative of the department of justice.
k. One representative of the state public defender.
l. One representative of the Iowa coalition against sexual assault.

DIVISION VI
SEVERABILITY CLAUSE

Sec. 53. SEVERABILITY CLAUSE. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

DIVISION VII
STATE MANDATE

Sec. 54. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved June 14, 2005

CHAPTER 159

AGRICULTURE REGULATION — VETERINARY MEDICINE,
MOTOR VEHICLE FUEL DEALERS, AND WATERSHED IMPROVEMENT

S.F. 200

AN ACT relating to agriculture by providing for the powers and duties of the department of agriculture and land stewardship and watershed improvement.

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

DIVISION I
IOWA BOARD OF VETERINARY MEDICINE —
ELIMINATION OF REPORTING REQUIREMENT

Section 1. Section 169.5, subsection 7, unnumbered paragraph 3, Code 2005, is amended by striking the unnumbered paragraph.

DIVISION II
MOTOR VEHICLE FUEL DEALERS — ELIMINATION OF
VOLUNTARY SAMPLING PROCEDURE AND FEE

Sec. 2. Section 214A.6, Code 2005, is repealed.

DIVISION III
WATERSHED IMPROVEMENT

Sec. 3. NEW SECTION. 466A.1 DEFINITIONS.
As used in the chapter, unless the context otherwise requires:
1. "Board" means the watershed improvement review board as established in section 466A.3.
2. "Committee" means a local watershed improvement committee as provided in section 466A.4.
3. "Division" means the division of soil conservation within the department of agriculture and land stewardship as established in section 161A.4.
4. "Fund" means the watershed improvement fund as created pursuant to section 466A.2.

Sec. 4. NEW SECTION. 466A.2 WATERSHED IMPROVEMENT FUND.
1. A watershed improvement fund is created in the state treasury which shall be administered by the treasurer of state upon direction of the watershed improvement review board.

Moneys appropriated to the fund and any other moneys available to and obtained or accepted by the treasurer of state for placement in the fund shall be deposited in the fund. Additionally, payments of interest, recaptures of awards, and other repayments to the fund shall be deposited in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the end of the fiscal year shall not revert, but shall remain available for the same purpose in the succeeding fiscal year. The moneys in the fund shall be used exclusively for carrying out the purposes of the fund as provided in this section. Moneys appropriated to the treasurer of state and deposited in the fund shall not be used by the treasurer of state for administrative purposes.

2. The purposes of the watershed improvement fund are the following:

a. Enhancement of water quality in the state through a variety of impairment-based, locally directed watershed improvement grant projects.

b. Positively affecting the management and use of water for the purposes of drinking, agriculture, recreation, sport, and economic development in the state.

c. Ensuring public participation in the process of determining priorities related to water quality including but not limited to all of the following:

(1) Agricultural runoff and drainage.
(2) Stream bank erosion.
(3) Municipal discharge.
(4) Stormwater runoff.
(5) Unsewered communities.
(6) Industrial discharge.
(7) Livestock runoff.

Sec. 5. NEW SECTION. 466A.3 WATERSHED IMPROVEMENT REVIEW BOARD.

1. A watershed improvement review board is established.

a. The board shall consist of all of the following voting members, appointed by the named entity or entities and approved by the governor:

(1) One member of the agribusiness association of Iowa.
(2) One member of the Iowa association of water agencies.
(3) One member of the Iowa environmental council.
(4) One member of the Iowa farm bureau federation.
(5) One member of the Iowa pork producers association.
(6) One member of the Iowa rural water association.
(7) One member of the Iowa soybean association.
(8) One member representing soil and water conservation districts of Iowa.
(9) One member of the Iowa association of county conservation boards.
(10) One person representing the department of agriculture and land stewardship.
(11) One person representing the department of natural resources.

b. The board shall consist of four members of the general assembly who shall serve as voting members. Not more than one member from each house shall be from the same political party. Two state senators shall be appointed, one by the majority leader of the senate and one by the minority leader of the senate. Two state representatives shall be appointed, one by the speaker of the house of representatives and one by the minority leader of the house of representatives. A member may designate another person to attend a board meeting if the member is unavailable. Only the member is eligible for per diem and expenses as provided in section 2.10.

2. a. The voting members of the board shall serve three-year staggered terms commencing and ending 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 remainder of the term.

b. The voting members of the board shall elect a chairperson and vice chairperson annually from the voting membership of the board. A majority of the voting members of the board constitutes a quorum. If the chairperson and vice chairperson are unable to preside over the

board due to absence or disability, a majority of the voting members present may elect a temporary chairperson by a majority vote providing a quorum is present.

3. The watershed improvement review board shall do all of the following:

a. Award local watershed improvement grants and monitor the progress of local watershed improvement projects awarded grants. A local watershed improvement grant may be awarded for a period not to exceed three years. Each local watershed improvement grant awarded shall not exceed ten percent of the moneys appropriated for the grants during a fiscal year.

b. Assist with the development of monitoring plans for local watershed improvement projects.

c. Review monitoring results before, during, and after completion of a local watershed improvement project.

d. Review costs and benefits of mitigation practices utilized by a project.

e. By January 31, annually, submit an electronic report to the governor and the general assembly regarding the progress of the watershed improvement projects during the previous calendar year.

f. Elicit the expertise of other organizations for technical assistance in the work of the board.

g. Independently develop and adopt administrative rules pursuant to chapter 17A to administer this chapter.

4. A watershed improvement review board member who also serves on a local watershed improvement committee shall abstain from voting on a local watershed improvement grant application submitted by the same local watershed improvement committee of which the person is a member. A member of the general assembly shall abstain from participating on any issue relating to a watershed which is in the member's legislative district.

Sec. 6. NEW SECTION. 466A.4 LOCAL WATERSHED IMPROVEMENT COMMITTEES.

1. A local watershed improvement committee shall be organized for the purposes of applying for a local watershed improvement grant and implementing a local watershed improvement project. Each local watershed improvement grant application shall include a methodology for attaining measurable, observable, and performance-based results. A majority of the members of the committee shall represent a cause for the impairment of the watershed. The committee shall be authorized as a not-for-profit organization by the secretary of state. Soil and water conservation districts may also be eligible and apply for and receive local watershed improvement grants.

2. A local watershed improvement committee shall be responsible for application for and implementation of an approved local watershed improvement grant, including providing authorization for project bids and project expenditures under the grant. A portion of the grant moneys may be used to engage engineering expertise related to the project. The committee shall monitor local performance throughout the local watershed grant project and shall submit a report at six-month intervals regarding the progress and findings of the project as required by the committee.

Sec. 7. NEW SECTION. 466A.5 ADMINISTRATION.

The soil conservation division of the department of agriculture and land stewardship shall provide administrative support to the board. Not more than one percent of the total moneys deposited in the watershed improvement fund on July 1 of a fiscal year or fifty thousand dollars, whichever is less, is appropriated each fiscal year to the division for the purposes of assisting the watershed improvement review board in administering this chapter.

Approved June 15, 2005

CHAPTER 160

RENEWABLE ENERGY — TAX CREDITS

S.F. 390

AN ACT relating to the generation and purchase of renewable energy including establishing a renewable energy tax credit program administered by the utilities division of the department of commerce and the department of revenue, and providing an effective date.

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

Section 1. Section 422.11J, Code 2005, is amended to read as follows:

422.11J ~~WIND ENERGY PRODUCTION~~ TAX ~~CREDIT~~ CREDITS FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by ~~a wind energy production~~ tax ~~credit~~ credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

Sec. 2. Section 422.33, subsection 16, Code 2005, is amended to read as follows:

16. The taxes imposed under this division shall be reduced by ~~a wind energy production~~ tax ~~credit~~ credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

Sec. 3. Section 422.60, subsection 8, Code 2005, is amended to read as follows:

8. The taxes imposed under this division shall be reduced by ~~a wind energy production~~ tax ~~credit~~ credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

Sec. 4. Section 423.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person in possession of a renewable energy tax credit certificate issued pursuant to chapter 476C may apply to the director for refund of the amount of sales or use tax imposed and paid upon purchases made by the applicant.

a. The refunds may be obtained only in the following manner and under the following conditions:

(1) On forms furnished by the department and filed by January 31 after the end of the calendar year in which the tax credit certificate is to be applied, the applicant shall report to the department the total amount of sales and use tax paid during the reporting period on purchases made by the applicant.

(2) The applicant shall separately list the amounts of sales and use tax paid during the reporting period.

(3) If required by the department, the applicant shall prove 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.

(4) The applicant shall provide the tax credit certificates issued pursuant to chapter 476C to the department with the forms required by this paragraph "a".

b. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the applicant for an amount not greater than the amount of tax credits issued in tax credit certificates pursuant to chapter 476C.

Sec. 5. Section 432.12E, Code 2005, is amended to read as follows:

432.12E ~~WIND ENERGY PRODUCTION~~ TAX ~~CREDIT~~ CREDITS FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.

The taxes imposed under this chapter shall be reduced by ~~a wind energy production~~ tax

~~credit~~ credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

Sec. 6. NEW SECTION. 437A.17B REIMBURSEMENT FOR RENEWABLE ENERGY.

A person in possession of a renewable energy tax credit certificate issued pursuant to chapter 476C may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to this chapter in an amount not more than the person received in renewable energy tax credit certificates pursuant to chapter 476C. To obtain the reimbursement, the person shall attach to the return required under section 437A.8 the renewable energy tax credit certificates issued to the person pursuant to chapter 476C, and provide any other information the director may require. The director shall direct a warrant to be issued to the person for an amount equal to the tax imposed and paid by the person pursuant to this chapter but for not more than the amount of the renewable energy tax credit certificates attached to the return.

Sec. 7. NEW SECTION. 476C.1 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Anaerobic digester system" means a system of components that processes plant or animal materials based on the absence of oxygen and produces methane or other biogas used to generate electricity, hydrogen fuel, or heat for a commercial purpose.

2. "Biogas recovery facility" means an anaerobic digester system that is located in this state.

3. "Biomass conversion facility" means a facility in this state that converts plant-derived organic matter including, but not limited to, agricultural food and feed crops, crop wastes and residues, wood wastes and residues, or aquatic plants to generate electricity, hydrogen fuel, or heat for a commercial purpose.

4. "Board" means the utilities board within the utilities division of the department of commerce.

5. "Department" means the department of revenue.

6. "Eligible renewable energy facility" means a wind energy conversion facility, a biogas recovery facility, a biomass conversion facility, a methane gas recovery facility, or a solar energy conversion facility that meets all of the following requirements:

a. Is located in this state.

b. Is at least fifty-one percent owned by one or more of any combination of the following:

(1) A resident of this state.

(2) Any of the following as defined in section 9H.1:

(a) An authorized farm corporation.

(b) An authorized limited liability company.

(c) An authorized trust.

(d) A family farm corporation.

(e) A family farm limited liability company.

(f) A family trust.

(g) A revocable trust.

(h) A testamentary trust.

(3) A small business as defined in section 15.102.

(4) An electric cooperative association organized pursuant to chapter 499 that sells electricity to end users located in this state.

(5) An electric cooperative association that has one or more members organized pursuant to chapter 499.

(6) A cooperative corporation organized pursuant to chapter 497 or a limited liability corporation organized pursuant to chapter 490A whose shares and membership are held by an entity that is not prohibited from owning agricultural land under chapter 9H.

(7) A school district located in this state.

c. Has at least one owner that meets the requirements of paragraph "b" for each two and one-half megawatts of nameplate generating capacity or the energy production capacity

equivalent for hydrogen fuel or heat for a commercial purpose of the otherwise eligible renewable energy facility.

d. Was initially placed into service on or after July 1, 2005, and before January 1, 2011.

7. "Energy production capacity equivalent" means the amount of energy in a standard cubic foot of hydrogen gas or the number of British thermal units that are equal to the energy in a kilowatt-hour of electricity. For the purposes of this chapter, one kilowatt-hour shall be deemed equivalent to three thousand three hundred thirty-three British thermal units of heat or ten and forty-five one hundredths of standard cubic feet of hydrogen gas.

8. "Heat for a commercial purpose" means the heat in British thermal unit equivalents from methane or other biogas produced in this state sold to a purchaser of renewable energy for use for a commercial purpose.

9. "Hydrogen fuel" means hydrogen produced in this state from a renewable source that is used in a fuel cell or hydrogen-powered internal combustion engine.

10. "Methane gas recovery facility" means a facility in this state which is used in connection with a sanitary landfill or which uses wastes that would otherwise be deposited in a sanitary landfill, that collects methane gas or other gases and converts the gas into energy to generate electricity, hydrogen fuel, or heat for a commercial purpose.

11. "Producer of renewable energy" means a person who owns an eligible renewable energy facility.

12. "Purchaser of renewable energy" means a person who buys electric energy, hydrogen fuel, methane gas or other biogas used to generate electricity, or heat for a commercial purpose from an eligible renewable energy facility.

13. "Solar energy conversion facility" means a solar energy facility in this state that collects and converts incident solar radiation into energy to generate electricity.

14. "Wind energy conversion facility" means a wind energy conversion system in this state that collects and converts wind into energy to generate electricity.

Sec. 8. NEW SECTION. 476C.2 TAX CREDIT AMOUNT — LIMITATIONS.

1. A producer or purchaser of renewable energy may receive renewable energy tax credits under this chapter in an amount equal to one and one-half cents per kilowatt-hour of electricity, or four dollars and fifty cents per million British thermal units of heat for a commercial purpose, or four dollars and fifty cents per million British thermal units of methane gas or other biogas used to generate electricity, or one dollar and forty-four cents per one thousand standard cubic feet of hydrogen fuel generated by and purchased from an eligible renewable energy facility.

2. The renewable energy tax credit shall not be allowed for any kilowatt-hour of electricity, British thermal unit of heat for a commercial purpose, British thermal unit of methane gas or other biogas used to generate electricity, or standard cubic foot of hydrogen fuel that is purchased from an eligible renewable energy facility by a related person. For purposes of this subsection, persons shall be treated as related to each other if either person owns an eighty percent or more equity interest in the other person.

Sec. 9. NEW SECTION. 476C.3 DETERMINATION OF ELIGIBILITY.

1. A producer or purchaser of renewable energy may apply to the board for a written determination regarding whether a facility is an eligible renewable energy facility by submitting to the board a written application containing all of the following:

a. Information regarding the ownership of the facility including the percentage of equity interest held by each owner.

b. The nameplate generating capacity of the facility or energy production capacity equivalent.

c. Information regarding the facility's initial placement in service.

d. Information regarding the type of facility and what type of renewable energy the facility will produce.

e. A copy of the power purchase agreement or other agreement to purchase electricity,

hydrogen fuel, methane or other biogas, or heat for a commercial purpose which shall designate either the producer or purchaser of renewable energy as eligible to apply for the renewable energy tax credit.

f. Any other information the board may require.

2. The board shall review the application and supporting information and shall make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board shall notify the applicant of the approval or denial of the application within thirty days of receipt of the application and information required. If the board fails to notify the applicant of the approval or denial within thirty days, the application shall be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within thirty days from the date of the denial pursuant to the provisions of chapter 17A. In the absence of a timely appeal, the preliminary determination shall be final. If the application is incomplete, the board may grant an extension of time for the provision of additional information.

3. A facility that is not operational within eighteen months after issuance of an approval for the facility by the board shall cease to be an eligible renewable energy facility. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

4. The maximum amount of nameplate generating capacity of all wind energy conversion facilities the board may find eligible under this chapter shall not exceed ninety megawatts of nameplate generating capacity. The maximum amount of energy production capacity equivalent of all other facilities the board may find eligible under this chapter shall not exceed a combined output of ten megawatts of nameplate generating capacity.

5. An owner meeting the requirements of section 476C.1, subsection 6, paragraph "b" shall not be an owner of more than two eligible renewable energy facilities.

Sec. 10. NEW SECTION. 476C.4 TAX CREDIT CERTIFICATE PROCEDURE.

1. A producer or purchaser of renewable energy may apply to the board for the renewable energy tax credit by submitting to the board all of the following:

a. A completed application in a form prescribed by the board.

b. A copy of the determination granting approval of the facility as an eligible renewable energy facility by the board.

c. A copy of a signed power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose from an eligible renewable energy facility which shall designate either the producer or purchaser of renewable energy as eligible to apply for the renewable energy tax credit.

d. Sufficient documentation that the electricity, heat for a commercial purpose, methane gas or other biogas, or hydrogen fuel has been generated by the eligible renewable energy facility and sold to the purchaser of renewable energy.

e. Any other information the board deems necessary.

2. The board shall notify the department of the amount of kilowatt-hours, British thermal units of heat for a commercial purpose, British thermal units of methane gas or other biogas used to generate electricity, or standard cubic feet of hydrogen fuel generated and purchased from an eligible renewable energy facility. The department shall calculate the amount of the tax credit for which the applicant is eligible and shall issue the tax credit certificate for that amount or notify the applicant in writing of its refusal to do so. An applicant whose application is denied may file an appeal with the department within sixty days from the date of the denial pursuant to the provisions of chapter 17A.

3. Each tax credit certificate shall contain the person's name, address, and tax identification number, the amount of tax credits, the first taxable year the certificate may be used, the type of tax to which the tax credits shall be applied, and any other information required by the department. The tax credit certificate shall only list one type of tax to which the amount of the tax credit may be applied. Once issued by the department, the tax credit certificate shall not be terminated or rescinded.

4. If the tax credit application is filed by a partnership, limited liability company, S corpora-

tion, estate, trust, or other reporting entity all of the income of which is taxed directly to its equity holders or beneficiaries, for the taxes imposed under chapter 422, division II or III, the tax credit certificate shall be issued directly to equity holders or beneficiaries of the applicant in proportion to their pro rata share of the income of such entity. The applicant shall, in the application made under this section, identify its equity holders or beneficiaries, and the percentage of such entity's income that is allocable to each equity holder or beneficiary. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for the taxes imposed under chapter 422, division V, or under chapter 423, 432, or 437A, the tax credit certificate shall be issued directly to the partnership, limited liability company, S corporation, estate, trust, or other reporting entity.

5. The department shall not issue a tax credit certificate if the facility approved by the board as an eligible renewable energy facility is not operational within eighteen months after the approval is issued.

6. The department shall not issue a tax credit certificate to any person who has received a tax credit pursuant to chapter 476B.

7. Once a tax credit certificate is issued pursuant to this section, the tax credit may only be claimed against the type of tax reflected on the certificate.

Sec. 11. NEW SECTION. 476C.5 CERTIFICATE ISSUANCE PERIOD.

A producer or purchaser of renewable energy may receive renewable energy tax credit certificates for a ten-year period for each eligible renewable energy facility under this chapter. The ten-year period for issuance of the tax credit certificates begins with the date the purchaser of renewable energy first purchases electricity, hydrogen fuel, methane gas or other biogas used to generate electricity, or heat for commercial purposes from the eligible renewable energy facility for which a tax credit is issued under this chapter. Renewable energy tax credit certificates shall not be issued for renewable energy purchased after December 31, 2020.

Sec. 12. NEW SECTION. 476C.6 TRANSFERABILITY AND USE OF TAX CREDIT CERTIFICATES — REGISTRATION.

1. Renewable energy tax credit certificates issued under this chapter may be transferred to any person. A tax credit certificate shall only be transferred once. However, for purposes of this transfer provision, a decision between a producer and purchaser of renewable energy regarding who claims the tax credit issued pursuant to this chapter shall not be considered a transfer and must be set forth in the application for the tax credit pursuant to section 476C.4. Within thirty days of transfer, the transferee must submit the transferred tax credit certificate to the department along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each new certificate is to carry and any other information required by the department. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required under section 476C.4, subsection 3, and must have the same effective taxable year and 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 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 replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

The transferee may use the amount of the tax credit transferred against 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. The transferee may claim a refund under chapter 423 or 437A for any tax year within the time period set forth in section 423.47 or 437A.14 for which the original transferor could have claimed the refund. 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.

2. To claim a renewable energy tax credit under this chapter, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return, or if used against taxes imposed under chapter 423, the taxpayer shall comply with section 423.4, subsection 4, or if used against taxes imposed under chapter 437A, the taxpayer shall comply with section 437A.17B. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2006. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return. Any tax credit in excess of the taxpayer's tax liability for the taxable year may be credited to the taxpayer's tax liability for the following seven tax years or until the credit is depleted, whichever is earlier. If the tax credit is applied against the taxes imposed under chapter 423 or 437A, any credit in excess of the taxpayer's tax liability is carried over and can be filed with the refund claim for the following seven tax years or until depleted, whichever is earlier. However, the certificate shall not be used to reduce tax liability for a tax period ending after the expiration date of the certificate.

3. The department shall develop a system for the registration of the renewable energy tax credit certificates issued or transferred under this chapter and a system that permits verification that any tax credit claimed on a tax return is valid and that transfers of the tax credit certificates are made in accordance with the requirements of this chapter. The tax credit certificates issued under this chapter shall not be classified as a security pursuant to chapter 502.

Sec. 13. NEW SECTION. 476C.7 RULES.

The department and the board may adopt rules pursuant to chapter 17A for the administration and enforcement of this chapter.

Sec. 14. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 15, 2005

CHAPTER 161

ACTIVE DUTY MILITARY SERVICE — STATE FINANCIAL ASSISTANCE

S.F. 75

AN ACT allocating funding appropriated to assist individuals assigned to active duty military service and providing effective and applicability date provisions.

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

Section 1. 2003 Iowa Acts, chapter 179, section 21, as amended by 2004 Iowa Acts, chapter 1175, section 274, is amended to read as follows:

SEC. 21. MILITARY PAY DIFFERENTIAL.

1. ~~There~~ Notwithstanding section 8.56, subsection 4, 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 individuals activated for the armed services of the United States, for employees on the central payroll system and for the other military service-related purposes designated in this section:
. . . . . $ 1,810,000

2. Of the funds appropriated in this section, ~~up to~~ $10,000 is transferred to the Iowa department of public health[1] for allocation to community mental health centers to provide counseling services to persons, whether or not employed by the state, who are members of the national guard ~~and~~ or reservists ~~activated but as yet not sent to combat zones~~ and who are assigned to active duty service in the armed forces of the United States 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.

3. Of the funds appropriated in this section, $100,000 shall be retained by the department of administrative services to be used for the military pay differential and health insurance retention programs for employees on the central payroll system who are activated for the armed services of the United States.

4. Of the funds appropriated in this section, $650,000 is transferred to the college student aid commission to be used for the national guard educational assistance program established pursuant to section 261.86.

5. The remainder of the funds appropriated in this section are transferred to the Iowa finance authority to be used for a home ownership assistance program for persons who are eligible members of the armed forces of the United States. In the event an eligible member is deceased, the surviving spouse of the eligible member shall be eligible for a loan under the program, subject to the surviving spouse meeting the program's eligibility requirements other than the military service requirement. For the purposes of this subsection, "eligible member of the armed forces of the United States" means a resident of this state who is[2] a member of the national guard, reserve, or regular component of the armed forces of the United States who has served at least ninety days of active duty service during the period beginning September 11, 2001, and ending June 30, 2006.

6. 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.

7. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2003, from the appropriation and transfers made in this section shall not revert but shall remain available to be used for the purposes designated ~~until the end of the fiscal year beginning July 1, 2004. Funds appropriated in this section remaining unencumbered or unobligated at the end of the fiscal year beginning July 1, 2004, shall not revert but shall remain available to be used for the purposes designated and for a home ownership assistance program for eligible members of the national guard and reserves of the armed forces of the United States and the members' immediate families~~ until expended.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to May 17, 2004.

Approved March 10, 2005

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[1] See chapter 115, §37 herein

[2] See chapter 115, §37 herein

CHAPTER 162

ENVIRONMENT FIRST FUND —
SOIL AND WATER CONSERVATION DISTRICTS —
ADMINISTRATIVE EXPENSES

S.F. 71

AN ACT relating to an appropriation from the environment first fund for the establishment of permanent soil and water conservation practices, by allocating moneys to support the administration of local governmental units, and providing an effective date.

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

Section 1. 2004 Iowa Acts, chapter 1175, section 301, subsection 1, paragraph f, unnumbered paragraph 2, is amended to read as follows:

(1) Not more than 5 percent of the moneys appropriated in this ~~lettered~~ paragraph "f" may be used for costs of administration and implementation of soil and water conservation practices.

(2) Of the amount appropriated in this paragraph "f", $250,000 shall be used to reimburse commissioners of soil and water conservation districts for administrative expenses, including, but not limited to, travel expenses, technical training, and professional dues.

Sec. 2. DEPARTMENT — PAYMENT OF REIMBURSEMENT MONEYS. The department of agriculture and land stewardship shall reimburse commissioners of soil and water conservation districts the amounts allocated pursuant to section 1 of this Act within ten days after the effective date of this Act.

Sec. 3. REPORTING. A soil and water conservation district receiving moneys from an allocation provided in this Act shall submit a report to the soil conservation division of the department of agriculture and land stewardship by January 1, 2006, accounting for moneys which have been expended or unexpended or which have been obligated or encumbered. The report shall state how the moneys were used.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 31, 2005

CHAPTER 163

APPROPRIATIONS — TRANSPORTATION

H.F. 466

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, the primary road fund, and the general fund.

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, 2005, and ending June 30, 2006, 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, 2006, 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:

. . . . . $ 5,450,315

b. Administrative services:

. . . . . $ 553,239

c. Planning:

. . . . . $ 458,187

d. Motor vehicles:

. . . . . $ 30,908,798

3. For payments to the department of administrative services for utility services:

. . . . . $ 140,616

4. Unemployment compensation:

. . . . . $ 17,000

5. For payments to the department of administrative services for paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:

. . . . . $ 114,000

6. For payment to the general fund of the state for indirect cost recoveries:

. . . . . $ 102,000

7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

. . . . . $ 55,160

8. For automation, telecommunications, and related costs associated with the county issuance of driver's licenses and vehicle registrations and titles:

. . . . . $ 1,268,000

9. For transfer to the department of public safety for operating a system providing toll-free telephone road and weather conditions information:

. . . . . $ 100,000

10. For costs associated with the participation in the Mississippi river parkway commission:

. . . . . $ 40,000

11. For membership in the North America's superhighway corridor coalition:

. . . . . $ 50,000

12. For design and construction of a new motor vehicle division building, including furnishings:

. . . . . $ 9,350,000

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 purposes designated until the close of the fiscal year that begins July 1, 2008.

The department shall make quarterly reports to the legislative council regarding the progress of the building project provided for in this subsection and shall inform the general assembly of any significant delays or unanticipated expenditures that arise.

Sec. 2. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

..... $ 33,480,509
..... FTEs 269.00

b. Administrative services:

..... $ 3,398,458
..... FTEs 36.00

c. Planning:

..... $ 8,705,565
..... FTEs 137.00

d. Highways:

..... $ 189,325,084
..... FTEs 2,451.00

e. Motor vehicles:

..... $ 1,252,049
..... FTEs 483.00

2. For payments to the department of administrative services for utility services:

..... $ 863,497

3. Unemployment compensation:

..... $ 328,000

4. For payments to the department of administrative services for paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:

..... $ 2,738,000

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:

..... $ 338,840

8. For costs associated with producing transportation maps:

..... $ 275,000

9. For utility improvements at various locations:

..... $ 150,000

10. For garage roofing projects at various locations:

..... $ 150,000

11. For heating, cooling, and exhaust system improvements at various locations:

..... $ 250,000

12. For deferred maintenance projects at field facilities throughout the state:

..... $ 351,500

Notwithstanding section 8.33, moneys appropriated in subsections 9 through 12 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, 2008.

Sec. 3. GENERAL FUND APPROPRIATIONS. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. 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:

. . . . . $ 64,792

2. For the rail assistance program and to provide economic development project funding:

. . . . . $ 35,959[1]

Approved April 14, 2005

CHAPTER 164

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 346

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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 13,641,441

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, 2004, 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.

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[1] See chapter 178, §13 herein

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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 3,704,898

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 department 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.

d. Of the amount allocated to eligible services providers under paragraph "c", 70 percent shall be distributed to the state's accredited community mental health centers established or designated by counties in accordance with law or administrative rule. If a county has not established or designated a community mental health center and has received a waiver from the mental health and developmental disabilities commission, the mental health services provider designated by that county is eligible to receive funding distributed pursuant to this paragraph in lieu of a community mental health center. The funding distributed shall be used by recipients of the funding for the purpose of developing and providing evidence-based practices and emergency services to adults with a serious mental illness and children with a serious emotional disturbance. The distribution amounts shall be announced at the beginning of the federal fiscal year and distributed on a quarterly basis according to the formulas used in previous fiscal years. Recipients shall submit quarterly reports containing data consistent with the performance measures approved by the federal substance abuse and mental health services administration.

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 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. The auditor of state shall bill the department 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 6,760,133

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 disabled 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, 2005, and ending September 30, 2006, the following amount:

..... $ 1,500,443

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. 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 1,471,000

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, section 3796gg-1, 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 10 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. 6. 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 297,225

Funds appropriated in this section are the funds anticipated to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter XII-G, 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 federal law making the funds available and in conformance with chapter 17A.

Sec. 7. EDWARD BYRNE MEMORIAL FORMULA 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 3,121,266

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 136, § 14233, which provides for the Edward Byrne Memorial formula 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. 8. 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 6,856,891

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 pro-

vides 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. 9. 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 29,260,000

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 $1,270,400 for the federal fiscal year beginning October 1, 2005, 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 $685,200 for the federal fiscal year beginning October 1, 2005, of funds appropriated in subsection 1 and a matching contribution from the state equal to $585,200 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. 10. 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, 2005, and ending September 30, 2006, the following amount:

. . . . . $ 34,570,110

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 house-

holds. Of this allocation amount, not more than 10 percent may be used for administrative expenses.

3. After subtracting the allocation in subsection 2, up to 10 percent of the remainder is allocated for administrative expenses of the low-income home energy assistance program of which $377,000 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. 11. 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, 2005, and ending September 30, 2006, the following amount:

..... $ 17,216,209

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 $1,094,737 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, 2005, for the following programs within the department of human services:

a. Field operations:

..... $ 6,547,743

b. Child and family services:

..... $ 979,361

c. Local administrative costs and other local services:

..... $ 694,407

d. Volunteers:

..... $ 75,893

e. Community-based services:

..... $ 87,275

f. MH/MR/DD/BI community services (local purchase):

..... $ 7,736,793

Sec. 12. 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. 13. 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, 2005, and ending September 30, 2006, 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:

a. Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.

b. Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.

c. Provide appropriate training to persons who provide services to persons targeted by the grant.

d. Provide case management to homeless persons.

e. 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.

Sec. 14. 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, 2005, and ending September 30, 2006, the following amount:

..... $ 40,846,720

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.

If the amount of the child care and development block grant to be received exceeds the amount appropriated in this section and the excess amount is sufficient to fund both the purposes identified by the department for the excess amount and the purpose described in this sentence, notwithstanding any contrary provision enacted by the Eighty-first General Assembly, 2005 Session, the department shall, to the extent sufficient funds are available, set child care provider reimbursement rates based on the most recently completed rate reimbursement survey. Moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall revert to be available for appropriation for purposes of the child care and development block grant in the succeeding fiscal year.

Sec. 15. 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 services agency 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 and ranking members notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

Sec. 16. 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, 7, 9, and 11 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 10 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 8 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 17. 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, 2005, and ending June 30, 2006, 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. 18. 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, 2005, and ending June 30, 2006, are appropriated to the department of administrative services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 19. 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, 2005, and ending June 30, 2006, 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.

Sec. 20. 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, 2005, and ending June 30, 2006, 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. 21. 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, 2005, and ending June 30, 2006, 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.

Sec. 22. 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, 2005, and ending June 30, 2006, 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.

Sec. 23. 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, 2005, and ending June 30, 2006, 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.

Sec. 24. 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, 2005, and ending June 30, 2006, 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. 25. 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, 2005, and ending June 30, 2006, 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.

Sec. 26. 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, 2005, and ending June 30, 2006, 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.

Sec. 27. 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, 2005, and ending June 30, 2006, 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.

Sec. 28. 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, 2005, and ending June 30, 2006, 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.

Sec. 29. 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, 2005, and ending June 30, 2006, 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.

Sec. 30. 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, 2005, and ending June 30, 2006, 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. 31. 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, 2005, and ending June 30, 2006, 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. 32. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. 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, 2005, and ending June 30, 2006, are appropriated to the governor's office of drug control policy for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 33. 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, 2005, and ending June 30, 2006, 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.

Sec. 34. 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, 2005, and ending June 30, 2006, 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.

Sec. 35. 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, 2005, and ending June 30, 2006, 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.

Sec. 36. 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, 2005, and ending June 30, 2006, 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.

Sec. 37. 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, 2005, and ending June 30, 2006, 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.

Sec. 38. 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, 2005, and ending June 30, 2006, 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. 39. 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, 2005, and ending June 30, 2006, 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. 40. 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, 2005, and ending June 30, 2006, 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.

Sec. 41. 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, 2005, and ending June 30, 2006, 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. 42. 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, 2005, and ending June 30, 2006, 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.

Sec. 43. 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, 2005, and ending June 30, 2006, 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. 44. 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, 2005, and ending June 30, 2006, 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.

Sec. 45. 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, 2005, and ending June 30, 2006, 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.

Sec. 46. 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, 2005, and ending June 30, 2006, 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.

Sec. 47. DEPARTMENT OF REVENUE. 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, 2005, and ending June 30, 2006, are appropriated to the department of revenue for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 48. 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, 2005, and ending June 30, 2006, 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. 49. 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, 2005, and ending June 30, 2006, 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. 50. 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, 2005, and ending June 30, 2006, 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. 51. 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, 2005, and ending June 30, 2006, 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. 52. 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, 2005, and ending June 30, 2006, 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.

Sec. 53. 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, 2005, and ending June 30, 2006, 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.

Sec. 54. 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, 2005, and ending June 30, 2006, 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.

Sec. 55. 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, 2005, and ending June 30, 2006, 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.

Approved April 19, 2005

CHAPTER 165

VEHICULAR TRAFFIC SPEED LIMITS AND ALLOCATION OF FINES, FEES, PENALTIES, AND OTHER REVENUE

H.F. 826

AN ACT relating to the speed limit for vehicular traffic on highways, the fines for violations, and court costs for simple misdemeanor offenses and providing a fee and making appropriations.

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

Section 1. Section 321.285, subsection 6, Code 2005, is amended to read as follows:

6. a. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic on fully controlled-access, divided, multilaned highways ~~including the national system of interstate highways~~ is sixty-five miles per hour. However, the speed limit for all vehicular traffic on highways that are part of the interstate road system, as defined in section 306.3, is seventy miles per hour. The department may establish a speed limit of sixty-five miles per hour on certain divided, multilaned highways not otherwise described in this paragraph.

b. ~~However, the department or cities with the approval of the~~ The department, on its own motion or in response to a recommendation of a metropolitan or regional planning commission or council of governments, may establish a lower speed limit ~~upon such highways located within the corporate limits of a city~~ on a highway described in this subsection.

c. For the purposes of this subsection, ~~a fully~~ "fully controlled-access ~~highway is~~ highway" means a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

d. A minimum speed may be established by the department on the highways referred to in this subsection if warranted by engineering and traffic investigations.

e. ~~It is further provided that any~~ Any kind of vehicle, implement, or conveyance incapable of attaining and maintaining a speed of forty miles per hour shall be prohibited from using the interstate road system.

Sec. 2. Section 602.1302, subsection 1, Code 2005, is amended to read as follows:

1. Except as otherwise provided by sections 602.1303, ~~and~~ 602.1304, and 602.8108 or other applicable law, the expenses of operating and maintaining the judicial branch shall be paid out of the general fund of the state from funds appropriated by the general assembly for the judicial branch. State funding shall be phased in as provided in section 602.11101.

Sec. 3. Section 602.1304, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. For each fiscal year, a judicial collection estimate for that fiscal year shall be equally and proportionally divided into a quarterly amount. The judicial collection estimate shall be calculated by using the state revenue estimating conference estimate made by December 15 pursuant to section 8.22A, subsection 3, of the total amount of fines, fees, civil penalties, costs, surcharges, and other revenues collected by judicial officers and court employees for deposit into the general fund of the state. The revenue estimating conference estimate shall be reduced by the maximum amounts allocated to the Iowa prison infrastructure fund pursuant to section 602.8108A, the court technology and modernization fund pursuant to section 602.8108, ~~and~~ subsection 7, the judicial branch pursuant to section 602.8108, subsection 7A, the road use tax fund pursuant to section 602.8108, subsection 8, and amounts allocated to the department of public safety's vehicle depreciation account pursuant to section 602.8108, subsection 9, and the remainder shall be the judicial collection estimate. In each quarter of a fiscal year, after revenues collected by judicial officers and court employees equal to that quarterly

amount are deposited into the general fund of the state, ~~and~~ after the required amount is deposited during the quarter into the Iowa prison infrastructure fund pursuant to section 602.8108A and into the court technology and modernization fund pursuant to section 602.8108, subsection 7, and after the required amount is allocated to the judicial branch pursuant to section 602.8108, subsection 7A, and to the department of public safety's vehicle depreciation account pursuant to section 602.8108, subsection 9, the director of the department of administrative services shall deposit the remaining revenues for that quarter into the enhanced court collections fund in lieu of the general fund. However, after total deposits into the collections fund for the fiscal year are equal to the maximum deposit amount established for the collections fund, remaining revenues for that fiscal year shall be deposited into the general fund. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of the department of administrative services shall recalculate the judicial collection estimate accordingly. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of the department of administrative services shall recalculate the judicial collection estimate accordingly but only to the extent that the greater amount is due to an increase in the fines, fees, civil penalties, costs, surcharges, or other revenues allowed by law to be collected by judicial officers and court employees.[1]

Sec. 4. Section 602.8106, subsection 1, paragraphs b, d, and e, Code 2005, 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, ~~seventeen~~ thirty dollars.

d. The court costs in scheduled violation cases where a court appearance is required, ~~seventeen~~ thirty dollars.

e. For court costs in scheduled violation cases where a court appearance is not required, ~~seventeen~~ thirty dollars.

Sec. 5. Section 602.8108, subsection 2, Code 2005, is amended to read as follows:

2. Except as otherwise provided, the clerk of the district court shall report and submit to the state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in subsections 3, 4, 5, 7, ~~and~~ 7A, 8, and 9,[2] the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative services agency within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

Sec. 6. Section 602.8108, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The state court administrator shall allocate to the judicial branch for the fiscal year beginning July 1, 2005, and for each fiscal year thereafter, seven million dollars of the moneys received annually under subsection 2, to be used 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, and maintenance, equipment, and miscellaneous purposes.

*Sec. 7. *Section 602.8108, Code 2005, is amended by adding the following new subsection:*

NEW SUBSECTION. 9. a. The state court administrator shall allocate to the vehicle de-

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[1] See chapter 179, §137 herein

[2] See chapter 179, §138 herein

* Item veto; see message at end of the Act

preciation account maintained by the department of public safety for vehicles utilized by the Iowa state patrol the following amounts from fines attributable to speeding violations:

(1) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, five hundred ninety-six thousand dollars.

(2) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, seven hundred nine thousand dollars.

(3) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, eight hundred forty-one thousand dollars.

(4) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, eight hundred forty-one thousand dollars.

b. All moneys allocated under this subsection are appropriated to the department of public safety and shall be used for the purchase of state patrol vehicles. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys allocated to the vehicle depreciation account under this subsection shall be credited to the account. Notwithstanding section 8.33, moneys allocated to the vehicle depreciation account under this subsection shall not revert at the end of the fiscal year but shall remain available for the purpose intended.

*c. This subsection is repealed July 1, 2009.**

Sec. 8. Section 805.8A, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. Notwithstanding paragraph "a", for excessive speed violations in speed zones greater than fifty-five miles per hour, the scheduled fine shall be:

(1) ~~Ten~~ Twenty dollars for speed not more than five miles per hour in excess of the limit.

(2) ~~Twenty~~ Forty dollars for speed greater than five but not more than ten miles per hour in excess of the limit.

(3) ~~Forty~~ Sixty dollars for speed greater than ten but not more than fifteen miles per hour in excess of the limit.

(4) ~~Sixty~~ Eighty dollars for speed greater than fifteen but not more than twenty miles per hour in excess of the limit.

(5) ~~Sixty~~ Ninety dollars plus ~~two~~ five dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

Sec. 9. CANINE VEHICLE REPLACEMENT. The department of public safety shall use a portion of the funds allocated to the department of public safety's vehicle depreciation account pursuant to section 602.8108, subsection 9, as enacted in this Act, to replace existing Iowa state patrol vehicles used by canine handlers, when those vehicles are due for replacement, with multipurpose vehicles properly equipped for canine transport.

Approved April 19, 2005, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Speaker Rants:

I hereby transmit House File 826, an Act relating to the speed limit for vehicular traffic on highways, the fines for violations, and court costs for simple misdemeanor offenses and providing a fee and making appropriations.

I approve, in part, House File 826 to increase the speed limit to 70 mph on Iowa's interstate highways and to increase fines for violations and court costs. However, I remain concerned about the impacts of higher speeds on our roads; so I am taking the additional step today to

* Item veto; see message at end of the Act

direct the Department of Public Safety to strictly enforce the 70 mph limit once it becomes effective. Current Department of Transportation data indicates a vast majority of interstate drivers travel at 69.8 mph on average. Through my action today, the speed limit will increase but actual speeds on Iowa's highways will not. I expect Iowa drivers to respect the law and the posted speed limit.

The higher speed limit will become effective on July 1, 2005. In the meantime, I direct the Department of Transportation to work in cooperation with the Department of Public Safety to conduct a study of the interstate system to determine areas that 70 mph may not be safe. Under this law, the Department of Transportation is authorized to establish a lower speed limit if warranted. Based on the study's findings, a determination will be made on the appropriate speed limit for individual areas of Iowa's interstate system.

House File 826 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the items designated as Section 7 and Section 9 in their entirety. These sections deal with the allocation of funds to the Department of Public Safety for vehicles utilized by the Iowa State Patrol from fines attributable to speeding fines. Although I agree with the need to increase funding for the Iowa State Patrol vehicle fleet, I do not believe the proper way is to directly tie the increase in speeding fines with the allocation for vehicles. This could leave the impression by some of tickets being written solely for improving the Iowa State Patrol fleet as opposed to the need for safety on our roads. I would encourage the Legislature to appropriate through the normal process for the Department of Public Safety and fund directly from the general fund additional resources for the Iowa State Patrol vehicle fleet.

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 826 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 166

MEDICAL ASSISTANCE —
LONG-TERM CARE ASSET DISREGARD PROGRAM
H.F. 819

AN ACT relating to asset disregard under the medical assistance program for the purchase of a certified long-term care insurance policy, providing for a repeal, providing a contingent effective date, and providing an appropriation.

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

Section 1. NEW SECTION. 249A.35 PURCHASE OF CERTIFIED LONG-TERM CARE INSURANCE POLICY — COMPUTATION UNDER MEDICAL ASSISTANCE PROGRAM.

A computation for the purposes of determining eligibility under this chapter concerning an

individual who is the beneficiary of a certified long-term care insurance policy under chapter 514H shall include consideration of the asset disregard provided in section 514H.5.

Sec. 2. NEW SECTION. 514H.1 DEFINITIONS.

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

1. "Certified long-term care insurance policy" means a long-term care insurance contract that is issued by an insurer or other person who complies with section 514H.4.

2. "Long-term care facility" means a facility licensed under chapter 135C or an assisted living program certified under chapter 231C.

3. "Long-term care insurance" means long-term care insurance as defined in section 514G.4 and regulated in section 514G.7.

4. "Qualified long-term care services" means qualified long-term care services as defined in section 7702B(c) of the Internal Revenue Code.

Sec. 3. NEW SECTION. 514H.2 IOWA LONG-TERM CARE ASSET DISREGARD INCENTIVE PROGRAM — ESTABLISHMENT AND ADMINISTRATION.

1. The Iowa long-term care asset disregard incentive program is established to do all of the following:

a. Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

b. Provide a mechanism for individuals to qualify for coverage of the costs of their long-term care needs under the medical assistance program without first being required to substantially exhaust all their resources.

c. Assist in developing methods for increasing access to and the affordability of long-term care insurance.

d. Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

2. The insurance division of the department of commerce shall administer the program in cooperation with the division responsible for medical services within the department of human services. Each agency shall take appropriate action to maintain the waiver granted by the centers for Medicare and Medicaid services of the United States department of health and human services under 42 U.S.C. § 1396 relating to providing medical assistance under chapter 249A, in effect prior to the effective date of this Act.

Sec. 4. NEW SECTION. 514H.3 ELIGIBILITY.

An individual who is the beneficiary of a certified long-term care insurance policy approved by the insurance division may be eligible for assistance under the medical assistance program using the asset disregard provisions pursuant to section 514H.5.

Sec. 5. NEW SECTION. 514H.4 INSURER REQUIREMENTS.

1. An insurer or other person who wishes to issue a certified long-term care insurance policy meeting the requirements of this chapter shall, at a minimum, offer to each policyholder or prospective policyholder a policy that provides both of the following:

a. Facility coverage, including but not limited to long-term care facility coverage.

b. Nonfacility coverage, including but not limited to home and community-based care coverage.

2. An insurer or other person who complies with subsection 1 may also elect to offer a certified long-term care insurance policy that provides only facility coverage.

Sec. 6. NEW SECTION. 514H.5 ASSET DISREGARD ADJUSTMENT.

1. As used in this section, "asset disregard" means a one dollar increase in the amount of assets an individual who is the beneficiary of a certified long-term care insurance policy and meets the requirements of section 514H.3 may retain under section 249A.35 for each one dollar of benefit paid out under the individual's certified long-term care insurance policy for qualified long-term care services if the policy meets all of the following criteria:

a. If purchased prior to January 1, 2005, provides benefits in an amount equal to at least seventy thousand dollars as computed on January 1, 2005.

b. If purchased on or after January 1, 2005, provides benefits in an amount equal to at least seventy thousand dollars as computed on January 1, 2005, compounded annually by at least five percent, or an amount equal to at least the minimum face amount specified by the commissioner of insurance pursuant to subsection 3, whichever amount is greater.

c. Includes a provision under which the total amount of the benefit increases by at least five percent, compounded annually.

2. When the division responsible for medical services within the department of human services determines whether an individual is eligible for medical assistance under chapter 249A, the division shall make an asset disregard adjustment for any individual who meets the requirements of section 514H.3. The asset disregard shall be available after benefits of the certified long-term care insurance policy have been applied to the cost of qualified long-term care services as required under this chapter.

3. Beginning September 1, 2006, or one year after the effective date of this Act, whichever is later, the commissioner of insurance shall issue a bulletin annually on that date, declaring the minimum face amount for policies to qualify for the Iowa long-term care asset disregard incentive program for the following calendar year. In making this determination, the commissioner shall consult with the division responsible for collecting data on average nursing home costs in Iowa. Additionally, in making this determination, the commissioner shall consider the current average daily cost for three years of nursing home care and other relevant information.

Sec. 7. NEW SECTION. 514H.6 APPLICATION OF ASSET DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

A public program administered by the state that provides long-term care services and bases eligibility upon the amount of the individual's assets shall apply the asset disregard under section 514H.5 in determining the amount of the individual's assets.

Sec. 8. NEW SECTION. 514H.7 PRIOR PROGRAM — DISCONTINUATION OF PROGRAM.

1. If the Iowa long-term care asset disregard incentive program is discontinued, an individual who is covered by a certified long-term care insurance policy prior to the date the program is discontinued is eligible to continue to receive an asset disregard as defined under section 514H.5.

2. An individual who is covered by a long-term care insurance policy under the long-term care asset preservation program established pursuant to chapter 249G, Code 2005, on or before the effective date of this Act, is eligible to continue to receive the asset adjustment as defined under that chapter.

3. The insurance division, in cooperation with the department of human services, shall adopt rules to provide an asset disregard to individuals who are covered by a long-term care insurance policy prior to the effective date of this Act, consistent with the Iowa long-term care asset disregard incentive program.

Sec. 9. NEW SECTION. 514H.8 RECIPROCAL AGREEMENTS TO EXTEND ASSET DISREGARD.

The division responsible for medical services within the department of human services may enter into reciprocal agreements with other states to extend the asset disregard under section 514H.5 to Iowa residents who had purchased or were covered by certified long-term care insurance policies in other states.

Sec. 10. NEW SECTION. 514H.9 RULES.

The insurance division of the department of commerce in cooperation with the department of human services shall adopt rules pursuant to chapter 17A as necessary to administer this

chapter. The insurance division shall consult with representatives of the insurance industry in adopting such rules. This delegation of rulemaking authority shall be construed narrowly.

Sec. 11. Chapter 249G, Code 2005, is repealed.

Sec. 12. MEDICAL ASSISTANCE STATE PLAN AMENDMENT — WAIVER — IOWA LONG-TERM CARE ASSET DISREGARD INCENTIVE PROGRAM.

1. The department of human services shall amend the medical assistance state plan to provide that all amounts paid for qualified long-term care services under a certified long-term care insurance policy pursuant to chapter 514H, as enacted in this Act, shall be considered in determining the amount of the asset disregard.

2. The department of human services shall seek approval of a medical assistance state plan amendment or make application to the United States department of health and human services for any waiver necessary to implement chapter 514H, as enacted in this Act.

Sec. 13. CONTINGENT EFFECTIVE DATE — IOWA LONG-TERM CARE ASSET DISREGARD INCENTIVE PROGRAM.

1. This Act shall not take effect until all medical assistance state plan amendments and waivers necessary to implement chapter 514H, as enacted in this Act, are approved by the United States department of health and human services. The department of human services shall notify the Code editor if such approval is received.

2. If the requirement of subsection 1 is met, the program shall begin no sooner than six months following the date that the requirement is met.

Sec. 14. APPROPRIATION. There is appropriated from the general fund of the state to the division of insurance of the department of commerce for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to establish an educational program to inform Iowans regarding the Iowa long-term care asset disregard incentive program and for up to the following full-time equivalent positions:

.....	$	300,000
.....	FTEs	2.00

Approved May 2, 2005

CHAPTER 167

HEALTH CARE AND HEALTH CARE FINANCE

H.F. 841

AN ACT relating to health care reform, including provisions relating to the medical assistance program, providing appropriations, providing effective dates, and providing for retroactive applicability.

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

DIVISION I
IOWACARE

Section 1. NEW SECTION. 249J.1 TITLE.

This chapter shall be known and may be cited as the "Iowacare Act".

Sec. 2. NEW SECTION. 249J.2 FEDERAL FINANCIAL PARTICIPATION — CONTINGENT IMPLEMENTATION.

This chapter shall be implemented only to the extent that federal matching funds are available for nonfederal expenditures under this chapter. The department shall not expend funds under this chapter, including but not limited to expenditures for reimbursement of providers and program administration, if appropriated nonfederal funds are not matched by federal financial participation.

Sec. 3. NEW SECTION. 249J.3 DEFINITIONS.

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

1. "Clean claim" means a claim submitted by a provider included in the expansion population provider network that may be adjudicated as paid or denied.
2. "Department" means the department of human services.
3. "Director" means the director of human services.
4. "Expansion population" means the individuals who are eligible solely for benefits under the medical assistance program waiver as provided in this chapter.
5. "Full benefit dually eligible Medicare Part D beneficiary" means a person who is eligible for coverage for Medicare Part D drugs and is simultaneously eligible for full medical assistance benefits pursuant to chapter 249A, under any category of eligibility.
6. "Full benefit recipient" means an adult who is eligible for full medical assistance benefits pursuant to chapter 249A under any category of eligibility.
7. "Iowa Medicaid enterprise" means the centralized medical assistance program infrastructure, based on a business enterprise model, and designed to foster collaboration among all program stakeholders by focusing on quality, integrity, and consistency.
8. "Medical assistance" or "Medicaid" means payment of all or part of the costs of care and services provided to an individual pursuant to chapter 249A and Title XIX of the federal Social Security Act.
9. "Medicare Part D" means the Medicare Part D program established pursuant to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173.
10. "Minimum data set" means the minimum data set established by the centers for Medicare and Medicaid services of the United States department of health and human services for nursing home resident assessment and care screening.
11. "Nursing facility" means a nursing facility as defined in section 135C.1.
12. "Public hospital" means a hospital licensed pursuant to chapter 135B and governed pursuant to chapter 145A, 226, 347, 347A, or 392.

Sec. 4. NEW SECTION. 249J.4 PURPOSE.

It is the purpose of this chapter to propose a variety of initiatives to increase the efficiency, quality, and effectiveness of the health care system; to increase access to appropriate health care; to provide incentives to consumers to engage in responsible health care utilization and personal health care management; to reward providers based on quality of care and improved service delivery; and to encourage the utilization of information technology, to the greatest extent possible, to reduce fragmentation and increase coordination of care and quality outcomes.

DIVISION II
MEDICAID EXPANSION

Sec. 5. NEW SECTION. 249J.5 EXPANSION POPULATION ELIGIBILITY.

1. Except as otherwise provided in this chapter, an individual nineteen through sixty-four years of age shall be eligible solely for the expansion population benefits described in this chapter when provided through the expansion population provider network as described in this chapter, if the individual meets all of the following conditions:

a. The individual is not eligible for coverage under the medical assistance program in effect on or after April 1, 2005.

b. The individual has a family income at or below two hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. The individual fulfills all other conditions of participation for the expansion population described in this chapter, including requirements relating to personal financial responsibility.

2. Individuals otherwise eligible solely for family planning benefits authorized under the medical assistance family planning services waiver, effective January 1, 2005, as described in 2004 Iowa Acts, chapter 1175, section 116, subsection 8, may also be eligible for expansion population benefits provided through the expansion population provider network.

3. Individuals with family incomes below three hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services shall also be eligible for obstetrical and newborn care under the expansion population if deductions for the medical expenses of all family members would reduce the family income to two hundred percent of the federal poverty level or below. Such individuals shall be eligible for the same benefits as those provided to individuals eligible under section 135.152. Eligible individuals may choose to receive the appropriate level of care at any licensed hospital or health care facility, with the exception of individuals in need of such care residing in the counties of Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, and Washington, who shall be provided care at the university of Iowa hospitals and clinics.

4. Enrollment for the expansion population may be limited, closed, or reduced and the scope and duration of expansion population services provided may be limited, reduced, or terminated if the department determines that federal medical assistance program matching funds or appropriated state funds will not be available to pay for existing or additional enrollment.

5. Eligibility for the expansion population shall not include individuals who have access to group health insurance, unless the reason for not accessing group health insurance is allowed by rule of the department.

6. Each expansion population member shall provide to the department all insurance information required by the health insurance premium payment program.

7. The department shall contract with the county general assistance directors to perform intake functions for the expansion population, but only at the discretion of the individual county general assistance director.

8. If the department provides intake services at the location of a provider included in the expansion population provider network, the department shall consider subcontracting with local nonprofit agencies to promote greater understanding between providers, under the medical assistance program and included in the expansion population provider network, and their recipients and members.

Sec. 6. NEW SECTION. 249J.6 EXPANSION POPULATION BENEFITS.

1. Beginning July 1, 2005, the expansion population shall be eligible for all of the following expansion population services:

a. Inpatient hospital procedures described in the diagnostic related group codes or other applicable inpatient hospital reimbursement methods designated by the department.

b. Outpatient hospital services described in the ambulatory patient groupings or noninpatient services designated by the department.

c. Physician and advanced registered nurse practitioner services described in the current procedural terminology codes specified by the department.

d. Dental services described in the dental codes specified by the department.

e. Limited pharmacy benefits provided by an expansion population provider network hospital pharmacy and solely related to an appropriately billed expansion population service.

f. Transportation to and from an expansion population provider network provider only if the provider offers such transportation services or the transportation is provided by a volunteer.

2. a. Beginning no later than March 1, 2006, within ninety days of enrollment in the expan-

sion population, each expansion population member shall participate, in conjunction with receiving a single comprehensive medical examination and completing a personal health improvement plan, in a health risk assessment coordinated by a health consortium representing providers, consumers, and medical education institutions. An expansion population member who enrolls in the expansion population prior to March 1, 2006, shall participate in the health risk assessment, receive the single comprehensive medical examination, and complete the personal health improvement plan by June 1, 2006. The criteria for the health risk assessment, the comprehensive medical examination and the personal health improvement plan shall be developed and applied in a manner that takes into consideration cultural variations that may exist within the expansion population.

b. The health risk assessment shall be a web-based electronic system capable of capturing and integrating basic data to provide an individualized personal health improvement plan for each expansion population member. The health risk assessment shall provide a preliminary diagnosis of current and prospective health conditions and recommendations for improving health conditions with an individualized wellness program. The health risk assessment shall be made available to the expansion population member and the provider specified in paragraph "c" who performs the comprehensive medical examination and provides the individualized personal health improvement plan.

c. The single comprehensive medical examination and personal health improvement plan may be provided by an expansion population provider network physician, advanced registered nurse practitioner, or physician assistant or any other physician, advanced registered nurse practitioner, or physician assistant, available to any full benefit recipient including but not limited to such providers available through a free clinic or rural health clinic under a contract with the department to provide these services, through federally qualified health centers that employ a physician, or through any other nonprofit agency qualified or deemed to be qualified by the department to perform these services.

3. Beginning no later than July 1, 2006, expansion population members shall be provided all of the following:

a. Access to a pharmacy assistance clearinghouse program to match expansion population members with free or discounted prescription drug programs provided by the pharmaceutical industry.

b. Access to a medical information hotline, accessible twenty-four hours per day, seven days per week, to assist expansion population members in making appropriate choices about the use of emergency room and other health care services.

4. Membership in the expansion population shall not preclude an expansion population member from eligibility for services not covered under the expansion population for which the expansion population member is otherwise entitled under state or federal law.

5. Members of the expansion population shall not be considered full benefit dually eligible Medicare Part D beneficiaries for the purposes of calculating the state's payment under Medicare Part D, until such time as the expansion population is eligible for all of the same benefits as full benefit recipients under the medical assistance program.

Sec. 7. NEW SECTION. 249J.7 EXPANSION POPULATION PROVIDER NETWORK.

1. Expansion population members shall only be eligible to receive expansion population services through a provider included in the expansion population provider network. Except as otherwise provided in this chapter, the expansion population provider network shall be limited to a publicly owned acute care teaching hospital located in a county with a population over three hundred fifty thousand, the university of Iowa hospitals and clinics, and the state hospitals for persons with mental illness designated pursuant to section 226.1 with the exception of the programs at such state hospitals for persons with mental illness that provide substance abuse treatment, serve gero-psychiatric patients, or treat sexually violent predators.

2. Expansion population services provided to expansion population members by providers included in the expansion population provider network shall be payable at the full benefit recipient rates.

3. Providers included in the expansion population provider network shall submit clean claims within twenty days of the date of provision of an expansion population service to an expansion population member.

4. Unless otherwise prohibited by law, a provider under the expansion population provider network may deny care to an individual who refuses to apply for coverage under the expansion population.

5. Notwithstanding the provision of section 347.16, subsection 2, requiring the provision of free care and treatment to the persons described in that subsection, the publicly owned acute care teaching hospital described in subsection 1 may require any sick or injured person seeking care or treatment at that hospital to be subject to financial participation, including but not limited to copayments or premiums, and may deny nonemergent care or treatment to any person who refuses to be subject to such financial participation.

Sec. 8. NEW SECTION. 249J.8 EXPANSION POPULATION MEMBERS — FINANCIAL PARTICIPATION.

1. Beginning July 1, 2005, each expansion population member whose family income equals or exceeds one hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services shall pay a monthly premium not to exceed one-twelfth of five percent of the member's annual family income, and each expansion population member whose family income is less than one hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services shall pay a monthly premium not to exceed one-twelfth of two percent of the member's annual family income. All premiums shall be paid on the last day of the month of coverage. The department shall deduct the amount of any monthly premiums paid by an expansion population member for benefits under the healthy and well kids in Iowa program when computing the amount of monthly premiums owed under this subsection. An expansion population member shall pay the monthly premium during the entire period of the member's enrollment. However, regardless of the length of enrollment, the member is subject to payment of the premium for a minimum of four consecutive months. Timely payment of premiums, including any arrearages accrued from prior enrollment, is a condition of receiving any expansion population services. Premiums collected under this subsection shall be deposited in the premiums subaccount of the account for health care transformation created pursuant to section 249J.22. An expansion population member shall also pay the same copayments required of other adult recipients of medical assistance.

2. The department may reduce the required out-of-pocket expenditures for an individual expansion population member based upon the member's increased wellness activities such as smoking cessation or compliance with the personal health improvement plan completed by the member. The department shall also waive the required out-of-pocket expenditures for an individual expansion population member based upon a hardship that would accrue from imposing such required expenditures.

3. The department shall submit to the governor and the general assembly by March 15, 2006, a design for each of the following:

a. An insurance cost subsidy program for expansion population members who have access to employer health insurance plans, provided that the design shall require that no less than fifty percent of the cost of such insurance shall be paid by the employer.

b. A health care account program option for individuals eligible for enrollment in the expansion population. The health care account program option shall be available only to adults who have been enrolled in the expansion population for at least twelve consecutive calendar months. Under the health care account program option, the individual would agree to exchange one year's receipt of benefits under the expansion population, to which the individual would otherwise be entitled, for a credit to obtain any medical assistance program covered service up to a specified amount. The balance in the health care account at the end of the year, if any, would be available for withdrawal by the individual.

4. The department shall track the impact of the out-of-pocket expenditures on patient[1] enrollment and shall report the findings on at least a quarterly basis to the medical assistance projections and assessment council established pursuant to section 249J.19. The findings shall include estimates of the number of expansion population members complying with payment of required out-of-pocket expenditures, the number of expansion population members not complying with payment of required out-of-pocket expenditures and the reasons for noncompliance, any impact as a result of the out-of-pocket requirements on the provision of services to the populations previously served, the administrative time and cost associated with administering the out-of-pocket requirements, and the benefit to the state resulting from the out-of-pocket expenditures. To the extent possible, the department shall track the income level of the member, the health condition of the member, and the family status of the member relative to the out-of-pocket information.

Sec. 9. NEW SECTION. 249J.9 FUTURE EXPANSION POPULATION, BENEFITS, AND PROVIDER NETWORK GROWTH.

1. POPULATION. The department shall contract with the division of insurance of the department of commerce or another appropriate entity to track, on an annual basis, the number of uninsured and underinsured Iowans, the cost of private market insurance coverage, and other barriers to access to private insurance for Iowans. Based on these findings and available funds, the department shall make recommendations, annually, to the governor and the general assembly regarding further expansion of the expansion population.

2. BENEFITS.

a. The department shall not provide services to expansion population members that are in addition to the services originally designated by the department pursuant to section 249J.6, without express authorization provided by the general assembly.

b. The department, upon the recommendation of the clinicians advisory panel established pursuant to section 249J.17, may change the scope and duration of any of the available expansion population services, but this subsection shall not be construed to authorize the department to make expenditures in excess of the amount appropriated for benefits for the expansion population.

3. EXPANSION POPULATION PROVIDER NETWORK.

a. The department shall not expand the expansion population provider network unless the department is able to pay for expansion population services provided by such providers at the full benefit recipient rates.

b. The department may limit access to the expansion population provider network by the expansion population to the extent the department deems necessary to meet the financial obligations to each provider under the expansion population provider network. This subsection shall not be construed to authorize the department to make any expenditure in excess of the amount appropriated for benefits for the expansion population.

Sec. 10. NEW SECTION. 249J.10 MAXIMIZATION OF FUNDING FOR INDIGENT PATIENTS.

1. Unencumbered certified local matching funds may be used to cover the state share of the cost of services for the expansion population.

2. The department of human services shall include in its annual budget submission, recommendations relating to a disproportionate share hospital and graduate medical education allocation plan that maximizes the availability of federal funds for payments to hospitals for the care and treatment of indigent patients.

3. If state and federal law and regulations so provide and if federal disproportionate share hospital funds and graduate medical education funds are available under Title XIX of the federal Social Security Act, federal disproportionate share hospital funds and graduate medical education funds shall be distributed as specified by the department.

[1] See chapter 175, §117 herein

DIVISION III
REBALANCING LONG-TERM CARE

Sec. 11. NEW SECTION. 249J.11 NURSING FACILITY LEVEL OF CARE DETERMINATION FOR FACILITY-BASED AND COMMUNITY-BASED SERVICES.

The department shall amend the medical assistance state plan to provide for all of the following:

1. That nursing facility level of care services under the medical assistance program shall be available to an individual admitted to a nursing facility on or after July 1, 2005, who meets eligibility criteria for the medical assistance program pursuant to section 249A.3, if the individual also meets any of the following criteria:

a. Based upon the minimum data set, the individual requires limited assistance, extensive assistance, or has total dependence on assistance, provided by the physical assistance of one or more persons, with three or more activities of daily living as defined by the minimum data set, section G, entitled "physical functioning and structural problems".

b. Based on the minimum data set, the individual requires the establishment of a safe, secure environment due to moderate or severe impairment of cognitive skills for daily decision making.

c. The individual has established a dependency requiring residency in a medical institution for more than one year.

2. That an individual admitted to a nursing facility prior to July 1, 2005, and an individual applying for home and community-based services waiver services at the nursing facility level of care on or after July 1, 2005, who meets the eligibility criteria for the medical assistance program pursuant to section 249A.3, shall also meet any of the following criteria:

a. Based on the minimum data set, the individual requires supervision, or limited assistance, provided on a daily basis by the physical assistance of at least one person, for dressing and personal hygiene activities of daily living as defined by the minimum data set, section G, entitled "physical functioning and structural problems".

b. Based on the minimum data set, the individual requires the establishment of a safe, secure environment due to modified independence or moderate impairment of cognitive skills for daily decision making.

3. That, beginning July 1, 2005, if nursing facility level of care is determined to be medically necessary for an individual and the individual meets the nursing facility level of care requirements for home and community-based services waiver services under subsection 2, but appropriate home and community-based services are not available to the individual in the individual's community at the time of the determination or the provision of available home and community-based services to meet the skilled care requirements of the individual is not cost-effective, the criteria for admission of the individual to a nursing facility for nursing facility level of care services shall be the criteria in effect on June 30, 2005. The department of human services shall establish the standard for determining cost-effectiveness of home and community-based services under this subsection.

4. The department shall develop a process to allow individuals identified under subsection 3 to be served under the home and community-based services waiver at such time as appropriate home and community-based services become available in the individual's community.

Sec. 12. NEW SECTION. 249J.12 SERVICES FOR PERSONS WITH MENTAL RETARDATION OR DEVELOPMENTAL DISABILITIES.

1. The department, in cooperation with the Iowa state association of counties, the Iowa association of community providers, the governor's developmental disabilities council, and other interested parties, shall develop a plan for a case-mix adjusted reimbursement system under the medical assistance program for both institution-based and community-based services for persons with mental retardation or developmental disabilities for submission to the general

assembly by January 1, 2007. The department shall not implement the case-mix adjusted reimbursement system plan without express authorization by the general assembly.

2. The department, in consultation with the Iowa state association of counties, the Iowa association of community providers, the governor's developmental disabilities council, and other interested parties, shall develop a plan for submission to the governor and the general assembly no later than July 1, 2007, to enhance alternatives for community-based care for individuals who would otherwise require care in an intermediate care facility for persons with mental retardation. The plan shall not be implemented without express authorization by the general assembly.

Sec. 13. NEW SECTION. 249J.13 CHILDREN'S MENTAL HEALTH WAIVER SERVICES.

The department shall provide medical assistance waiver services to not more than three hundred children who meet the eligibility criteria for the medical assistance program pursuant to section 249A.3, and also meet the criteria specified in section 234.7, subsection 2,[2] if enacted in the 2005 legislative session.

Sec. 14. CASE MANAGEMENT FOR THE FRAIL ELDERLY.

1. The department of human services shall submit an amendment to the home and community-based services waiver for the elderly to the centers for Medicare and Medicaid services of the United States department of health and human services to provide for inclusion of case management as a medical assistance covered service. The department of human services shall develop the amendment in collaboration with the department of elder affairs.

2. If the request for an amendment to the waiver is approved, the department of elder affairs shall use existing funding for case management as nonfederal matching funds. The department of elder affairs, in collaboration with the department of human services, shall determine the amount of existing funding that would be eligible for use as nonfederal matching funds so that sufficient funding is retained to also provide case management services for frail elders who are not eligible for the medical assistance program.

3. The department of human services, in collaboration with the department of elder affairs, shall establish a reimbursement rate for case management for the frail elderly such that the amount of state funding necessary to pay for such case management does not exceed the amount appropriated to the department of elder affairs for case management for the frail elderly in the fiscal year beginning July 1, 2005. Any state savings realized from including case management under the home and community-based services waiver for the elderly shall be used for services for the frail elderly and for substitute decision-making services to eligible individuals pursuant to chapter 231E,[3] if enacted by the Eighty-first General Assembly.

4. The department of human services, in collaboration with the department of elder affairs, shall determine whether case management for the frail elderly should continue to be provided through a sole source contract or if a request for proposals process should be initiated to provide the services. The departments shall submit their recommendations to the general assembly by January 1, 2006.

DIVISION IV
HEALTH PROMOTION PARTNERSHIPS

Sec. 15. NEW SECTION. 249J.14 HEALTH PROMOTION PARTNERSHIPS.

1. SERVICES FOR ADULTS AT STATE MENTAL HEALTH INSTITUTES. Beginning July 1, 2005, inpatient and outpatient hospital services at the state hospitals for persons with mental illness designated pursuant to section 226.1 shall be covered services under the medical assistance program.

2. DIETARY COUNSELING. By July 1, 2006, the department shall design and begin implementation of a strategy to provide dietary counseling and support to child and adult recipients of medical assistance and to expansion population members to assist these recipients and

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[2] Chapter 117, §3 herein

[3] See chapter 175, §130 – 142 herein

members in avoiding excessive weight gain or loss and to assist in development of personal weight loss programs for recipients and members determined by the recipient's or member's health care provider to be clinically overweight.

3. ELECTRONIC MEDICAL RECORDS. By October 1, 2006, the department shall develop a practical strategy for expanding utilization of electronic medical recordkeeping by providers under the medical assistance program and the expansion population provider network. The plan shall focus, initially, on medical assistance program recipients and expansion population members whose quality of care would be significantly enhanced by the availability of electronic medical recordkeeping.

4. PROVIDER INCENTIVE PAYMENT PROGRAMS. By January 1, 2007, the department shall design and implement a provider incentive payment program for providers under the medical assistance program and providers included in the expansion population provider network based upon evaluation of public and private sector models.

5. HEALTH ASSESSMENT FOR MEDICAL ASSISTANCE RECIPIENTS WITH MENTAL RETARDATION OR DEVELOPMENTAL DISABILITIES. The department shall work with the university of Iowa colleges of medicine, dentistry, nursing, pharmacy, and public health, and the university of Iowa hospitals and clinics to determine whether the physical and dental health of recipients of medical assistance who are persons with mental retardation or developmental disabilities are being regularly and fully addressed and to identify barriers to such care. The department shall report the department's findings to the governor and the general assembly by January 1, 2007.

6. SMOKING CESSATION. The department, in collaboration with Iowa department of public health programs relating to tobacco use prevention and cessation, shall implement a program with the goal of reducing smoking among recipients of medical assistance who are children to less than one percent and among recipients of medical assistance and expansion population members who are adults to less than ten percent, by July 1, 2007.

7. DENTAL HOME FOR CHILDREN. By July 1, 2008, every recipient of medical assistance who is a child twelve years of age or younger shall have a designated dental home and shall be provided with the dental screenings and preventive care identified in the oral health standards under the early and periodic screening, diagnostic, and treatment program.

8. REPORTS. The department shall report on a quarterly basis to the medical assistance projections and assessment council established pursuant to section 249J.19 and the council created pursuant to section 249A.4, subsection 8, regarding the health promotion partnerships described in this section. To the greatest extent feasible, and if applicable to a data set, the data reported shall include demographic information concerning the population served including but not limited to factors, such as race and economic status, as specified by the department.

Sec. 16. NEW SECTION. 249J.14A TASK FORCE ON INDIGENT CARE.

1. The department shall convene a task force on indigent care to identify any growth in uncompensated care due to the implementation of this chapter and to identify any local funds that are being used to pay for uncompensated care that could be maximized through a match with federal funds.

2. Any public, governmental or nongovernmental, private, for-profit, or not-for-profit health services provider or payor, whether or not enrolled in the medical assistance program, and any organization of such providers or payors, may become a member of the task force. Membership on the task force shall require that an entity agree to provide accurate, written information and data relating to each of the following items for the fiscal year of the entity ending on or before June 30, 2005, and for each fiscal year thereafter during which the entity is a member:

a. The definition of indigent care used by the member for purposes of reporting the data described in this subsection.

b. The actual cost of indigent care as determined under Medicare principles of accounting or any accounting standard used by the member to report the member's financial status to its governing body, owner, members, creditors, or the public.

c. The usual and customary charge that would otherwise be applied by the member to the indigent care provided.

d. The number of individuals and the age, sex, and county of residence of the individuals receiving indigent care reported by the member and a description of the care provided.

e. To the extent practical, the health status of the individuals receiving the indigent care reported by the member.

f. The funding source of payment for the indigent care including revenue from property tax or other tax revenue, local funding, and other sources.

g. The extent to which any part of the cost of indigent care reported by the member was paid for by the individual on a sliding fee scale or other basis, by an insurer, or by another third-party payor.

h. The means by which the member covered any of the costs of indigent care not covered by those sources described in paragraph "g".

3. The department shall convene the task force for a minimum of eight meetings during the fiscal year beginning July 1, 2005, and during each fiscal year thereafter. For the fiscal year beginning July 1, 2005, the department shall convene at least six of the required meetings prior to March 1, 2006. The meetings shall be held in geographically balanced venues throughout the state that are representative of distinct rural, urban, and suburban areas.

4. The department shall provide the medical assistance projections and assessment council created pursuant to section 249J.19 with all of the following, at intervals established by the council:

a. A list of the members of the task force.

b. A copy of each member's written submissions of data and information to the task force.

c. A copy of the data submitted by each member.

d. Any observations or recommendations of the task force regarding the data.

e. Any observations and recommendations of the department regarding the data.

5. The task force shall transmit an initial, preliminary report of its efforts and findings to the governor and the general assembly by March 1, 2006. The task force shall submit an annual report to the governor and the general assembly by December 31 of each year.

6. The department shall, to the extent practical, assist task force members in assembling and reporting the data required of members, by programming the department's systems to accept, but not pay, claims reported on standard medical assistance claims forms for the indigent care provided by the members.

7. All meetings of the task force shall comply with chapter 21.

8. Information and data provided by a member to the task force shall be protected to the extent required under the federal Health Insurance Portability and Accountability Act of 1996.

9. The department shall inform the members of the task force that costs associated with the work of the task force and with the required activities of members may not be eligible for federal matching funds.

DIVISION V
IOWA MEDICAID ENTERPRISE

Sec. 17. NEW SECTION. 249J.15 COST AND QUALITY PERFORMANCE EVALUATION.

Beginning July 1, 2005, the department shall contract with an independent consulting firm to do all of the following:

1. Annually evaluate and compare the cost and quality of care provided by the medical assistance program and through the expansion population with the cost and quality of care available through private insurance and managed care organizations doing business in the state.

2. Annually evaluate the improvements by the medical assistance program and the expansion population in the cost and quality of services provided to Iowans over the cost and quality of care provided in the prior year.

Sec. 18. NEW SECTION. 249J.16 OPERATIONS — PERFORMANCE EVALUATION.

Beginning July 1, 2006, the department shall submit a report of the results of an evaluation of the performance of each component of the Iowa Medicaid enterprise using the performance standards contained in the contracts with the Iowa Medicaid enterprise partners.

Sec. 19. NEW SECTION. 249J.17 CLINICIANS ADVISORY PANEL — CLINICAL MANAGEMENT.

1. Beginning July 1, 2005, the medical director of the Iowa Medicaid enterprise, with the approval of the administrator of the division of medical services of the department, shall assemble and act as chairperson for a clinicians advisory panel to recommend to the department clinically appropriate health care utilization management and coverage decisions for the medical assistance program and the expansion population which are not otherwise addressed by the Iowa medical assistance drug utilization review commission created pursuant to section 249A.24 or the medical assistance pharmaceutical and therapeutics committee established pursuant to section 249A.20A. The meetings shall be conducted in accordance with chapter 21 and shall be open to the public except to the extent necessary to prevent the disclosure of confidential medical information.

2. The medical director of the Iowa Medicaid enterprise shall report on a quarterly basis to the medical assistance projections and assessment council established pursuant to section 249J.19 and the council created pursuant to section 249A.4, subsection 8, any recommendations made by the panel and adopted by rule of the department pursuant to chapter 17A regarding clinically appropriate health care utilization management and coverage under the medical assistance program and the expansion population.

3. The medical director of the Iowa Medicaid enterprise shall prepare an annual report summarizing the recommendations made by the panel and adopted by rule of the department regarding clinically appropriate health care utilization management and coverage under the medical assistance program and the expansion population.

Sec. 20. NEW SECTION. 249J.18 HEALTH CARE SERVICES PRICING AND REIMBURSEMENT OF PROVIDERS.

The department shall annually collect data on third-party payor rates in the state and, as appropriate, the usual and customary charges of health care providers, including the reimbursement rates paid to providers and by third-party payors participating in the medical assistance program and through the expansion population. The department shall consult with the division of insurance of the department of commerce in adopting administrative rules specifying the reporting format and guaranteeing the confidentiality of the information provided by the providers and third-party payors. The department shall review the data and make recommendations to the governor and the general assembly regarding pricing changes and reimbursement rates annually by January 1. Any recommended pricing changes or changes in reimbursement rates shall not be implemented without express authorization by the general assembly.

DIVISION VI
GOVERNANCE

Sec. 21. NEW SECTION. 249J.19 MEDICAL ASSISTANCE PROJECTIONS AND ASSESSMENT COUNCIL.

1. A medical assistance projections and assessment council is created consisting of the following members:

a. The co-chairpersons and ranking members of the legislative joint appropriations subcommittee on health and human services, or a member of the appropriations subcommittee designated by the co-chairperson or ranking member.

b. The chairpersons and ranking members of the human resources committees of the senate

and the house of representatives, or a member of the committee designated by the chairperson or ranking member.

c. The chairpersons and ranking members of the appropriations committees of the senate and the house of representatives, or a member of the committee designated by the chairperson or ranking member.

2. The council shall meet as often as deemed necessary, but shall meet at least quarterly. The council may use sources of information deemed appropriate, and the department and other agencies of state government shall provide information to the council as requested. The legislative services agency shall provide staff support to the council.

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. Make quarterly cost projections for the medical assistance program and the expansion population.

b. Review quarterly reports on all initiatives under this chapter, including those provisions in the design, development, and implementation phases, and make additional recommendations for medical assistance program and expansion population reform on an annual basis.

c. Review annual audited financial statements relating to the expansion population submitted by the providers included in the expansion population provider network.

d. Review quarterly reports on the success of the Iowa Medicaid enterprise based upon the contractual performance measures for each Iowa Medicaid enterprise partner.

e. Assure that the expansion population is managed at all times within funding limitations. In assuring such compliance, the council shall assume that supplemental funding will not be available for coverage of services provided to the expansion population.

5. The department of human services, the department of management, and the legislative services agency shall utilize a joint process to arrive at an annual consensus projection for medical assistance program and expansion population expenditures for submission to the council. By December 15 of each fiscal year, the council shall agree to a projection of expenditures for the fiscal year beginning the following July 1, based upon the consensus projection submitted.

DIVISION VII
ENHANCING THE FEDERAL-STATE FINANCIAL PARTNERSHIP

Sec. 22. NEW SECTION. 249J.20 PAYMENTS TO HEALTH CARE PROVIDERS BASED ON ACTUAL COSTS.

Payments, including graduate medical education payments, under the medical assistance program and the expansion population to each public hospital and each public nursing facility shall not exceed the actual medical assistance costs of each such facility reported on the Medicare hospital and hospital health care complex cost report submitted to the centers for Medicare and Medicaid services of the United States department of health and human services. Each public hospital and each public nursing facility shall retain one hundred percent of the medical assistance payments earned under state reimbursement rules. State reimbursement rules may provide for reimbursement at less than actual cost.

Sec. 23. NEW SECTION. 249J.21 INDEPENDENT ANNUAL AUDIT.

The department shall contract with a certified public accountant to provide an analysis, on an annual basis, to the governor and the general assembly regarding compliance of the Iowa medical assistance program with each of the following:

1. That the state has not instituted any new provider taxes as defined by the centers for Medicare and Medicaid services of the United States department of health and human services.

2. That public hospitals and public nursing facilities are not paid more than the actual costs

of care for medical assistance program and disproportionate share hospital program recipients based upon Medicare program principles of accounting and cost reporting.

3. That the state is not recycling federal funds provided under Title XIX of the Social Security Act as defined by the centers for Medicare and Medicaid services of the United States department of health and human services.

Sec. 24. NEW SECTION. 249J.22 ACCOUNT FOR HEALTH CARE TRANSFORMATION.

1. An account for health care transformation is created in the state treasury under the authority of the department. Moneys received through the physician payment adjustment as described in 2003 Iowa Acts, chapter 112, section 11, subsection 1, and through the adjustment to hospital payments to provide an increased base rate to offset the high costs incurred for providing services to medical assistance patients as described in 2004 Iowa Acts, chapter 1175, section 86, subsection 2, paragraph "b", shall be deposited in the account. The account shall include a separate premiums subaccount. Revenue generated through payment of premiums by expansion population members as required pursuant to section 249J.8 shall be deposited in the separate premiums subaccount within the account.

2. Moneys in 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 deposited in the account are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes specified in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the account shall be credited to the account.

3. Moneys deposited in the account for health care transformation shall be used only as provided in appropriations from the account for the costs associated with certain services provided to the expansion population pursuant to section 249J.6, certain initiatives to be designed pursuant to section 249J.8, the case-mix adjusted reimbursement system for persons with mental retardation or developmental disabilities pursuant to section 249J.12, certain health promotion partnership activities pursuant to section 249J.14, the cost and quality performance evaluation pursuant to section 249J.15, auditing requirements pursuant to section 249J.21, the provision of additional indigent patient care and treatment, and administrative costs associated with this chapter.

Sec. 25. NEW SECTION. 249J.23 IOWACARE ACCOUNT.

1. An Iowacare account is created in the state treasury under the authority of the department of human services. Moneys appropriated from the general fund of the state to the account, moneys received as federal financial participation funds under the expansion population provisions of this chapter and credited to the account, moneys received for disproportionate share hospitals and credited to the account, moneys received for graduate medical education and credited to the account, proceeds transferred from the county treasurer as specified in subsection 6, and moneys from any other source credited to the account shall be deposited in the account. Moneys deposited in or credited to the account shall be used only as provided in appropriations or distributions from the account for the purposes specified in the appropriation or distribution. Moneys in the account shall be appropriated to the university of Iowa hospitals and clinics, to a publicly owned acute care teaching hospital located in a county with a population over three hundred fifty thousand, and to the state hospitals for persons with mental illness designated pursuant to section 226.1 for the purposes provided in the federal law making the funds available or as specified in the state appropriation and shall be distributed as determined by the department.

2. 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 section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Notwithstanding section

12C.7, subsection 2, interest or earnings on moneys deposited in the account shall be credited to the account.

3. The department shall adopt rules pursuant to chapter 17A to administer the account.

4. The treasurer of state shall provide a quarterly report of activities and balances of the account to the director.

5. Notwithstanding section 262.28 or any provision of this chapter to the contrary, payments to be made to participating public hospitals under this section shall be made on a prospective basis in twelve equal monthly installments based upon the amount appropriated or allocated, as applicable to a specific public hospital, in a specific fiscal year. After the close of the fiscal year, the department shall determine the amount of the payments attributable to the state general fund, federal financial participation funds collected for expansion population services, graduate medical education funds, and disproportionate share hospital funds, based on claims data and actual expenditures.

6. Notwithstanding any provision to the contrary, from each semiannual collection of taxes levied under section 347.7 for which the collection is performed after July 1, 2005, the county treasurer of a county with a population over three hundred fifty thousand in which a publicly owned acute care teaching hospital is located shall transfer the proceeds collected pursuant to section 347.7 in a total amount of thirty-four million dollars annually, which would otherwise be distributed to the county hospital, to the treasurer of state for deposit in the Iowacare account under this section. The board of trustees of the acute care teaching hospital identified in this subsection and the department shall execute an agreement under chapter 28E by July 1, 2005, and annually by July 1, thereafter, to specify the requirements relative to transfer of the proceeds and the distribution of moneys to the hospital from the Iowacare account. The agreement shall include provisions relating to exceptions to the deadline for submission of clean claims as required pursuant to section 249J.7 and provisions relating to data reporting requirements regarding the expansion population. The agreement may also include a provision allowing such hospital to limit access to such hospital by expansion population members based on residency of the member, if such provision reflects the policy of such hospital regarding indigent patients existing on April 1, 2005, as adopted by its board of hospital trustees pursuant to section 347.14, subsection 4. Notwithstanding the specified amount of proceeds to be transferred under this subsection, if the amount allocated that does not require federal matching funds under an appropriation in a subsequent fiscal year to such hospital for medical and surgical treatment of indigent patients, for provision of services to expansion population members, and for medical education, is reduced from the amount allocated that does not require federal matching funds under the appropriation for the fiscal year beginning July 1, 2005, the amount of proceeds required to be transferred under this subsection in that subsequent fiscal year shall be reduced in the same amount as the amount allocated that does not require federal matching funds under that appropriation.

7. The state board of regents, on behalf of the university of Iowa hospitals and clinics, and the department shall execute an agreement under chapter 28E by July 1, 2005, and annually by July 1, thereafter, to specify the requirements relating to distribution of moneys to the hospital from the Iowacare account. The agreement shall include provisions relating to exceptions to the deadline for submission of clean claims as required pursuant to section 249J.7 and provisions relating to data reporting requirements regarding the expansion population.

8. The state and any county utilizing the acute care teaching hospital located in a county with a population over three hundred fifty thousand for mental health services prior to July 1, 2005, shall annually enter into an agreement with such hospital to pay a per diem amount that is not less than the per diem amount paid for those mental health services in effect for the fiscal year beginning July 1, 2004, for each individual including each expansion population member accessing mental health services at that hospital on or after July 1, 2005. Any payment made under such agreement for an expansion population member pursuant to this chapter, shall be considered by the department to be payment by a third-party payor.

DIVISION VIII
LIMITATIONS

Sec. 26. NEW SECTION. 249J.24 LIMITATIONS.

1. The provisions of this chapter shall not be construed, are not intended as, and shall not imply a grant of entitlement for services to individuals who are eligible for assistance under this chapter or for utilization of services that do not exist or are not otherwise available on the effective date of this Act. Any state obligation to provide services pursuant to this chapter is limited to the extent of the funds appropriated or distributed for the purposes of this chapter.

2. The provisions of this chapter shall not be construed and are not intended to affect the provision of services to recipients of medical assistance existing on the effective date of this Act.

Sec. 27. NEW SECTION. 249J.25 AUDIT — FUTURE REPEAL.

1. The state auditor shall complete an audit of the provisions implemented pursuant to this chapter during the fiscal year beginning July 1, 2009, and shall submit the results of the audit to the governor and the general assembly by January 1, 2010.

2. This chapter is repealed June 30, 2010.

Sec. 28. IMPLEMENTATION COSTS. Payment of any one-time costs specifically associated with the implementation of chapter 249J, as enacted in this Act, shall be made in the manner specified by, and at the discretion of, the department.

DIVISION IX
CORRESPONDING PROVISIONS

Sec. 29. Section 97B.52A, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. For a member whose first month of entitlement is July 2000 or later, the member does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits. For purposes of this paragraph, effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment. For purposes of determining a bona fide retirement under this paragraph and for a member whose first month of entitlement is July 2004 or later, but before July 2006, covered employment does not include employment as a licensed health care professional by a public hospital as defined in section ~~249I.3~~ 249J.3, with the exception of public hospitals governed pursuant to chapter 226.

Sec. 30. Section 218.78, subsection 1, Code 2005, is amended to read as follows:

1. All institutional receipts of the department of human services, including funds received from client participation at the state resource centers under section 222.78 and at the state mental health institutes under section 230.20, shall be deposited in the general fund except for reimbursements for services provided to another institution or state agency, for receipts deposited in the revolving farm fund under section 904.706, for deposits into the medical assistance fund under section 249A.11, for any deposits into the medical assistance fund of any medical assistance payments received through the expansion population program pursuant to chapter 249J, and rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions.

Sec. 31. Section 230.20, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The superintendent shall certify to the department the billings to each county for services

provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and other service charges computed pursuant to subsection 1, and the number of inpatient days and other service units chargeable to the county. However, a county billing shall be decreased by an amount equal to reimbursement by a third party payor or estimation of such reimbursement from a claim submitted by the superintendent to the third party payor for the preceding calendar quarter. When the actual third party payor reimbursement is greater or less than estimated, the difference shall be reflected in the county billing in the calendar quarter the actual third party payor reimbursement is determined. For the purposes of this paragraph, "third-party payor reimbursement" does not include reimbursement provided under chapter 249J.

Sec. 32. Section 230.20, subsections 5 and 6, Code 2005, are amended to read as follows:

5. An individual statement shall be prepared for a patient on or before the fifteenth day of the month following the month in which the patient leaves the mental health institute, and a general statement shall be prepared at least quarterly for each county to which charges are made under this section. Except as otherwise required by sections 125.33 and 125.34 the general statement shall list the name of each patient chargeable to that county who was served by the mental health institute during the preceding month or calendar quarter, the amount due on account of each patient, and the specific dates for which any third party payor reimbursement received by the state is applied to the statement and billing, and the county shall be billed for eighty percent of the stated charge for each patient specified in this subsection. For the purposes of this subsection, "third-party payor reimbursement" does not include reimbursement provided under chapter 249J. The statement prepared for each county shall be certified by the department and a duplicate statement shall be mailed to the auditor of that county.

6. All or any reasonable portion of the charges incurred for services provided to a patient, to the most recent date for which the charges have been computed, may be paid at any time by the patient or by any other person on the patient's behalf. Any payment ~~so~~ made by the patient or other person, and any federal financial assistance received pursuant to Title XVIII or XIX of the federal Social Security Act for services rendered to a patient, shall be credited against the patient's account and, if the charges ~~so~~ paid as described in this subsection have previously been billed to a county, reflected in the mental health institute's next general statement to that county. However, any payment made under chapter 249J shall not be reflected in the mental health institute's next general statement to that county.

Sec. 33. Section 249A.11, Code 2005, is amended to read as follows:

249A.11 PAYMENT FOR PATIENT CARE SEGREGATED.

A state resource center or mental health institute, upon receipt of any payment made under this chapter for the care of any patient, shall segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds except for any nonfederal funds received through the expansion population program pursuant to chapter 249J which shall be deposited in the Iowacare account created pursuant to section 249J.23. The money segregated shall be deposited in the medical assistance fund of the department of human services.

Sec. 34. Section 249H.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The director shall amend the medical assistance state plan to eliminate the mechanism to secure funds based on skilled nursing facility prospective payment methodologies under the medical assistance program and to terminate agreements entered into with public nursing facilities under this chapter, effective June 30, 2005.

Sec. 35. 2004 Iowa Acts, chapter 1175, section 86, subsection 2, paragraph b, unnumbered paragraph 2, and subparagraphs (1), (2), and (3), are amended to read as follows:

~~Of the amount appropriated in this lettered paragraph, $25,950,166 shall be considered encumbered and shall not be expended for any purpose until January 1, 2005.~~

(1) ~~However, if~~ If the department of human services adjusts hospital payments to provide an increased base rate to offset the high cost incurred for providing services to medical assistance patients on or prior to ~~January~~ July 1, 2005, a portion of the amount specified in this unnumbered paragraph equal to the increased Medicaid payment shall ~~revert to the general fund of the state. Notwithstanding section 8.54, subsection 7, the amount required to revert under this subparagraph shall not be considered to be appropriated for purposes of the state general fund expenditure limitation for the fiscal year beginning July 1, 2004.~~

~~(2) If the adjustment described in subparagraph (1) to increase the base rate is not made prior to January 1, 2005, the amount specified in this unnumbered paragraph shall no longer be considered encumbered, may be expended, and shall be available for the purposes originally specified~~ be transferred by the university of Iowa hospitals and clinics to the medical assistance fund of the department of human services. Of the amount transferred, an amount equal to the federal share of the payments shall be transferred to the account for health care transformation created in section 249J.22.

~~(3)~~ (2) Any incremental increase in the base rate made pursuant to subparagraph (1) shall not be used in determining the university of Iowa hospital and clinics disproportionate share rate or when determining the statewide average base rate for purposes of calculating indirect medical education rates.

Sec. 36. 2003 Iowa Acts, chapter 112, section 11, subsection 1, is amended to read as follows:

1. For the fiscal ~~year~~ years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2004, and ~~for each fiscal year thereafter~~ ending June 30, 2005, 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. The department of human services shall amend the medical assistance state plan to eliminate this provision effective June 30, 2005.

Sec. 37. TRANSITION FROM INSTITUTIONAL SETTINGS TO HOME AND COMMUNITY-BASED SERVICES. The department, in consultation with provider and consumer organizations, shall explore additional opportunities under the medical assistance program to assist individuals in transitioning from institutional settings to home and community-based services. The department shall report any opportunities identified to the governor and the general assembly by December 31, 2005.

Sec. 38. CORRESPONDING DIRECTIVES TO DEPARTMENT. The department shall do all of the following:

1. Withdraw the request for the waiver and the medical assistance state plan amendment submitted to the centers for Medicare and Medicaid services of the United States department of health and human services regarding the nursing facility quality assurance assessment as directed pursuant to 2003 Iowa Acts, chapter 112, section 4, 2003 Iowa Acts, chapter 179, section 162, and 2004 Iowa Acts, chapter 1085, sections 8, 10, and 11.

2. Amend the medical assistance state plan to eliminate the mechanism to secure funds based on hospital inpatient and outpatient prospective payment methodologies under the medical assistance program, effective June 30, 2005.

3. Amend the medical assistance state plan to eliminate the mechanisms to receive supple-

mental disproportionate share hospital and graduate medical education funds as originally submitted, effective June 30, 2005.

4. Amend the medical assistance state plan amendment to adjust hospital payments to provide an increased base rate to offset the high cost incurred for providing services to medical assistance patients at the university of Iowa hospitals and clinics as originally submitted based upon the specifications of 2004 Iowa Acts, chapter 1175, section 86, subsection 2, paragraph "b", unnumbered paragraph 2, and subparagraphs (1), (2), and (3), to be approved for the fiscal year beginning July 1, 2004, and ending June 30, 2005, only, and to be eliminated June 30, 2005.

5. Amend the medical assistance state plan amendment to establish a physician payment adjustment from the university of Iowa hospitals and clinics, as originally submitted as described in 2003 Iowa Acts, chapter 112, section 11, subsection 1, to be approved for the state fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2004, and ending June 30, 2005, and to be eliminated effective June 30, 2005.

6. Amend the medical assistance state plan to eliminate the mechanism to secure funds based on skilled nursing facility prospective payment methodologies under the medical assistance program, effective June 30, 2005.

7. Request a waiver from the centers for Medicare and Medicaid services of the United States department of health and human services of the provisions relating to the early and periodic screening, diagnostic, and treatment program requirements as described in section 1905(a)(5) of the federal Social Security Act relative to the expansion population.

Sec. 39. Chapter 249I, Code 2005, is repealed.

Sec. 40. Sections 249A.20B and 249A.34, Code 2005, are repealed.

Sec. 41. 2003 Iowa Acts, chapter 112, section 4, 2003 Iowa Acts, chapter 179, section 162, and 2004 Iowa Acts, chapter 1085, section 8, and section 10, subsection 5, are repealed.

DIVISION X
PHARMACY COPAYMENTS

Sec. 42. COPAYMENTS FOR PRESCRIPTION DRUGS UNDER THE MEDICAL ASSISTANCE PROGRAM. The department of human services shall require recipients of medical assistance to pay the following copayments on each prescription filled for a covered prescription drug, including each refill of such prescription, as follows:

1. A copayment of $1 for each covered nonpreferred generic prescription drug.
2. A copayment of $1 for each covered preferred brand-name or generic prescription drug.
3. A copayment of $1 for each covered nonpreferred brand-name prescription drug for which the cost to the state is up to and including $25.
4. A copayment of $2 for each covered nonpreferred brand-name prescription drug for which the cost to the state is more than $25 and up to and including $50.
5. A copayment of $3 for each covered nonpreferred brand-name prescription drug for which the cost to the state is more than $50.

DIVISION XI
MEDICAL AND SURGICAL TREATMENT OF INDIGENT PERSONS AND OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE

Sec. 43. NEW SECTION. 135.152 STATEWIDE OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE PROGRAM.

1. The department shall establish a statewide obstetrical and newborn indigent patient care program to provide obstetrical and newborn care to medically indigent residents of this state at the appropriate and necessary level, at a licensed hospital or health care facility closest and most available to the residence of the indigent individual.

2. The department shall administer the program, and appropriations by the general assembly for the program shall be allocated to the obstetrical and newborn patient care fund within the department to be utilized for the obstetrical and newborn indigent patient care program.

3. The department shall adopt administrative rules pursuant to chapter 17A to administer the program.

4. The department shall establish a patient quota formula for determining the maximum number of obstetrical and newborn patients eligible for the program, annually, from each county. The formula used shall be based upon the annual appropriation for the program, the average number of live births in each county for the most recent three-year period, and the per capita income for each county for the most recent year. The formula shall also provide for reassignment of an unused county quota allotment on April 1 of each year.

5. a. The department, in collaboration with the department of human services and the Iowa state association of counties, shall adopt rules pursuant to chapter 17A to establish minimum standards for eligibility for obstetrical and newborn care, including physician examinations, medical testing, ambulance services, and inpatient transportation services under the program. The minimum standards shall provide that the individual is not otherwise eligible for assistance under the medical assistance program or for assistance under the medically needy program without a spend-down requirement pursuant to chapter 249A, or for expansion population benefits pursuant to chapter 249J. If the individual is eligible for assistance pursuant to chapter 249A or 249J, or if the individual is eligible for maternal and child health care services covered by a maternal and child health program, the obstetrical and newborn indigent patient care program shall not provide the assistance, care, or covered services provided under the other program.

b. The minimum standards for eligibility shall provide eligibility for persons with family incomes at or below one hundred eighty-five percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, and shall provide, but shall not be limited to providing, eligibility for uninsured and underinsured persons financially unable to pay for necessary obstetrical and newborn care. The minimum standards may include a spend-down provision. The resource standards shall be set at or above the resource standards under the federal supplemental security income program. The resource exclusions allowed under the federal supplemental security income program shall be allowed and shall include resources necessary for self-employment.

c. The department in cooperation with the department of human services, shall develop a standardized application form for the program and shall coordinate the determination of eligibility for the medical assistance and medically needy programs under chapter 249A, the medical assistance expansion under chapter 249J, and the obstetrical and newborn indigent patient care program.

6. The department shall establish application procedures and procedures for certification of an individual for obstetrical and newborn care under this section.

7. An individual certified for obstetrical and newborn care under this division may choose to receive the appropriate level of care at any licensed hospital or health care facility.

8. The obstetrical and newborn care costs of an individual certified for such care under this division at a licensed hospital or health care facility or from licensed physicians shall be paid by the department from the obstetrical and newborn patient care fund.

9. All providers of services to obstetrical and newborn patients under this division shall agree to accept as full payment the reimbursements allowable under the medical assistance program established pursuant to chapter 249A, adjusted for intensity of care.

10. The department shall establish procedures for payment for providers of services to obstetrical and newborn patients under this division from the obstetrical and newborn patient care fund. All billings from such providers shall be submitted directly to the department. However, payment shall not be made unless the requirements for application and certification for care pursuant to this division and rules adopted by the department are met.

11. Moneys encumbered prior to June 30 of a fiscal year for a certified eligible pregnant

woman scheduled to deliver in the next fiscal year shall not revert from the obstetrical and newborn patient care fund to the general fund of the state. Moneys allocated to the obstetrical and newborn patient care fund shall not be transferred nor voluntarily reverted from the fund within a given fiscal year.

Sec. 44. Section 135B.31, Code 2005, is amended to read as follows:

135B.31 EXCEPTIONS.

~~Nothing in this~~ This division is not intended ~~or should~~ and shall not affect in any way ~~that~~ the obligation of public hospitals under chapter 347 or municipal hospitals~~, as well as the state hospital at Iowa City,~~ to provide ~~medical or obstetrical and newborn care for indigent persons under chapter 255 or 255A, wherein~~ medical care or treatment ~~is provided by hospitals of that category~~ to patients of certain entitlement, nor ~~to~~ the operation by the state of mental or other hospitals authorized by law. ~~Nothing herein~~ This division shall not in any way affect or limit the practice of dentistry or the practice of oral surgery by a dentist.

Sec. 45. Section 144.13A, subsection 3, Code 2005, is amended to read as follows:

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.

Sec. 46. Section 249A.4, subsection 12, Code 2005, is amended by striking the subsection.

UNIVERSITY OF IOWA HOSPITALS AND CLINICS

Sec. 47. NEW SECTION. 263.18 TREATMENT OF PATIENTS — USE OF EARNINGS FOR NEW FACILITIES.

1. The university of Iowa hospitals and clinics authorities may at their discretion receive patients into the hospital for medical, obstetrical, or surgical treatment or hospital care. The university of Iowa hospitals and clinics ambulances and ambulance personnel may be used for the transportation of such patients at a reasonable charge if specialized equipment is required.

2. The university of Iowa hospitals and clinics authorities shall collect from the person or persons liable for support of such patients reasonable charges for hospital care and service and deposit payment of the charges with the treasurer of the university for the use and benefit of the university of Iowa hospitals and clinics.

3. Earnings of the university of Iowa hospitals and clinics shall be administered so as to increase, to the greatest extent possible, the services available for patients, including acquisition, construction, reconstruction, completion, equipment, improvement, repair, and remodeling of medical buildings and facilities, additions to medical buildings and facilities, and the payment of principal and interest on bonds issued to finance the cost of medical buildings and facilities as authorized by the provisions of chapter 263A.

4. The physicians and surgeons on the staff of the university of Iowa hospitals and clinics who care for patients provided for in this section may charge for the medical services provided under such rules, regulations, and plans approved by the state board of regents. However, a physician or surgeon who provides treatment or care for an expansion population member pursuant to chapter 249J shall not charge or receive any compensation for the treatment or care except the salary or compensation fixed by the state board of regents to be paid from the hospital fund.

Sec. 48. NEW SECTION. 263.19 PURCHASES.

Any purchase in excess of ten thousand dollars, of materials, appliances, instruments, or supplies by the university of Iowa hospitals and clinics, when the price of the materials, appliances, instruments, or supplies to be purchased is subject to competition, shall be made pursuant to open competitive quotations, and all contracts for such purchases shall be subject to chapter 72. However, purchases may be made through a hospital group purchasing organization provided that the university of Iowa hospitals and clinics is a member of the organization.

Sec. 49. NEW SECTION. 263.20 COLLECTING AND SETTLING CLAIMS FOR CARE.

Whenever a patient or person legally liable for the patient's care at the university of Iowa hospitals and clinics has insurance, an estate, a right of action against others, or other assets, the university of Iowa hospitals and clinics, through the facilities of the office of the attorney general, may file claims, institute or defend suit in court, and use other legal means available to collect accounts incurred for the care of the patient, and may compromise, settle, or release such actions under the rules and procedures prescribed by the president of the university and the office of the attorney general. If a county has paid any part of such patient's care, a pro rata amount collected, after deduction for cost of collection, shall be remitted to the county and the balance shall be credited to the hospital fund.

Sec. 50. NEW SECTION. 263.21 TRANSFER OF PATIENTS FROM STATE INSTITUTIONS.

The director of the department of human services, in respect to institutions under the director's control, the administrator of any of the divisions of the department, in respect to the institutions under the administrator's control, the director of the department of corrections, in respect to the institutions under the department's control, and the state board of regents, in respect to the Iowa braille and sight saving school and the Iowa school for the deaf, may send any inmate, student, or patient of an institution, or any person committed or applying for admission to an institution, to the university of Iowa hospitals and clinics for treatment and care. The department of human services, the department of corrections, and the state board of regents shall respectively pay the traveling expenses of such patient, and when necessary the traveling expenses of an attendant for the patient, out of funds appropriated for the use of the institution from which the patient is sent.

Sec. 51. NEW SECTION. 263.22 MEDICAL CARE FOR PAROLEES AND PERSONS ON WORK RELEASE.

The director of the department of corrections may send former inmates of the institutions provided for in section 904.102, while on parole or work release, to the university of Iowa hospitals and clinics for treatment and care. The director may pay the traveling expenses of any such patient, and when necessary the traveling expenses of an attendant of the patient, out of funds appropriated for the use of the department of corrections.

Sec. 52. Section 271.6, Code 2005, is amended to read as follows:

271.6 INTEGRATED TREATMENT OF UNIVERSITY HOSPITAL PATIENTS.

The authorities of the Oakdale campus may authorize patients for admission to the hospital on the Oakdale campus who are referred from the university hospitals and who shall retain the same status, classification, and authorization for care which they had at the university hospitals. Patients referred from the university hospitals to the Oakdale campus shall be deemed to be patients of the university hospitals. ~~Chapters 255 and 255A and the~~ The operating policies of the university hospitals shall apply to the patients ~~and to the payment for their care~~ the same as the provisions apply to patients who are treated on the premises of the university hospitals.

Sec. 53. Section 331.381, subsection 9, Code 2005, is amended by striking the subsection.

Sec. 54. Section 331.502, subsection 17, Code 2005, is amended by striking the subsection.

Sec. 55. Section 331.552, subsection 13, Code 2005, is amended to read as follows:

13. Make transfer payments to the state for school expenses for blind and deaf children~~,~~ and support of persons with mental illness~~, and hospital care for the indigent~~ as provided in sections 230.21, ~~255.26,~~ 269.2, and 270.7.

Sec. 56. Section 331.653, subsection 26, Code 2005, is amended by striking the subsection.

Sec. 57. Section 331.756, subsection 53, Code 2005, is amended by striking the subsection.

Sec. 58. Section 602.8102, subsection 48, Code 2005, is amended by striking the subsection.

Sec. 59. Chapters 255 and 255A, Code 2005, are repealed.

Sec. 60. OBLIGATIONS TO INDIGENT PATIENTS. The provisions of this Act shall not be construed and are not intended to change, reduce, or affect the obligation of the university of Iowa hospitals and clinics existing on April 1, 2005, to provide care or treatment at the university of Iowa hospitals and clinics to indigent patients and to any inmate, student, patient, or former inmate of a state institution as specified in sections 263.21 and 263.22 as enacted in this Act, with the exception of the specific obligation to committed indigent patients as specified pursuant to section 255.16, Code 2005, repealed in this Act.

Sec. 61. INMATES, STUDENTS, PATIENTS, AND FORMER INMATES OF STATE INSTITUTIONS — REVIEW.

1. The director of human services shall convene a workgroup comprised of the director, the director of the department of corrections, the president of the state board of regents, and a representative of the university of Iowa hospitals and clinics to review the provision of treatment and care to the inmates, students, patients, and former inmates specified in sections 263.21 and 263.22, as enacted in this Act. The review shall determine all of the following:

a. The actual cost to the university of Iowa hospitals and clinics to provide care and treatment to the inmates, students, patients, and former inmates on an annual basis. The actual cost shall be determined utilizing Medicare cost accounting principles.

b. The number of inmates, students, patients, and former inmates provided treatment at the university of Iowa hospitals and clinics, annually.

c. The specific types of treatment and care provided to the inmates, students, patients, and former inmates.

d. The existing sources of revenue that may be available to pay for the costs of providing care and treatment to the inmates, students, patients, and former inmates.

e. The cost to the department of human services, the Iowa department of corrections, and the state board of regents to provide transportation and staffing relative to provision of care and treatment to the inmates, students, patients, and former inmates at the university of Iowa hospitals and clinics.

f. The effect of any proposed alternatives for provision of care and treatment for inmates, students, patients, or former inmates, including the proposed completion of the hospital unit at the Iowa state penitentiary at Fort Madison.

2. The workgroup shall submit a report of its findings to the governor and the general assembly no later than December 31, 2005. The report shall also include any recommendations for improvement in the provision of care and treatment to inmates, students, patients, and former inmates, under the control of the department of human services, the Iowa department of corrections, and the state board of regents.

DIVISION XII
STATE MEDICAL INSTITUTION

Sec. 62. NEW SECTION. 218A.1 STATE MEDICAL INSTITUTION.

1. All of the following shall be collectively designated as a single state medical institution:

a. The mental health institute, Mount Pleasant, Iowa.

b. The mental health institute, Independence, Iowa.

c. The mental health institute, Clarinda, Iowa.

d. The mental health institute, Cherokee, Iowa.

e. The Glenwood state resource center.

f. The Woodward state resource center.

2. Necessary portions of the institutes and resource centers shall remain licensed as separate hospitals and as separate intermediate care facilities for persons with mental retardation, and the locations and operations of the institutes and resource centers shall not be subject to consolidation to comply with this chapter.

3. The state medical institution shall qualify for payments described in subsection 4 for the fiscal period beginning July 1, 2005, and ending June 30, 2010, if the state medical institution and the various parts of the institution comply with the requirements for payment specified in subsection 4, and all of the following conditions are met:

a. The total number of beds in the state medical institution licensed as hospital beds is less than fifty percent of the total number of all state medical institution beds. In determining compliance with this requirement, however, any reduction in the total number of beds that occurs as the result of reduction in census due to an increase in utilization of home and community-based services shall not be considered.

b. An individual is appointed by the director of human services to serve as the director of the state medical institution and an individual is appointed by the director of human services to serve as medical director of the state medical institution. The individual appointed to serve as the director of the state medical institution may also be an employee of the department of human services or of a component part of the state medical institution. The individual appointed to serve as medical director of the state medical institution may also serve as the medical director of one of the component parts of the state medical institution.

c. A workgroup comprised of the director of human services or the director's designee, the director of the state medical institution, the directors of all licensed intermediate care facilities for persons with mental retardation in the state, and representatives of the Iowa state association of counties, the Iowa association of community providers, and other interested parties develops and presents a plan, for submission to the centers for Medicare and Medicaid services of the United States department of health and human services, to the general assembly no later than July 1, 2007, to reduce the number of individuals in intermediate care facilities for persons with mental retardation in the state and concurrently to increase the number of individuals with mental retardation and developmental disabilities in the state who have access to home and community-based services. The plan shall include a proposal to redesign the home and community-based services waivers for persons with mental retardation and persons with brain injury under the medical assistance program. The department shall not implement the plan without express authorization by the general assembly.

4. The department of human services shall submit a waiver to the centers for Medicare and Medicaid services of the United States department of health and human services to provide for all of the following:

a. Coverage under the medical assistance program, with appropriate federal matching funding, for inpatient and outpatient hospital services provided to eligible individuals by any part of the state medical institution that maintains a state license as a hospital.

b. Disproportionate share hospital payments for services provided by any part of the state medical institution that maintains a state license as a hospital.

c. Imposition of an assessment on intermediate care facilities for persons with mental retardation on any part of the state medical institution that provides intermediate care facility for persons with mental retardation services.

DIVISION XIII
APPROPRIATIONS AND EFFECTIVE DATES

Sec. 63. APPROPRIATIONS FROM IOWACARE ACCOUNT.

1. There is appropriated from the Iowacare account created in section 249J.23 to the university of Iowa hospitals and clinics for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, equipment, and miscellaneous purposes, for the provision of medical and surgical treatment of indigent patients, for provision of services to members of the expansion population pursuant to chapter 249J, as enacted in this Act, and for medical education:

. . . . . $ 27,284,584

2. There is appropriated from the Iowacare account created in section 249J.23 to a publicly owned acute care teaching hospital located in a county with a population over three hundred fifty thousand for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the provision of medical and surgical treatment of indigent patients, for provision of services to members of the expansion population pursuant to chapter 249J, as enacted in this Act, and for medical education:

. . . . . $ 40,000,000

Notwithstanding any provision of this Act to the contrary, of the amount appropriated in this subsection, $37,000,000 shall be allocated in twelve equal monthly payments as provided in section 249J.23, as enacted in this Act. Any amount appropriated in this subsection in excess of $37,000,000 shall be allocated only if federal funds are available to match the amount allocated.

3. There is appropriated from the Iowacare account created in section 249J.23 to the state hospitals for persons with mental illness designated pursuant to section 226.1 for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the state mental health institute at Cherokee, for salaries, support, maintenance, full-time equivalent positions, and miscellaneous purposes including services to members of the expansion population pursuant to chapter 249J, as enacted in this Act:

. . . . . $ 9,098,425

b. For the state mental health institute at Clarinda, for salaries, support, maintenance, full-time equivalent positions, and miscellaneous purposes including services to members of the expansion population pursuant to chapter 249J, as enacted in this Act:

. . . . . $ 1,977,305

c. For the state mental health institute at Independence, for salaries, support, maintenance, full-time equivalent positions, and miscellaneous purposes including services to members of the expansion population pursuant to chapter 249J, as enacted in this Act:

. . . . . $ 9,045,894

d. For the state mental health institute at Mount Pleasant, for salaries, support, maintenance, full-time equivalent positions, and miscellaneous purposes including services to members of the expansion population designation pursuant to chapter 249J, as enacted in this Act:

. . . . . $ 5,752,587

Sec. 64. APPROPRIATIONS FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. There is appropriated from the account for health care transformation created in section 249J.22, as enacted in this Act, to the department of human services, for the fiscal year

beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the costs of medical examinations and development of personal health improvement plans for the expansion population pursuant to section 249J.6, as enacted in this Act:
. . . . . $ 136,500

2. For the provision of a medical information hotline for the expansion population as provided in section 249J.6, as enacted in this Act:
. . . . . $ 150,000

3. For the insurance cost subsidy program pursuant to section 249J.8, as enacted in this Act:
. . . . . $ 150,000

4. For the health care account program option pursuant to section 249J.8, as enacted in this Act:
. . . . . $ 50,000

5. For the use of electronic medical records by medical assistance program and expansion population provider network providers pursuant to section 249J.14, as enacted in this Act:
. . . . . $ 100,000

6. For other health partnership activities pursuant to section 249J.14, as enacted in this Act:
. . . . . $ 550,000

7. For the costs related to audits, performance evaluations, and studies required by this Act:
. . . . . $ 100,000

8. For administrative costs associated with this Act:
. . . . . $ 910,000

Sec. 65. TRANSFER FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. There is transferred from the account for health care transformation created pursuant to section 249J.22, as enacted in this Act, to the Iowacare account created in section 249J.23, as enacted in this Act, a total of $2,000,000 for the fiscal year beginning July 1, 2005, and ending June 30, 2006.

Sec. 66. EFFECTIVE DATES — CONTINGENT REDUCTION — RULES — RETROACTIVE APPLICABILITY.

1. The provisions of this Act requiring the department of human services to request waivers from the centers for Medicare and Medicaid services of the United States department of health and human services and to amend the medical assistance state plan, and the provisions relating to execution of chapter 28E agreements in section 249J.23, as enacted in this Act, being deemed of immediate importance, take effect upon enactment.

2. The remaining provisions of this Act, with the exception of the provisions described in subsection 1, shall not take effect unless the department of human services receives approval of all waivers and medical assistance state plan amendments required under this Act. If all approvals are received, the remaining provisions of this Act shall take effect July 1, 2005, or on the date specified in the waiver or medical assistance state plan amendment for a particular provision. The department of human services shall notify the Code editor of the date of receipt of the approvals.

3. If this Act is enacted and if the Eighty-first General Assembly enacts legislation appropriating moneys from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the state hospitals for persons with mental illness designated pursuant to section 226.1, for salaries, support, maintenance, and miscellaneous purposes and for full-time equivalent positions, the appropriations shall be reduced in the following amounts and the amounts shall be transferred to the medical assistance fund of the department of human services to diminish the effect of intergovernmental transfer reductions:

a. For the state mental health institute at Cherokee:
. . . . . $ 9,098,425

b. For the state mental health institute at Clarinda:
. . . . . $ 1,977,305

c. For the state mental health institute at Independence:
. . . . . $ 9,045,894
d. For the state mental health institute at Mount Pleasant:
. . . . . $ 5,752,587

4. If this Act is enacted and if the Eighty-first General Assembly enacts legislation appropriating moneys from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the 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 full-time equivalent positions, the appropriation is reduced by $27,284,584 and the amount shall be transferred to the medical assistance fund of the department of human services to diminish the effect of intergovernmental transfer reductions.

5. If this Act is enacted, and if the Eighty-first General Assembly enacts 2005 Iowa Acts, House File 816,[4] and 2005 Iowa Acts, House File 816[5] includes a provision relating to medical assistance supplemental amounts for disproportionate share hospital and indirect medical education, the provision in House File 816[6] shall not take effect.

6. If this Act is enacted, and if the Eighty-first General Assembly enacts 2005 Iowa Acts, House File 825,[7] and 2005 Iowa Acts, House File 825,[8] includes a provision appropriating moneys from the hospital trust fund created in section 249I.4 to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, to be used to supplement the appropriations made for the medical assistance program for that fiscal year, the appropriation is reduced by $22,900,000.

7. The department of human services may adopt emergency rules pursuant to chapter 17A to implement and administer the provisions of this Act.

8. The department of human services may procure sole source contracts to implement any provision of this Act. In addition to sole source contracting, the department may contract with local nonprofit agencies to provide services enumerated in this Act. The department shall utilize nonprofit agencies to the greatest extent possible in the delivery of the programs and services enumerated in this Act to promote greater understanding between providers, under the medical assistance program and included in the expansion population provider network, and their recipients and members.

9. The provisions of this Act amending 2003 Iowa Acts, chapter 112, section 11, and repealing section 249A.20B, are retroactively applicable to May 2, 2003.

10. The section of this Act amending 2004 Iowa Acts, chapter 1175, section 86, is retroactively applicable to May 17, 2004.

Approved May 12, 2005

[4] Chapter 169, §14 herein
[5] Chapter 169, §14 herein
[6] Chapter 169, §14 herein
[7] Chapter 175, §46 herein
[8] Chapter 175, §46 herein

CHAPTER 168

MISCELLANEOUS SUPPLEMENTAL APPROPRIATIONS
AND EMPLOYMENT REGULATION

S.F. 342

AN ACT relating to financial and regulatory matters by making and increasing appropriations for the fiscal year beginning July 1, 2004, making civil penalties applicable and providing effective and applicability date provisions.

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

DIVISION I
EDUCATION

Section 1. STATE BOARD OF REGENTS — GENERAL FUND ENDING BALANCE.

1. Prior to the appropriation of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2004, pursuant to section 8.57, subsection 1, from appropriations that remain unencumbered or unobligated and would otherwise revert on August 31, 2005, pursuant to section 8.33, up to $2,800,000 shall be transferred to the state board of regents.

2. The transfer made in subsection 1 shall be distributed to the state board of regents in the fiscal year beginning July 1, 2005, to be used as additional funding for the fiscal year beginning July 1, 2005, for the institutions under the state board of regents.

DIVISION II
HEALTH AND HUMAN SERVICES
DEPARTMENT OF HUMAN SERVICES

Sec. 2. 2004 Iowa Acts, chapter 1175, section 116, unnumbered paragraph 2, is amended to read as follows:

For medical assistance reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2004, 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:

. . . . . $ ~~352,794,101~~
422,794,101

Sec. 3. 2004 Iowa Acts, chapter 1175, section 118, unnumbered paragraph 2, is amended to read as follows:

For medical contracts, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent position:

. . . . . $ ~~9,725,035~~
10,725,035

. . . . . FTEs 1.00

Of the amount appropriated in this section, $1,000,000 is allocated for implementation costs for the Iowa Medicaid enterprise initiative.

Sec. 4. 2004 Iowa Acts, chapter 1175, section 130, 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:

. . . . . $ ~~8,550,280~~
9,550,280

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:
. . . . . $ ~~4,520,459~~
5,520,459

Sec. 5. 2004 Iowa Acts, chapter 1175, section 131, is amended to read as follows:

SEC. 131. 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, 2004, and ending June 30, 2005, 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~~
11,264,619

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. 6. 2004 Iowa Acts, chapter 1175, section 134, 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:
. . . . . $ ~~2,833,646~~
3,608,646

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.

DIVISION III
JUSTICE SYSTEM

Sec. 7. INDIGENT DEFENSE CLAIMS — TRANSFERS. It is the intent of the general assembly that the director of the department of management, with the approval of the governor, shall utilize the transfer authority available under section 8.39 to provide the office of the state public defender of the department of inspections and appeals with sufficient funding to satisfy all valid indigent defense claims under section 232.141 and chapter 815 for the fiscal year beginning July 1, 2004, and ending June 30, 2005.

DIVISION IV
EMPLOYMENT

Sec. 8. Section 22.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 51. Confidential information, as defined in section 86.45, subsection 1, filed with the workers' compensation commissioner.

Sec. 9. Section 85.27, subsection 7, Code 2005, is amended to read as follows:

7. If, after the third day of incapacity to work following the date of sustaining a compensable injury which does not result in permanent partial disability, or if, at any time after sustaining a compensable injury which results in permanent partial disability, an employee, who is not receiving weekly benefits under section 85.33 or section 85.34, subsection 1, returns to work and is required to leave work for one full day or less to receive services pursuant to this section, the employee shall be paid an amount equivalent to the wages lost at the employee's regular

rate of pay for the time the employee is required to leave work. For the purposes of this subsection, "day of incapacity to work" means eight hours of accumulated absence from work due to incapacity to work or due to the receipt of services pursuant to this section. The employer shall make the payments under this subsection as wages to the employee after making such deductions from the amount as legally required or customarily made by the employer from wages. Payments made under this subsection shall be required to be reimbursed pursuant to any insurance policy covering workers' compensation. Payments under this subsection shall not be construed to be payment of weekly benefits.

Sec. 10. Section 85.35, Code 2005, is amended to read as follows:

85.35 ~~SETTLEMENT IN CONTESTED CASE~~ SETTLEMENTS.

1. The parties to a contested case or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under this chapter or chapter 85A, 85B, or 86, providing for ~~final~~ disposition of the claim~~, provided that no final disposition affecting rights to future benefits may be had when the only dispute is the degree of disability resulting from an injury for which an award for payments or agreement for settlement under section 86.13 has been made~~. The settlement shall be in writing on forms prescribed by the workers' compensation commissioner and submitted to the workers' compensation commissioner for approval.

2. The parties may enter into an agreement for settlement that establishes the employer's liability, fixes the nature and extent of the employee's current right to accrued benefits, and establishes the employee's right to statutory benefits that accrue in the future.

3. The parties may enter into a compromise settlement of the employee's claim to benefits as a full and final disposition of the claim.

4. The parties may enter into a settlement that is a combination of an agreement for settlement and a compromise settlement that establishes the employer's liability for part of a claim but makes a full and final disposition of other parts of a claim.

5. A contingent settlement may be made and approved, conditioned upon subsequent approval by a court or governmental agency, or upon any other subsequent event that is expected to occur within one year from the date of the settlement. If the subsequent approval or event does not occur, the contingent settlement and its approval may be vacated by order of the workers' compensation commissioner upon a petition for vacation filed by one of the parties or upon agreement by all parties. If a contingent settlement is vacated, the running of any period of limitation provided for in section 85.26 is tolled from the date the settlement was initially approved until the date that the settlement is vacated, and the claim is restored to the status that the claim held when the contingent settlement was initially approved. The contingency on a settlement lapses and the settlement becomes final and fully enforceable if an action to vacate the contingent settlement or to extend the period of time allowed for the subsequent approval or event to occur is not initiated within one year from the date that the contingent settlement was initially approved.

6. The parties may agree that settlement proceeds, which are paid in a lump sum, are intended to compensate the injured worker at a given monthly or weekly rate over the life expectancy of the injured worker. If such an agreement is reached, neither the weekly compensation rate which either has been paid, or should have been paid, throughout the case, nor the maximum statutory weekly rate applicable to the injury shall apply. Instead, the rate set forth in the settlement agreement shall be the rate for the case.

~~The settlement shall not be approved unless evidence of a bona fide dispute exists concerning any of the following:~~

~~1. The claimed injury arose out of or in the course of the employment.~~

~~2. The injured employee gave notice under section 85.23.~~

~~3. Whether or not the statutes of limitations as provided in section 85.26 have run. When the issue involved is whether or not the statute of limitations of section 85.26, subsection 2, has run, the final disposition shall pertain to the right to weekly compensation unless otherwise provided for in subsection 7 of this section.~~

~~4. The injury was caused by the employee's willful intent to injure the employee's self or to willfully injure another.~~

~~5. Intoxication, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, was a substantial factor in causing the employee's injury.~~

~~6. The injury was caused by the willful act of a third party directed against the employee for reasons personal to such employee.~~

~~7. This chapter or chapter 85A, 85B, 86 or 87 applies to the party making the claim.~~

~~8. A substantial portion of the claimed disability is related to physical or mental conditions other than those caused by the injury.~~

7. A settlement shall be approved by the workers' compensation commissioner if the parties show all of the following:

a. Substantial evidence exists to support the terms of the settlement.

b. Waiver of the employee's right to a hearing, decision, and statutory benefits is made knowingly by the employee.

c. The settlement is a reasonable and informed compromise of the competing interests of the parties.

If an employee is represented by legal counsel, it is presumed that the required showing for approval of the settlement has been made.

8. Approval of a settlement by the workers' compensation commissioner ~~shall be~~ is binding on the parties and shall not be construed as an original proceeding. Notwithstanding any provisions of this chapter and chapters 85A, 85B, 86 and 87, an approved compromise settlement shall constitute a final bar to any further rights arising under this chapter and chapters 85A, 85B, 86, and 87. ~~Such~~ regarding the subject matter of the compromise and a payment made pursuant to a compromise settlement agreement shall not be construed as the payment of weekly compensation.

Sec. 11. Section 85.38, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

If an employer denies liability under this chapter, chapter 85A, or chapter 85B, for payment for any medical services received or weekly compensation requested by an employee ~~with a disability~~, and the employee is a beneficiary under either an individual or group plan for nonoccupational illness, injury, or disability, the nonoccupational plan shall not deny payment for the medical services received or for benefits under the plan on the basis that the employer's liability ~~for the medical services~~ under this chapter, chapter 85A, or chapter 85B is unresolved.

Sec. 12. Section 85.71, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The employer has a place of business in Iowa, and the employee is working under a contract of hire which provides that the employee's workers' compensation claims be governed by Iowa law.

Sec. 13. Section 86.24, subsection 4, Code 2005, is amended to read as follows:

4. A transcript of a contested case proceeding shall be provided to the workers' compensation commissioner by an appealing party at the party's cost ~~and an affidavit shall be filed by the appealing party or the party's attorney with the workers' compensation commissioner within ten days after the filing of the appeal to the workers' compensation commissioner stating that the transcript has been ordered and identifying the name and address of the reporter or reporting firm from which the transcript has been ordered~~.

Sec. 14. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

1. "Confidential information", for the purposes of this section, means all information that is filed with the workers' compensation commissioner as a result of an employee's injury or death that would allow the identification of the employee or the employee's dependents. Confidential information includes first reports of injury and subsequent reports of claim activity.

Confidential information does not include pleadings, motions, decisions, opinions, or applications for settlement that are filed with the workers' compensation commissioner.

2. The workers' compensation commissioner shall not disclose confidential information except as follows:

a. Pursuant to the terms of a written waiver of confidentiality executed by the employee or the dependents of the employee whose information is filed with the workers' compensation commissioner.

b. To another governmental agency, or to an advisory, rating, or research organization, for the purpose of compiling statistical data, evaluating the state's workers' compensation system, or conducting scientific, medical, or public policy research, where such disclosure will not allow the identification of the employee or the employee's dependents.

c. To the employee or to the agent or attorney of the employee whose information is filed with the workers' compensation commissioner.

d. To the person or to the agent of the person who submitted the information to the workers' compensation commissioner.

e. To an agent, representative, attorney, investigator, consultant, or adjuster of an employer, or insurance carrier or third-party administrator of workers' compensation benefits, who is involved in administering a claim for such benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

f. To all parties to a contested case proceeding before the workers' compensation commissioner in which the employee or a dependent of the employee, whose information is filed with the workers' compensation commissioner, is a party.

g. In compliance with a subpoena.

h. To an agent, representative, attorney, investigator, consultant, or adjuster of the employee, employer, or insurance carrier or third-party administrator of insurance benefits, who is involved in administering a claim for insurance benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

i. To another governmental agency that is charged with the duty of enforcing liens or rights of subrogation or indemnity.

3. This section does not create a cause of action for a violation of its provisions against the workers' compensation commissioner or against the state or any governmental subdivision of the state.

Sec. 15. Section 87.11, unnumbered paragraph 1, Code 2005, is amended to read as follows:

When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner ~~and the workers' compensation commissioner~~ as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner ~~or workers' compensation commissioner~~. Such security shall be held in trust for the sole purpose of paying compensation and benefits and is not subject to attachment, levy, execution, garnishment, liens, or any other form of encumbrance. However, the insurance commissioner shall be reimbursed from the security for all costs and fees incurred by the insurance commissioner in resolving disputes involving the security. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

Sec. 16. Section 87.14A, Code 2005, is amended to read as follows:

87.14A INSURANCE ~~OR BOND~~ REQUIRED.

An employer subject to this chapter and chapters 85, 85A, 85B, and 86 shall not engage in

business without first obtaining insurance covering compensation benefits or obtaining relief from insurance as provided in this chapter ~~or furnishing a bond pursuant to section 87.16~~. A person who willfully and knowingly violates this section is guilty of a class "D" felony.

Sec. 17. Section 87.19, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon the receipt of information by the workers' compensation commissioner of any employer failing to comply with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner shall at once notify such employer by certified mail that unless such employer comply with the requirements of law, legal proceedings will be instituted to enforce such compliance.

Sec. 18. Section 87.20, Code 2005, is amended to read as follows:

87.20 REVOCATION OF RELEASE FROM INSURANCE.

The insurance commissioner ~~with the concurrence of the workers' compensation commissioner~~ may, at any time, upon reasonable notice to such employer and upon hearing, revoke for cause any order theretofore made relieving any employer from carrying insurance as provided by this chapter.

Sec. 19. Section 91A.3, subsection 3, Code 2005, is amended to read as follows:

3. The wages paid under subsection 1 shall be sent to the employee by mail or be paid at the employee's normal place of employment during normal employment hours or at a place and hour mutually agreed upon by the employer and employee, or the employee may elect to have the wages sent for direct deposit, on or by the regular payday of the employee, into a financial institution designated by the employee. An employer shall not require a current employee to participate in direct deposit. The employer may require, as a condition of hire, a new employee to sign up for direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exist:

a. The costs to the employee of establishing and maintaining an account for purposes of the direct deposit would effectively reduce the employee's wages to a level below the minimum wage provided under section 91D.1.

b. The employee would incur fees charged to the employee's account as a result of the direct deposit.

c. The provisions of a collective bargaining agreement mutually agreed upon by the employer and the employee organization prohibit the employer from requiring an employee to sign up for direct deposit as a condition of hire.

Sec. 20. Section 91A.6, subsection 3, Code 2005, is amended to read as follows:

3. Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement or access to a written, itemized statement as provided in subsection 4, listing the earnings and deductions made from the wages for each pay period in which the deductions were made together with an explanation of how the wages and deductions were computed. ~~An employer need honor only one such request in any calendar year unless the rate of earnings, hours or deductions are changed during the calendar year. Each change shall entitle an employee to a further request for an itemized statement.~~

Sec. 21. Section 91A.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. On each regular payday, the employer shall send to each employee by mail or shall provide at the employee's normal place of employment during normal employment hours a statement showing the hours the employee worked, the wages earned by the employee, and deductions made for the employee. An employer who provides each employee access to view an electronic statement of the employee's earnings and provides the employee free and unrestricted access to a printer to print the employee's statement of earnings, if the employee chooses, is in compliance with this subsection.

Sec. 22. Sections 87.16 and 87.17, Code 2005, are repealed.

Sec. 23. EFFECTIVE DATE. This division of this Act takes effect July 1, 2005.

DIVISION V

Sec. 24. EFFECTIVE DATE. Unless specifically provided otherwise, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 3, 2005

CHAPTER 169

APPROPRIATIONS — EDUCATION

H.F. 816

AN ACT 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 providing an effective date.

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

DEPARTMENT FOR THE BLIND

Section 1. ADMINISTRATION. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

..... $ 1,886,842
..... FTEs 109.50

COLLEGE STUDENT AID COMMISSION

Sec. 2. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

..... $ 349,494
..... FTEs 4.30

2. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

..... $ 1,029,784

3. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

a. For forgivable loans to Iowa students attending the Des Moines university — osteopathic medical center under the forgivable loan program pursuant to section 261.19:

..... $ 50,000

To receive funds appropriated pursuant to this paragraph, Des Moines university — osteopathic medical center shall match the funds with institutional funds on a dollar-for-dollar basis.

b. 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:

. . . . . $ 346,451

4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard educational assistance under the program established in section 261.86:

. . . . . $ 3,800,000[1]

5. TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

For the teacher shortage forgivable loan program established in section 261.111:

. . . . . $ 285,000

Sec. 3. COLLEGE STUDENT AID COMMISSION STUDY — STATE AID FOR STUDENTS ENROLLED IN ACCREDITED PRIVATE INSTITUTIONS. The college student aid commission shall develop, in consultation with representatives from accredited private institutions whose income is not exempt from taxation under section 501(c) of the Internal Revenue Code, recommendations for a policy regarding the protection of educational consumers for inclusion in the definition of "accredited private institution" under section 261.9. It is the intent of the general assembly to consider such a policy as it might apply to private institutions whose income is not exempt, and those private institutions whose income is exempt, from taxation under section 501(c) of the Internal Revenue Code. In determining its recommendations, the commission shall include a review of information that includes, but is not limited to, the percent of students who are enrolled in each institution who have high school graduation diplomas, the percentage of students enrolled in each institution who have high school equivalency diplomas, the percentage of low-income students enrolled in each institution, the percentage of nontraditional students enrolled in each institution, the graduation and job placement rates of each institution, and each institution's official cohort default rate, which is released annually by the United States department of education. The commission shall submit its findings and recommendations to the governor and the general assembly by January 10, 2006.

Sec. 4. WORK-STUDY APPROPRIATION FOR FY 2005-2006. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the amount appropriated from the general fund of the state to the college student aid commission for the work-study program under section 261.85 shall be $140,000, and from the moneys appropriated in this section, $76,365 shall be allocated to institutions of higher education under the state board of regents and community colleges and the remaining dollars appropriated in this section shall be allocated by the college student aid commission on the basis of need as determined by the portion of the federal formula for distribution for work-study funds that relates to the current need of institutions.

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 5. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 235,636

The department of cultural affairs shall coordinate activities with the tourism office of the department of economic development to promote attendance at the state historical building and at this state's historic sites.

[1] See chapter 179, §37 herein

2. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3:

. . . . . $ 299,240

3. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 3,040,920
. . . . . FTEs 65.00

4. HISTORIC SITES

For salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 526,459

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:

. . . . . $ 1,157,486
. . . . . FTEs 11.25

6. GREAT PLACES

For salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 200,000

7. ARCHIVE IOWA GOVERNORS' RECORDS

For archiving the records of Iowa governors:

. . . . . $ 75,000

DEPARTMENT OF EDUCATION

Sec. 6. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

. . . . . $ 5,139,542
. . . . . FTEs 76.27

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. The department shall strongly encourage school districts to seek direct claiming under the medical assistance program for funding of school district nursing services for students.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 514,828
. . . . . FTEs 13.80

3. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 4,475,050
. . . . . FTEs 273.50

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, 2006, 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:

.....	$	54,150
.....	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.

4. STATE LIBRARY

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,378,555
.....	FTEs	18.00

b. For the enrich Iowa program:

.....	$	1,698,432

(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 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, 2007, 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.

5. LIBRARY SERVICE AREA SYSTEM

For state aid:

. . . . . $ 1,376,558

6. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 7,356,722
. . . . . FTEs 86.00

7. REGIONAL TELECOMMUNICATIONS COUNCILS

For state aid:

. . . . . $ 1,240,478

The regional telecommunications councils established in section 8D.5 shall use the funds appropriated in this subsection to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

8. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

. . . . . $ 2,936,904

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.

9. 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:

. . . . . $ 2,509,683

10. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

. . . . . $ 23,781,594

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2005, and ending June 30, 2006, not more than $300,000 is allocated for the community empowerment office and other technical assistance activities and of that amount,

not more than $50,000 shall be used to administer the early childhood coordinator's position pursuant to section 28.3, subsection 6A, if enacted by 2005 Iowa Acts, House File 761,[2] and not more than $50,000 shall be used to implement an early childhood Iowa website for wide dissemination of early care and early childhood learning information and assistance. 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.

b. Notwithstanding any other provision of law to the contrary, the community empowerment office shall use the documentation created by the legislative services agency to continue the implementation of the 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.

d. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the Iowa empowerment fund that is used for distribution to areas, $4,650,000 shall be used to assist low-income parents with preschool tuition.

e. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the Iowa empowerment fund that is used for distribution to areas, $1,000,000 shall be used to collaborate with area education agencies and community colleges to provide both child care and preschool providers with ready access to high-quality professional development.

11. 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:

. . . . . $ 614,058

12. 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:

. . . . . $ 69,593,894

13. COMMUNITY COLLEGES

For general state financial aid to merged areas as defined in section 260C.2 in accordance with chapters 258 and 260C:

. . . . . $ 149,579,244

The funds appropriated in this subsection shall be allocated as provided under section 260C.18C, as enacted by this Act, as follows:

a. Merged Area I . . . . . $ 7,235,394

[2] Chapter 148, §6 herein

b.	Merged Area II	$	8,293,881
c.	Merged Area III	$	7,673,998
d.	Merged Area IV	$	3,764,072
e.	Merged Area V	$	8,129,369
f.	Merged Area VI	$	7,299,114
g.	Merged Area VII	$	10,652,239
h.	Merged Area IX	$	13,139,157
i.	Merged Area X	$	21,321,279
j.	Merged Area XI	$	22,050,079
k.	Merged Area XII	$	8,684,671
l.	Merged Area XIII	$	8,819,900
m.	Merged Area XIV	$	3,810,283
n.	Merged Area XV	$	11,972,648
o.	Merged Area XVI	$	6,733,160

Sec. 7. STATEWIDE TEACHER INTERN PROGRAM — FEDERAL GRANT APPLICATION COORDINATION.

The department shall work cooperatively with the state board of regents and other appropriate eligible grantees to obtain any available federal funding, including grants that may be available for the establishment and operation of a teacher intern program.

Sec. 8. BOARD OF EDUCATIONAL EXAMINERS LICENSING FEES.

Notwithstanding section 272.10, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the executive director of the board of educational examiners shall deposit at least 27 percent of the fees collected annually with the treasurer of state which shall be credited to the general fund of the state. The remaining licensing fees collected during the fiscal year beginning July 1, 2005, and retained are appropriated to the board for the purposes related to the board's duties. Notwithstanding section 8.33, licensing fees retained by and appropriated to the board pursuant to this section that remain unencumbered or unobligated at the close of the fiscal year in an amount of not more than 10 percent of the total licensing fees collected by the board by 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. 9. EDUCATOR LICENSING REVIEW WORKING GROUP.*

1. The board of educational examiners, in consultation with the department of education, shall convene a working group whose work shall be conducted over a three-year period to identify and recommend measures to improve Iowa's current teacher and administrator preparation and licensing practices. The working group shall review the current teacher and administrator preparation and licensing processes to identify essential standards to maintain quality preparation and licensing requirements for teachers and administrators. The review shall also do the following:

a. Identify state laws and agency rules that are no longer essential to maintain quality.

b. Compare Iowa's teacher and administrator preparation and licensing practices with those of neighboring states, and identify those areas where Iowa's practices differ from, or are consistent with, the practices of the states neighboring Iowa.

c. Identify potential barriers preventing teacher and administrator candidates from neighboring states from applying for licensure in Iowa.

d. Review federal laws and regulations relating to teachers and teacher licensure in order to ensure compliance with federal laws and regulations, especially those relating to highly qualified teachers.

2. The working group shall consist of teachers, administrators, and representatives of the department of education, the state board of education, the board of educational examiners, and practitioner preparation institutions.

3. The working group shall annually submit its findings and recommendations to the chair-

* Item veto; see message at end of the Act

*persons and ranking members of the senate and house standing education committees and the joint appropriations subcommittee on education by January 15.**

Sec. 10. MINIMUM TEACHER SALARY REQUIREMENTS — FY 2005-2006.

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, 2005, and ending June 30, 2006, 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 2004-2005 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, 2005, and ending June 30, 2006, 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, 2005, and ending June 30, 2006, 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. 11. TRANSFER OF TECHNOLOGY PURCHASED FOR ACCREDITED NONPUBLIC SCHOOL STUDENTS. In the event that an accredited nonpublic school physically relocates to another school district, technology purchased prior to July 1, 2005, by a school district with state funds appropriated for purposes of making technology available to pupils attending the accredited nonpublic school shall be transferred to the school district in which the nonpublic school has relocated and may be made available to the nonpublic school.

STATE BOARD OF REGENTS

Sec. 12. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

.....	$	1,167,137
.....	FTEs	16.00

* Item veto; see message at end of the Act

The state board of regents, the department of management, and the legislative services agency shall cooperate to determine and agree upon, by November 15, 2005, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2006.

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 services agency.

b. 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:

. . . . . $ 13,975,431

Notwithstanding section 8.33, funds appropriated for the purposes in this lettered paragraph remaining unencumbered or unobligated at the end of the fiscal year shall not revert but shall be available for expenditure for the purposes specified in this lettered paragraph during the subsequent fiscal year.

c. For funds to be allocated to the southwest Iowa graduate studies center:

. . . . . $ 105,956

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

. . . . . $ 77,941

e. For funds to be allocated to the quad-cities graduate studies center:

. . . . . $ 157,144

f. For funds for regents universities' general operating budgets:

. . . . . $ 14,969,288

The funds appropriated for purposes of this lettered paragraph are subject to the following allocations and requirements:

(1) The partnership for transformation and excellence is a four-year partnership plan created by the state board of regents for the purpose of enhancing the regents' strategic priorities for educational quality and public accountability. Under the plan, Iowa students and families will be subject to moderate student tuition increases, and a clear and concise reallocation plan that may be audited will exist to strengthen the academic focus at the regents universities. The reallocation plan will enhance the quality of the regents universities and provide both an incentive and an opportunity for university-wide reprioritization and reallocation of resources to the most important strategic areas.

(2) The funds shall be distributed by the board as outlined in the state board of regents partnership for transformation and excellence. The funds may be used for any of the following purposes:

(a) Supporting new strategic initiatives.

(b) Meeting enrollment increases.

(c) Meeting the demand for new courses and services.

(d) Funding new but unavoidable or mandated cost increases.

(e) Supporting any other initiatives important to the core functions of the university.

The funds may also be used for pay adjustments, expense reimbursements, and related benefits for state board of regents employees covered by a collective bargaining agreement and for state board of regents employees not covered by a collective bargaining agreement. The board shall provide from other available sources any additional funding needed for such pay adjustments, expense reimbursements, and related benefits.

(3) The state board of regents shall annually set a target dollar amount or percentage figure of expected reallocation of resources for each university. The universities shall report to the board on a semiannual basis regarding the actions taken relating to the reallocations. Once funds have been reallocated, that amount shall not be redirected to the original entity or purpose unless extraordinary circumstances exist and an equivalent reallocation amount is increased for the same fiscal year. A reallocation of resources may be made for any of the following purposes:

* Item veto; see message at end of the Act

(a) Supporting new strategic initiatives.
(b) Meeting enrollment increases.
(c) Meeting the demand for new courses and services.
(d) Funding new but unavoidable or mandated cost increases.
(e) Supporting any other initiatives important to the core functions of the university.
(4) For the purposes of this lettered paragraph:
(a) "Entity" means a president, vice president, or a college, academic or nonacademic department, division, program, or other unit.
(b) "Reallocation of resources" means funds within the base budget of a university entity are removed by the administrator of that entity and redirected to another university entity or purpose.
(5) The state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa shall each generate matching internal reallocations in an amount equal to 50 percent of the amounts received by the universities pursuant to this lettered paragraph.
(6) From the moneys allocated to the Iowa state university of science and technology pursuant to this lettered paragraph, an amount equal to $127,000 shall be distributed to the college of veterinary medicine to reduce the operating fees charged by the veterinary diagnostic laboratory. If Iowa state university of science and technology fails to distribute funds to the college of veterinary science in accordance with this paragraph, the moneys shall revert to the general fund of the state. The Iowa state university of science and technology shall prepare a report on the operation of the veterinary diagnostic laboratory which shall include, but shall not be limited to, the following information:
(a) The current business structure of the veterinary diagnostic laboratory, along with a comparison to business structures of similar laboratories at other institutions of higher learning.
(b) Recent trends in fees for services charged by the veterinary diagnostic laboratory and by similar laboratories at other institutions of higher learning.
(c) The use of other funding sources, including state general fund appropriations for the veterinary diagnostic laboratory and a comparison to funding sources at similar laboratories at other institutions of higher learning.
(d) Recommendations for changes in the business structure and methods of funding for the veterinary diagnostic laboratory.
The report shall be submitted to the governor and the general assembly not later than October 1, 2005.
g. For funds to be distributed to the midwestern higher education compact to pay Iowa's member state annual obligation:

..... $ 90,000

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:

..... $ 220,131,572
..... FTEs 5,058.55

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.
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:

..... $ 27,284,584
..... FTEs 6,877.34

(1) 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 the indigent patients.

(2) 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 services agency, and the department of management, and shall delineate the expenditures and purposes of the funds.

(3) 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:

(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) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

(4) The total quota allocated to the counties for indigent patients for the fiscal year beginning July 1, 2005, 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:

	$	7,043,056
	FTEs	269.65

d. Center for disabilities and development

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	6,363,265
	FTEs	130.37

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:

	$	2,657,335
	FTEs	38.25

f. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	3,849,461
	FTEs	102.50

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:

..... $ 2,075,948
..... FTEs 190.40

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:

..... $ 649,066
..... FTEs 57.97

i. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

..... $ 178,739
..... FTEs 2.10

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 position:

..... $ 64,871
..... FTEs 1.00

k. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

..... $ 881,384
..... FTEs 6.28

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:

..... $ 759,875
..... FTEs 5.89

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 position:

..... $ 44,636
..... FTEs 1.00

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:

..... $ 173,269,729
..... 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.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 31,019,520
..... 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:

..... $ 19,738,432
..... 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:

..... $ 464,319
..... FTEs 11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8:

..... $ 220,708

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:

..... $ 77,831,821
..... FTEs 1,398.01

It is the intent of the general assembly that the university continue to allocate funds for a masters in social work program, the roadside vegetation project, and 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:

..... $ 211,858
..... FTEs 3.00

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 8,810,471
..... 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:

..... $ 4,930,295
..... 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:

..... $ 15,020

Sec. 13. INSTITUTE FOR TOMORROW'S WORKFORCE. There is appropriated from the general fund of the state to the department of management for allocation to the institute for tomorrow's workforce created under chapter 7K, if enacted by this Act,[3] for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the activities of the institute created pursuant to section 7K.1, and subject to the matching fund requirement of that section, if enacted:[4]

..... $ 250,000[5]

[3] See §17 herein

[4] See §17 herein

[5] See chapter 179, §38 herein

Sec. 14. MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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, 2005, and ending September 30, 2006, 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 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.[6]

Sec. 15. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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. 16. Notwithstanding section 270.7, the department of administrative services 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, 2005, 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. 17. NEW SECTION. 7K.1 INSTITUTE FOR TOMORROW'S WORKFORCE.

1. FINDINGS. The general assembly finds that Iowa's children are this state's greatest asset and to improve the future for Iowa's children, it is necessary to focus elementary, secondary, and postsecondary education efforts on what children need to know to be successful students and successful participants in Iowa's global workforce. Iowa's state community and business leaders are at the forefront of this ongoing conversation. The general assembly further finds that the creation of an institute for tomorrow's workforce provides a long-term forum for bold, innovative recommendations to improve Iowa's education system to meet the workforce needs of Iowa's new economy.

2. FOUNDATION CREATED — DUTIES. There is created a public body corporate and politic to be known as the "institute for tomorrow's workforce, an educational foundation". The foundation is an independent nonprofit quasi-public instrumentality and the exercise of the powers granted to the foundation as a corporation in this chapter is an essential government function. As used in this chapter, "foundation" means the "institute for tomorrow's workforce, an educational foundation". The foundation shall, at a minimum, do the following:

a. Review educational standards to determine relevance and rigor necessary for continuous improvement in student achievement and meeting workforce needs.

b. Identify jobs skills and corresponding high school coursework necessary to achieve success in the Iowa workforce.

c. Review the state's education accountability measures, including but not limited to student proficiency and individual and organization program accountability.

d. Identify state and local barriers to improved student achievement and student success as well as barriers to sharing among and within all areas of Iowa's education system.

e. Identify effective education structure and delivery models that promote optimum student achievement opportunities for all Iowa students that include, but are not limited to, the role of technology.

f. Serve as a clearinghouse for existing and emerging innovative educational sharing and collaborative efforts among and between Iowa's secondary education system as well as Iowa's postsecondary education system.

g. Promote partnerships between private sector business and all areas of Iowa's education system.

h. Promote partnerships between other Iowa governance structures including, but not limited to, cities and counties, and all areas of Iowa's education system.

i. Identify ways to reduce the achievement gap between white and non-white, non-Asian students.

j. The board of directors of the foundation, within the limits of the funds available to the foundation, shall do the following:

[6] See chapter 167, §66 herein

(1) Employ an executive director to direct the activities of the foundation.

(2) Execute contracts with public and private agencies to conduct research and development activities.

(3) Perform functions necessary to carry out the purposes of the foundation.

3. MEMBERSHIP. The board of directors of the foundation shall consist of fifteen members serving staggered three-year terms beginning on May 1 of the year of appointment who shall be appointed as follows:

a. Five members shall be appointed by the governor as follows:

(1) A school district superintendent from a school district with enrollment of one thousand one hundred forty-nine or fewer pupils.

(2) An individual representing an Iowa business employing more than two hundred fifty employees.

(3) A community college president.

(4) An individual representing labor and workforce interests.

(5) An individual representing an Iowa agriculture association.

b. Five members shall be appointed by the speaker of the house of representatives as follows:

(1) An individual representing the area education agencies.

(2) The president of an accredited private institution as defined in section 261.9.

(3) An individual representing an Iowa business employing more than fifty employees but not more than two hundred fifty employees.

(4) An individual representing urban economic development interests.

(5) An individual from an association representing Iowa businesses.

c. Five members shall be appointed by the president of the senate as follows:

(1) A school district superintendent from a school district with an enrollment of more than one thousand one hundred forty-nine pupils.

(2) A president of an institution of higher education under the control of the state board of regents.

(3) An individual representing an Iowa business employing fifty or fewer employees.

(4) An individual representing rural economic development interests.

(5) An individual representing a business that established itself in Iowa on or after July 1, 1999.

Members, except as provided in paragraph "c", subparagraph (2), shall not be employed by the state. One co-chairperson shall be appointed by the speaker of the house of representatives and one co-chairperson shall be appointed by the president of the senate.

4. MATCHING FUNDS REQUIREMENT. Moneys appropriated by the general assembly for purposes of the foundation shall be allocated only to the extent that the state moneys are matched from other sources by the foundation on a dollar-for-dollar basis.

5. REPORTING REQUIREMENTS. The foundation shall submit its findings and recommendations by January 15 annually in a report to the governor, the speaker of the house of representatives, the president of the senate, the state board of education, the state board of regents, the department of workforce development, the department of economic development, the Iowa association of community college trustees, the college student aid commission, the Iowa association of independent colleges and universities, and associations representing school boards, nonpublic schools, area education agencies, and teachers. The report shall include an accounting of the revenues and expenditures of the foundation.

6. This chapter is repealed effective July 1, 2015.

Sec. 18. Section 256.9, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 53. Develop and make available to school districts, examples of age-appropriate materials and lists of resources which parents may use to teach their children to recognize unwanted physical and verbal sexual advances, to not make unwanted physical and verbal sexual advances, to effectively reject unwanted sexual advances, that it is wrong to take advantage of or exploit another person, and about counseling, medical, and legal resources

available to survivors of sexual abuse and sexual assault, including resources for escaping violent relationships. The materials and resources shall cover verbal, physical, and visual sexual harassment, including nonconsensual sexual advances, and nonconsensual physical sexual contact. In developing the materials and resource list, the director shall consult with entities that shall include, but not be limited to, the departments of human services, public health, and public safety, education stakeholders, and parent-teacher organizations. School districts shall provide age-appropriate materials and a list of available community and web-based resources to parents at registration and shall also include the age-appropriate materials and resource list in the student handbook. School districts are encouraged to work with their communities to provide voluntary parent education sessions to provide parents with the skills and appropriate strategies to teach their children as described in this subsection. School districts shall incorporate the age-appropriate materials into relevant curricula and shall reinforce the importance of preventive measures when reasonable with parents and students.

*Sec. 19. NEW SECTION. 256.24 VALUE-ADDED ASSESSMENT SYSTEM.

1. A value-added assessment system shall be established by the department to provide for multivariate longitudinal analysis of annual student test scores to determine the influence of a school district's educational program on student academic growth and to guide school district improvement efforts. The department shall select a value-added assessment system provider through a request for proposals process. The system provider selected by the department shall offer a value-added assessment system to calculate annually the academic growth of each student enrolled in grade levels three through eleven and tested in accordance with this section, and shall, at a minimum, meet all of the following criteria:

a. Use 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.

b. Have the ability to work with test data from a variety of sources, including data that are not vertically scaled, and to provide support for school districts utilizing the system.

c. Have the capacity to receive and report results electronically and provide support for districts utilizing the system.

d. Have 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 that provides for a district-wide study of grade-equivalent scores.

2. Annually, each school district that administers the Iowa test of basic skills or the Iowa test of educational development shall, within thirty days of receiving the test scores from the American college testing program, inc., submit the test scores for each attendance center within the school district and each grade level tested, from grades three through eleven, to the system provider selected pursuant to subsection 1. School districts may submit additional assessment data for analysis and inclusion in reports provided to school districts pursuant to subsection 3, to the extent that the assessment meets the criteria for valid academic progress interpretation specified by the system provider.

3. The system provider shall provide analysis to school districts submitting test scores pursuant to subsection 2, and to the department of education. The analysis shall include, but not be limited to, attendance-center-level test results for the Iowa test of basic skills in the areas of reading and mathematics and other core academic areas when possible. The analysis shall also include, but not be limited to, the number of students tested, the number of test results used to compute the averages, the average standard score, the corresponding grade equivalent score, the average stanine score for the group, the normal curve equivalent of average standard scores, and percentile ranks based on student norms, as well as measures of student progress. The system provider shall create a chart for each school district in accordance with the criteria set forth in subsection 1, paragraphs "a" through "d".

4. Each school district shall have complete access to and full utilization of its own value-

* Item veto; see message at end of the Act

added assessment reports and charts generated by the system provider at the student level for the purpose of measuring student achievement at different educational entity levels.

5. Student academic growth determined pursuant to this section shall not be used in teacher evaluation and shall not be published if individual teacher effects can be surmised.

6. Information about student academic growth may be used by the school district, including school board members, administration, and staff, for defining student and district learning goals and professional development related to student learning goals across the school district. A school district may submit its academic growth measures in the annual report submitted pursuant to section 256.7, subsection 21, and may reference in the report state level norms for purposes of demonstrating school district performance. However, unless a school district chooses to submit its academic measures in the annual report submitted pursuant to section 256.7, such measures are not public records for the purposes of chapter 22.

7. The department may use student academic progress data to determine school improvement and technical assistance needs of school districts, and to identify school districts achieving exceptional gains. Beginning January 15, 2006, and by January 15 of each succeeding year, the department shall submit an annual progress report regarding the use of student academic growth information in the school improvement processes to the house and senate education committees and shall publish the progress report on its internet web site.

8. The department is encouraged to advocate that the United States department of education allow reporting of student academic progress as an additional valid measure of school performance, as an alternative for meeting federal safe harbor provisions, and for establishing statewide progress under the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110, and any federal regulations adopted pursuant to the federal Act.

*9. A school district shall use the value-added assessment system established by the department pursuant to subsection 1 not later than the school year ending June 30, 2007. However, the director of educational services of an area education agency may grant a request made by a board of directors of a school district located within the boundaries of the area education agency stating its desire to use an alternative system to compute and report value-added scores that is statistically valid and reliable.**

Sec. 20. Section 256.44, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. If a teacher registers for national board for professional teaching standards certification prior to June 30, ~~2005~~ 2006, a one-time initial reimbursement award in the amount of up to one-half of the registration fee paid by the teacher for registration for certification by the national board for professional teaching standards. The teacher shall apply to the department of education within one year of registration, submitting to the department any documentation the department requires. A teacher who receives an initial reimbursement award shall receive a one-time final registration award in the amount of the remaining national board registration fee paid by the teacher if the teacher notifies the department of the teacher's certification achievement and submits any documentation requested by the department.

Sec. 21. Section 256.44, subsection 1, paragraph b, subparagraph (2), Code 2005, is amended to read as follows:

(2) If the teacher registers for national board for professional teaching standards certification between January 1, 1999, and January 1, ~~2005~~ 2006, and achieves certification within three years from the date of initial score notification, an annual award in the amount of two thousand five hundred dollars upon achieving certification by the national board of professional teaching standards.

Sec. 22. Section 257B.1B, subsection 1, Code 2005, is amended to read as follows:

1. ~~Fifty-five~~ For the fiscal year beginning July 1, 2004, and each succeeding fiscal year, fifty-five percent of the moneys deposited in the fund to the department of education for allocation

* Item veto; see message at end of the Act

to the Iowa reading recovery ~~center~~ council to assist school districts in developing reading recovery and literacy programs. The Iowa reading recovery council shall use the area education agency unified budget as its fiscal agent for grant moneys and for other moneys administered by the council.

Sec. 23. Section 260C.2, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. "Department" means the department of education.

Sec. 24. NEW SECTION. 260C.18C STATE AID DISTRIBUTION FORMULA.
1. PURPOSE. A distribution plan for general state financial aid to Iowa's community colleges is established for the fiscal year commencing July 1, 2005, and succeeding fiscal years. Funds appropriated by the general assembly to the department for general financial aid to community colleges shall be allocated to each community college in the manner provided under this section.
2. DEFINITIONS. As used in this section, unless the context otherwise requires:
a. "Base funding allocation" means the amount of general state financial aid all community colleges received in the base year.
b. "Base year" means the fiscal year immediately preceding the budget year.
c. "Below-average support per FTEE" for a community college means the state-average combined support per FTEE minus the combined support per FTEE for the community college if the community college's combined support per FTEE is less than the state-average combined support per FTEE.
d. "Budget year" means the fiscal year for which moneys are appropriated by the general assembly.
e. "Combined support" for a community college means the total amount of moneys the community college received in general state financial aid in the base year plus the community college's general fund property tax revenue, including utility replacement, for the base year.
f. "Combined support per FTEE" for a community college means the community college's combined support divided by its three-year rolling average full-time equivalent enrollment for the three years prior to the base year.
g. "Contact hour" for a noncredit course equals fifty minutes of contact between an instructor and students in a scheduled course offering for which students are registered.
h. "Credit hour", for purposes of community college funding distribution, shall be as defined by the department by rule.
i. "Eligible credit courses" means all credit courses that are eligible for general state financial aid which are part of a department-approved program of study. The department shall review and provide a determination should a question of eligibility occur.
j. "Eligible growth support" for a community college is the community college's below-average support per FTEE multiplied times its three-year rolling average full-time equivalent enrollment.
k. "Eligible noncredit courses" means all noncredit courses eligible for general state financial aid which fall under one of the eligible categories for noncredit courses as defined by rule of the department. The department shall review and provide a determination should a question of eligibility occur.
l. "Eligible student" means a student enrolled in eligible credit or eligible noncredit courses. The department shall review and provide a determination should a question of eligibility occur.
m. "Fiscal year" means the period of twelve months beginning on July 1 and ending on June 30.
n. One "full-time equivalent enrollment (FTEE)" equals twenty-four credit hours for credit courses or six hundred contact hours for noncredit courses generated by all eligible students enrolled in eligible courses.
o. "General fund property tax revenue" means the amount of moneys a community college raised or could have raised from a property tax of twenty and one-fourth cents per thousand

dollars of assessed valuation on all taxable property in its merged area collected for the base year.

p. "General state financial aid" means the amount of general state financial aid the community college received from the general fund.

q. "Inflation adjustment amount" means the inflation rate minus two percentage points multiplied times the base funding allocation. The inflation adjustment amount shall not be less than zero.

r. "Inflation rate" means the average of the preceding twelve-month percentage change, which shall be computed on a monthly basis, in the consumer price index for all urban consumers, not seasonally adjusted, published by the United States department of labor, bureau of labor statistics, calculated for the calendar year ending six months after the beginning of the base year.

s. "State-average combined support per FTEE" means the average of the combined support per FTEE for all community colleges in the state in the base year.

t. "Three-year rolling average full-time equivalent enrollment" means the average of the audited full-time equivalent enrollment for a community college over the three fiscal years prior to the base year as determined by the department.

u. "Total growth support amount" means the sum of the eligible growth support for all the community colleges.

3. DISTRIBUTION FORMULA. Moneys appropriated by the general assembly from the general fund to the department for community college purposes for general state financial aid for a budget year shall be allocated to each community college by the department as follows:

a. If the inflation rate is equal to two percent or less:

(1) BASE FUNDING ALLOCATION. The moneys shall first be allocated in the amount of general state financial aid each community college received in the base year. If the appropriation is less than the total of the amount of general state financial aid each community college received in the base year, the moneys shall be allocated in the same proportion as the allocation of general state financial aid each community college received in the base year.

(2) MARGINAL COST ADJUSTMENT. After the base funding has been allocated, each community college shall be allocated up to an additional two percent of its base funding allocation. The community college's allocation shall be in the same proportion as the allocation of general state financial aid each community college received in the base year.

(3) THREE-YEAR ROLLING AVERAGE OF FULL-TIME EQUIVALENT ENROLLMENT. If the increase in the total state general aid exceeds two percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(4) EXTRAORDINARY GROWTH ADJUSTMENT. If the increase in total state general aid exceeds three percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed as follows:

(a) Forty percent of the moneys shall be allocated based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(b) Sixty percent of the moneys shall be allocated to community colleges that have eligible growth support. The allocation shall be based upon the proportional share that each community college's eligible growth support bears to the total growth support amount. Once the moneys allocated under this subparagraph subdivision equal the total growth support amount, the remaining moneys allocated under this subparagraph shall be allocated as provided in subparagraph subdivision (a).

(5) ADDITIONAL THREE-YEAR ROLLING AVERAGE FTEE ALLOCATION. If the increase in total state general aid exceeds four percent over the base funding allocation, all remaining moneys shall be distributed based upon each college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

b. If the inflation rate is greater than two percent but less than four percent:

(1) BASE FUNDING ALLOCATION. The moneys shall first be allocated in the amount of general state financial aid each community college received in the base year. If the appropriation is less that[7] the total of the amount of general state financial aid each community college received in the base year, the moneys shall be allocated in the same proportion as the allocation of general state financial aid each community college received in the base year.

(2) MARGINAL COST ADJUSTMENT. After the base funding has been allocated, each community college shall be allocated up to an additional two percent of its base funding allocation. The community college's allocation shall be in the same proportion as the allocation of general state financial aid each community college received in the base year.

(3) THREE-YEAR ROLLING AVERAGE OF FULL-TIME EQUIVALENT ENROLLMENT. If the increase in the total state general aid exceeds two percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(4) EXTRAORDINARY GROWTH ADJUSTMENT. If the increase in total state general aid exceeds three percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be based as follows:

(a) Forty percent of the moneys shall be allocated based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(b) Sixty percent of the moneys shall be allocated to community colleges that have eligible growth support. The allocation shall be based upon the proportional share that each community college's eligible growth support bears to the total growth support amount. Once the moneys allocated under this subparagraph subdivision equal the total growth support amount, the remaining moneys allocated under this subparagraph shall be allocated as provided in subparagraph subdivision (a).

(5) INFLATION ADJUSTMENT. If the increase in total state general aid exceeds four percent over the base funding allocation, an amount up to the inflation adjustment amount shall be distributed to each community college in the same proportion as the allocation of general state financial aid each community college received in the base year.

(6) ADDITIONAL THREE-YEAR ROLLING AVERAGE FTEE ALLOCATION. If there are remaining moneys to be distributed under this paragraph after distributing moneys under subparagraph (5), all remaining moneys shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

c. If the inflation rate equals or exceeds four percent:

(1) BASE FUNDING ALLOCATION. The moneys shall first be allocated in the amount of general state financial aid each community college received in the base year. If the appropriation is less than the total of the amount of general state financial aid each community college received in the base year, the moneys shall be allocated in the same proportion as the allocation of general state financial aid each community college received in the base year.

(2) MARGINAL COST ADJUSTMENT. After the base funding has been allocated, each community college shall be allocated up to an additional two percent of its base funding allocation. The community college's allocation shall be in the same proportion as the allocation of general state financial aid each community college received in the base year.

(3) THREE-YEAR ROLLING AVERAGE OF FULL-TIME EQUIVALENT ENROLLMENT. If the increase in the total state general aid exceeds two percent over the base funding allocation, an amount up to an additional one percent of the base funding allocation shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(4) INFLATION ADJUSTMENT. If the increase in total state general aid exceeds three percent over the base funding allocation, an amount up to the inflation adjustment amount shall be distributed to each community college in the same proportion as the allocation of general state financial aid each community college received in the base year.

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[7] According to enrolled Act

(5) EXTRAORDINARY GROWTH ADJUSTMENT. If there are remaining moneys to be distributed under this paragraph after distributing moneys under subparagraph (4), an amount up to an additional one percent of the base funding allocation shall be based as follows:

(a) Forty percent of the moneys shall be allocated based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

(b) Sixty percent of the moneys shall be allocated to community colleges that have eligible growth support. The allocation shall be based upon the proportional share that each community college's eligible growth support bears to the total growth support amount. Once the moneys allocated under this subparagraph subdivision equals the total growth support amount, the remaining moneys allocated under this subparagraph shall be allocated as provided in subparagraph subdivision (a).

(6) ADDITIONAL THREE-YEAR ROLLING AVERAGE FTEE ALLOCATION. If there are remaining moneys to be distributed under this paragraph after distributing moneys under subparagraph (5), all remaining moneys shall be distributed based upon each community college's proportional share of the three-year rolling average full-time equivalent enrollments for all community colleges.

4. INFORMATION SUPPLIED BY COLLEGES AND ADOPTION OF RULES.

a. Each community college shall provide information in the manner and form as determined by the department. If a community college fails to provide the information as requested, the department shall estimate the full-time equivalent enrollment of that college.

b. Each community college shall complete and submit an annual student enrollment audit to the department. Adjustments to community college state general aid allocations shall be made based on student enrollment audit outcomes.

c. The department shall adopt rules under chapter 17A as necessary for the allocation of general state financial aid.

Sec. 25. Section 261.9, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Is accredited by the north central association of colleges and secondary schools accrediting agency based on their requirements, is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and annually provides a matching aggregate amount of institutional financial aid equal to at least seventy-five percent of the amount received in a fiscal year by the institution's students for Iowa tuition grant assistance under this chapter. Commencing with the fiscal year beginning July 1, ~~2005~~ 2006, the matching aggregate amount of institutional financial aid shall increase by the percentage of increase each fiscal year of funds appropriated for Iowa tuition grants under section 261.25, subsection 1, to a maximum match of one hundred percent. The institution shall file annual reports with the commission prior to receipt of tuition grant moneys under this chapter. An institution whose income is not exempt from taxation under section 501(c) of the Internal Revenue Code and whose students were eligible to receive Iowa tuition grant money in the fiscal year beginning July 1, 2003, shall meet the match requirements of this paragraph no later than June 30, 2005.

Sec. 26. Section 261.25, subsection 1, Code 2005, 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-seven~~ forty-nine million ~~one~~ six hundred ~~fifty-seven~~ seventy-three thousand five hundred ~~fifteen~~ seventy-five dollars for tuition grants. From the funds appropriated in this subsection, ~~not more than three million four hundred thousand dollars may be distributed to~~ an amount equal to ten percent of the funds appropriated in this subsection shall be reserved for distribution to students attending private institutions whose income is not exempt from taxation under section 501(c) of the Internal Revenue Code and whose students were eligible to receive Iowa tuition grant moneys in the fiscal year beginning July 1, 2003. A for-profit institution which, effective March 9, 2005, purchased an accredited private institution that was exempt from taxation under section 501(c) of the Internal Revenue Code, shall be an eligible

institution under the Iowa tuition grant program. In the case of a qualified student who was enrolled in such accredited private institution that was purchased by the for-profit institution effective March 9, 2005, and who continues to be enrolled in the eligible institution in succeeding years, the amount the student qualifies for under this subsection shall be not less than the amount the student qualified for in the fiscal year beginning July 1, 2004.

Sec. 27. Section 261.25, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 28. NEW SECTION. 272.29 ANNUAL ADMINISTRATIVE RULES REVIEW.
The executive director shall annually review the administrative rules adopted pursuant to this chapter and related state laws. The executive director shall annually submit the executive director's findings and recommendations in a report to the board and the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education by January 15.

Sec. 29. Section 284.4, subsection 1, paragraph c, Code 2005, is amended to read as follows:
c. Provide, beginning in the fifth year of participation, the equivalent of ~~two~~ one additional contract ~~days~~ day, outside of instruction time, than ~~were~~ was 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 districtwide 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.

Sec. 30. Section 284.13, subsection 1, paragraphs a, d, and i, Code 2005, are amended by striking the paragraphs.

Sec. 31. Section 284.13, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:
b. For the fiscal year beginning July 1, ~~2004~~ 2005, and ending June 30, ~~2005~~ 2006, to the department of education, the amount of ~~one~~ two million ~~one hundred thousand~~ dollars for the issuance of national board certification awards in accordance with section 256.44. *_From the moneys allocated to the department pursuant to this paragraph, up to five thousand dollars shall be used for purposes of conducting a study of the impact the national board for professional teaching standards certification of Iowa's teachers has on student achievement and the advisability of continuing state funding pursuant to section 256.44. The department shall submit its findings and recommendations to the chairpersons and ranking members of the house and senate committees on education and the chairpersons and ranking members of the joint appropriations subcommittee on education by January 15, 2006._*
c. For the fiscal year beginning July 1, ~~2004~~ 2005, and succeeding fiscal years, an amount up to ~~three~~ four million ~~five~~ 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 dol-

* Item veto; see message at end of the Act

lars 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.

Sec. 32. Section 284.13, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. For the fiscal year beginning July 1, ~~2004~~ 2005, and ending June 30, ~~2005~~ 2006, up to ~~two~~ four hundred ~~fifty~~ eighty-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, and the evaluator training program in section 284.10. From the moneys allocated to the department pursuant to this paragraph, not less than ~~seventy-five~~ ten thousand dollars shall be ~~used to administer the ambassador to education position in accordance with section 256.45~~ distributed to the board of educational examiners for purposes of convening an educator licensing review working group. From the moneys allocated to the department pursuant to this paragraph, not less than eighty-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. Notwithstanding section 8.33, moneys allocated for purposes of this paragraph prior to July 1, 2004, which remain unobligated or unexpended at the end of the fiscal year for which the moneys were appropriated, shall remain available for expenditure for the purposes for which they were allocated, for the fiscal year beginning July 1, 2004, and ending June 30, 2005.

Sec. 33. Section 284.13, subsection 1, Code 2005, is amended by adding the following new paragraphs before paragraph h:

NEW PARAGRAPH. ga. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, up to ten million dollars to the department of education for use by school districts to add one additional teacher contract day to the school calendar. The department shall distribute funds allocated for the purpose of this paragraph based on the average per diem contract salary for each district as reported to the department for the school year beginning July 1, 2004, multiplied by the total number of full-time equivalent teachers in the base year. The department shall adjust each district's average per diem salary by the allowable growth rate established under section 257.8 for the fiscal year beginning July 1, 2005. The contract salary amount shall be the amount paid for their regular responsibilities but shall not include pay for extracurricular activities. A school district shall submit a report to the department in a manner determined by the department describing its use of the funds received under this paragraph. The department shall submit a report on school district use of the moneys distributed pursuant to this paragraph to the chairpersons and ranking members of the house and senate standing committees on education, the joint appropriations subcommittee on education, and the legislative services agency not later than January 15, 2006.

NEW PARAGRAPH. gb. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, up to six million six hundred twenty-five thousand dollars to the department of education for use by school districts for either salaries or professional development, or both, as determined by the school district. Funds received by a school district for purposes of this paragraph shall be distributed using the formula provided in paragraph "f" and are subject to the provisions of section 284.7, subsection 6. A school district shall submit a report to the department in a manner determined by the department describing its use of the funds received under this paragraph. The department shall submit a report on school district use of the funds distributed pursuant to this paragraph to the chairpersons and ranking members of the house and senate standing committees on education, the joint appropriations subcommittee on education, and the legislative services agency not later than January 15, 2006.

*NEW PARAGRAPH. *gc. For the fiscal year beginning July 1, 2005, and succeeding fiscal*

* Item veto; see message at end of the Act

*years, up to one million dollars to the department of education for purposes of the value-added assessment system established pursuant to section 256.24. The department shall allocate the moneys to school districts based upon the percentage of the budget enrollment of each school district for the fiscal year beginning July 1, 2004, compared to the budget enrollment of all school districts in the state for the fiscal year beginning July 1, 2004. The department shall distribute the moneys to a school district upon demonstration by the school district to the department that the school district agrees to participate in a qualified value-added assessment system.**

Sec. 34. Section 301.1, subsection 2, Code 2005, is amended to read as follows:

2. Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools. If the general assembly appropriates moneys for purposes of making textbooks available to accredited nonpublic school pupils, the department of education shall ascertain the amount available to a school district for the purchase of nonsectarian, nonreligious textbooks for pupils attending accredited nonpublic schools. The amount shall be in the proportion that the basic enrollment of a participating accredited nonpublic school bears to the sum of the basic enrollments of all participating accredited nonpublic schools in the state for the budget year. For purposes of this section, a "participating accredited nonpublic school" means an accredited nonpublic school that submits a written request on behalf of the school's pupils in accordance with this subsection, and that certifies its actual enrollment to the department of education by October 1, annually. By October 15, annually, the department of education shall certify to the director of the department of administrative services the annual amount to be paid to each school district, and the director of the department of administrative services shall draw warrants payable to school districts in accordance with this subsection. For purposes of this subsection, an accredited nonpublic school's enrollment count shall include only students who are residents of Iowa. The costs of providing textbooks to accredited nonpublic school pupils as provided in this subsection shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Textbook expenditures made in accordance with this subsection shall be kept on file in the school district. In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for purposes of this chapter shall be transferred to the school district in which the nonpublic school has relocated and may be made available to the nonpublic school. Funds distributed to a school district for purposes of purchasing textbooks in accordance with this subsection which remain unexpended and available for the purchase of textbooks for the nonpublic school that relocated in the fiscal year in which the funds were distributed shall also be transferred to the school district in which the nonpublic school has relocated.

Sec. 35. EFFECTIVE DATE. The section of this Act that amends section 257B.1B, being deemed of immediate importance, takes effect upon enactment.

Approved June 6, 2005, with noted exceptions.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 816, an Act relating to the funding of, the operation of, and appropriation of moneys to the College Student Aid Commission, the Department for the Blind, the

* Item veto; see message at end of the Act

Department of Cultural Affairs, the Department of Education, and the State Board of Regents and providing an effective date.

During my Condition of the State address in January, I asked the Legislature to seize an historic opportunity to work together as one — no Republican agenda, no Democrat agenda, only one shared agenda — an Iowa agenda. Today we can be proud that we started with education. Our children deserve and need a world-class education that prepares them for the challenge of global competition. Our children need the best if they hope to succeed with that competition and in life.

The best legislative efforts at the Iowa State Capitol occur when people work together. Clearly, no other issue facing Iowa is as important as education. The cornerstone of our society, education has received its rightful attention in recent years. Despite sluggish revenue growth, legislators and the Executive Branch have endeavored to improve student achievement, tie that achievement to teacher pay and reduce class sizes. This year marks the first significant infusion of dollars into the Student Achievement/Teacher Quality program since its inception. Teachers' salaries will move from 39th to 35th as a result with increased dollars flowing to local districts to support the continued development of classroom teachers' skills — the hallmark of the original program design.

Continuing opportunity in our outstanding community college and regents system is critical to our state's economic future. Increased funding will allow higher education in Iowa to remain both high-quality and affordable. At the same time, we support the transformational process being undertaken by the Board of Regents with a significant investment of state resources and increase support to community colleges that signifies the value of educational opportunity provided by our great community college system throughout the state.

This bill increases funding to all sectors of education and gives our children every opportunity for success by ensuring our earliest learners get a strong start by making a significant down payment on an early care, health and education system for our youngest Iowans. More children will have access to high quality programs, more parents will receive education and support, and more children will be ready to succeed in school.

House File 816 is approved on this date, with the following exceptions which I hereby disapprove:

I am unable to approve the item designated as Section 9 in its entirety. This section requires the Board of Educational Examiners to convene a working group to review current teacher and administrator preparation and licensing processes and make recommendations for improvement. Given that the Legislature failed to provide adequate funding for the Board of Educational Examiners it is inadvisable to add additional responsibilities to the Board at this time.

I am unable to approve the designated portion of Section 12, subsection 1, paragraph a, first unnumbered paragraph in its entirety. This sentence specifies that the Board of Regents, the Department of Management and the Legislative Services Agency 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 item designated as Section 19 in its entirety. Section 19 directs the Department of Education to establish a value-added assessment system to provide for multivariate longitudinal analysis of annual student test scores to determine the influence of a school district's education program on student academic growth. The creation of a value-added assessment system is redundant and unnecessary in light of the assessment models that

Iowa school districts have already implemented for continuous school improvement programs and to meet the requirements of the federal No Child Left Behind statute. Implementing this new system could have long-range unintended effects on existing local and state assessment systems.

I am unable to approve the item designated as a portion of Section 31, paragraph b. This section requires that $5,000 from the Student Achievement and Teacher Quality allocation for National Board Certification Awards be used to conduct a study of the impact the national board for professional teaching standards certification of Iowa's teachers has on student achievement. This section requires a research design that would cost far more than the $5,000 in resources provided to complete the study. In addition, the various studies underway nationally will provide sufficient information for decision-makers in Iowa to debate continuation of this program.

I am unable to approve the item designated as Section 33, third unnumbered paragraph in its entirety. The third unnumbered paragraph of Section 33 allocates up to $1,000,000 from the Student Achievement and Teacher Quality appropriation for the value-added assessment system. This appropriation is unnecessary with the veto of Section 19. In addition, an investment in Iowa's high quality teaching staff will pay more dividends than creating another assessment data base.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 816 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 170

APPROPRIATIONS — ECONOMIC DEVELOPMENT

H.F. 809

AN ACT relating to and making appropriations to the department of economic development, the office of the treasurer of state, certain board of regents institutions, the department of workforce development, and the public employment relations board, related matters, and providing an effective date.

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

ECONOMIC DEVELOPMENT

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.

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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION 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:

..... $ 1,956,332[1]
..... 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 administration 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:

..... $ 6,084,500
..... 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 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. A business creating jobs with economic development assistance through moneys appropriated in this subsection shall be subject to contract provisions stating that new and retained jobs shall be filled by individuals who are citizens of the United States who reside within the United States, or any person authorized to work in the United States pursuant to federal law, including legal resident aliens in the United States. Any vendor who receives such public moneys shall adhere to such contract provisions and provide periodic assurances as the state shall require, that the jobs are filled solely by citizens of the United States who reside within the United States, or any person authorized to work in the United States pursuant to federal law, including legal resident aliens in the United States.

d. From the moneys appropriated in this subsection, the department may provide financial assistance in the form of a grant to a community economic development entity for conducting a local workforce recruitment effort designed to recruit former citizens of the state and former students at colleges and universities in the state to meet the needs of local employers.

e. From the moneys appropriated under this subsection, the department may provide financial assistance to early-stage industry companies being established by women entrepreneurs.

f. From the moneys appropriated under this subsection, the department may provide financial assistance in the form of grants, loans, or forgivable loans for advanced research and commercialization projects involving value-added agriculture, advanced technology, or biotechnology.

[1] See chapter 179, §18 herein

g. 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 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:

..... $ 5,533,511
..... 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 appropriated in 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 expenditure for the designated purposes during the succeeding fiscal year.

e. *The department shall not charge a nonprofit, public entity a fee for placement of informational materials in a welcome center.

4. For allocating moneys for the world food prize:

..... $ 285,000

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 2.25 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, 2005, and ending June 30, 2006, 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

2. For the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

..... $ 120,000

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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

..... $ 100,000

* Item veto; see message at end of the Act

Sec. 6. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsection 5, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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, 2005, and ending June 30, 2006, 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, 2005, and ending June 30, 2006, 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, 2005, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2005, 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, 2005, and ending June 30, 2006, 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:

	$	2,363,557
	FTEs	56.63

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. 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. 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 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 services agency 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, 2005, and ending June 30, 2006, 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:

.....	$	247,005
.....	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. 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.

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, 2005, and ending June 30, 2006, 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:

.....	$	361,291
.....	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. 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.

Sec. 13. BOARD OF REGENTS REPORT. The state 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 services agency by January 15, 2006.

Sec. 14. 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, 2005, and ending June 30, 2006, 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, immigration services centers, for transfer to the boiler safety fund, for transfer to the elevator safety fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,151,919
.....	FTEs	86.45

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. The moneys generated by the filing fee allowed under this subsection are appropriated to the department of workforce development to be used for purposes of administering the division of workers' compensation.

4. 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.

5. 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. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, for the purposes designated:

DIVISION OF WORKERS' COMPENSATION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 471,000

Any remaining additional penalty and interest revenue may be allocated and used to accomplish the mission of the department.

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, 2005, and ending June 30, 2006, 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:

..... $ 923,850
..... FTEs 10.00

Sec. 17. ENDOW IOWA GRANTS APPROPRIATIONS.

1. There is appropriated from the general fund of the state to the department of economic development for the fiscal period beginning July 1, 2005, and ending June 30, 2008, 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 2005-2006 ..... $ 50,000
FY 2006-2007 ..... $ 50,000
FY 2007-2008 ..... $ 50,000

2. 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.

Sec. 18. NEW SECTION. 15G.110 APPROPRIATION.

For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated

to the department of economic development each fiscal year fifty million dollars from the general fund of the state for deposit in the grow Iowa values fund.

Sec. 19. NEW SECTION. 15G.111 APPROPRIATIONS.

1. a. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, if enacted,[2] to the department of economic development thirty-five million dollars for programs administered by the department of economic development.

b. Each year that moneys are appropriated under this subsection, the department shall allocate a percentage of the moneys for each of the following types of activities:

(1) Business start-ups.
(2) Business expansion.
(3) Business modernization.
(4) Business attraction.
(5) Business retention.
(6) Marketing.
(7) Research and development.

c. The department shall require an applicant for moneys appropriated under this subsection to include in the application a statement regarding the intended return on investment. A recipient of moneys appropriated under this subsection 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, shall develop a method of identifying and tracking each new job created and the leveraging of moneys through financial assistance from moneys appropriated under this subsection. The department of economic development shall identify research and development activities funded through financial assistance from not more than ten percent of the moneys appropriated under this subsection, and, instead of determining return on investment and job creation for the identified funding, determine the potential impact on the state's economy.

d. The department may use moneys appropriated under this subsection to procure technical assistance from either the public or private sector, for information technology purposes, for a statewide labor shed study, 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.

e. Of the moneys appropriated under this subsection, the department may use up to one and one-half percent for administrative purposes.

f. The Iowa economic development board shall approve or deny applications for financial assistance provided with moneys appropriated under this subsection. In providing such financial assistance, the board shall, whenever possible, coordinate the assistance with other programs administered by the department of economic development, including the community economic betterment program established in section 15.317 and the value-added agricultural products and processes financial assistance program established in section 15E.111.

g. It is the policy of this state to expand and stimulate the state economy by advancing, promoting, and expanding biotechnology industries in this state. To implement this policy, the Iowa economic development board shall consider providing assistance to projects that increase value-added income to individuals or organizations involved in agricultural business or biotechnology projects. Such a project need not create jobs specific to the project site; however, such a project must foster the knowledge and creativity necessary to promote the state's agricultural economy and to increase employment in urban and rural areas as a result.

2. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, if enacted,[3] to the department of economic development five million dollars for financial assistance to institutions of higher learning under the control of the state board of regents for capacity build-

[2] See chapter 150, §1 herein
[3] See chapter 150, §1 herein

ing infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under chapter 262B, if so amended. In allocating moneys to institutions under the control of the state board of regents, the board shall require the institutions to provide a one-to-one match of additional moneys for the activities funded with moneys appropriated under this subsection. The state board of regents shall annually prepare a report for submission to the governor, the general assembly, and the legislative services agency regarding the activities, projects, and programs funded with moneys appropriated under this subsection.

The state board of regents may allocate any moneys appropriated under this subsection and received from the department for financial assistance to a single biosciences development organization determined by the department to possess expertise in promoting the area of bioscience entrepreneurship. The organization must be composed of representatives of both the public and the private sector and shall be composed of subunits or subcommittees in the areas of existing identified biosciences platforms, education and workforce development, commercialization, communication, policy and governance, and finance. Such financial assistance shall be used for purposes of activities related to biosciences and bioeconomy development under chapter 262B, if so amended, and to accredited private universities in this state.[4]

3. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, if enacted,[5] to the department of economic development one million dollars for purposes of providing financial assistance for projects in targeted state parks, state banner parks, and destination parks. The department of natural resources shall submit a plan to the department of economic development for the expenditure of moneys appropriated under this subsection. The plan shall focus on improving state parks, state banner parks, and destination parks for economic development purposes. Based on the report submitted, the department of economic development shall provide financial assistance to the department of natural resources for support of state parks, state banner parks, and destination parks. For purposes of this subsection, "state banner park" means a park with multiple uses and which focuses on the economic development benefits of a community or area of the state.

4. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, if enacted,[6] to the office of the treasurer of state one million dollars for deposit in the Iowa cultural trust fund created in section 303A.4.

5. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, if enacted,[7] to the department of economic development seven million dollars for deposit into the workforce training and economic development funds of the community colleges created pursuant to section 260C.18A.

6. a. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, there is appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, if enacted,[8] to the department of economic development one million dollars for providing economic development region financial assistance under section 15E.232, subsections 3, 4, 5, and 6, if enacted,[9] and under section 15E.233, if enacted.[10]

b. Of the moneys appropriated in this subsection, the department shall transfer three hundred fifty thousand dollars each fiscal year for the fiscal period beginning July 1, 2005, and ending June 30, 2015, to Iowa state university of science and technology, for purposes of providing financial assistance to establish small business development centers in areas of the

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[4] See chapter 150, §2 herein
[5] See chapter 150, §1 herein
[6] See chapter 150, §1 herein
[7] See chapter 150, §1 herein
[8] See chapter 150, §1 herein
[9] See chapter 150, §10 herein
[10] See chapter 150, §11 herein

state previously served by a small business development center and to maintain existing small business development centers. Financial assistance for a small business development center shall not be awarded unless the city of[11] county where the center is located or scheduled to be located demonstrates the ability to obtain local matching moneys on a dollar-for-dollar basis. An award of financial assistance to a small business development center under this paragraph shall not exceed twenty thousand dollars.

c. Of the moneys appropriated under this subsection, the department may use up to fifty thousand dollars each fiscal year during the fiscal period beginning July 1, 2005, and ending June 30, 2015, for purposes of providing training, materials, and assistance to Iowa business resource centers.

7. 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. 20. NEW SECTION. 96.51 FIELD OFFICE OPERATING FUND.

A field office operating fund is created in the state treasury under the control of the department of workforce development. The fund is separate and distinct from the unemployment compensation fund. All moneys properly credited to and deposited in the fund are annually appropriated to the department of workforce development to be used for personnel and nonpersonnel costs of operating field offices.

Sec. 21. 2004 Iowa Acts, chapter 1175, section 50, is amended by adding the following new subsection:

NEW SUBSECTION. 5. For sole source grant costs associated with the hosting of the national special olympics in Iowa by a special olympics nonprofit entity, in addition to the amount appropriated for this purpose in 2004 Iowa Acts, chapter 1175, section 288, subsection 6, paragraph "b":

. . . . . $ 500,000

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. 22. 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. 23. 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. 24. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MONEYS. For the fiscal year beginning July 1, 2005, any entity that was specifically identified in 2001 Iowa Acts, chapter 188, to receive funding from the department of economic development, excluding any entity identified to receive a direct appropriation beginning July 1, 2005, may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.

Sec. 25. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2005, and ending June 30, 2006, the department of economic development shall explore the potential of allocating

[11] The word "or" probably intended

moneys to homeless shelter programs based in part on their ability to move their clients toward self-sufficiency.

Sec. 26. 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 administration of the unemployment compensation program only. This appropriation shall not apply to any fiscal year beginning after December 31, 2005.

Sec. 27. EFFECTIVE DATE. Section 21 of this Act amending 2004 Iowa Acts, chapter 1175, section 50, being deemed of immediate importance, takes effect upon enactment.

Approved June 9, 2005, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 809, an Act relating to and making appropriations to the department of economic development, the office of the treasurer of state, certain board of regents institutions, the department of workforce development, and the public employee relations board, related matters, and providing an effective date.

House File 809 is approved on this date with the following exception, I am unable to approve the item designated as Section 2, Subsection 3, paragraph e in its entirety. It is critically important that the state's interstate welcome centers remain open seven days a week and allowed to serve the nearly 250,000 travelers that visit those centers annually. Currently, over 50 percent of the brochure enrollment revenue comes from non-profit organizations. Without that, the centers would be closed several days a week.

For the above reasons, I respectfully disapprove this item in accordance with Article 3, Section 16 of the Constitution of the State of Iowa. All other items in House File 809 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 171

APPROPRIATIONS — JUDICIAL BRANCH

H.F. 807

AN ACT relating to and making appropriations to the judicial branch, and providing an effective date.

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

JUDICIAL BRANCH

Section 1. JUDICIAL BRANCH.

1. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. 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, 2005, and maintenance, equipment, and miscellaneous purposes:

. . . . . $ 118,404,282[1]

b. For an initial grant to be determined by the state court administrator, for the establishment of a youth enrichment pilot project[2] located in a county with a population greater than three hundred thousand that is involved in a public and private partnership pursuing life skills, education, and mentoring programs for offenders between the ages of sixteen and twenty-two who have been charged with a felony:

. . . . . $ 100,000

2. 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.

3. The judicial branch shall submit monthly financial statements to the legislative services agency 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 administrative services. 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.

4. The judicial branch shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

5. 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.

6. The judicial branch shall study the best practices and efficiencies of each judicial district. In identifying the most efficient judicial districts and the districts using best practices, the judicial branch shall consider the average cost to the judicial branch for processing each classification of criminal offense or civil action and the overall number of cases filed. The judicial branch shall file a report regarding the study made and actions taken pursuant to this subsection with the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative services agency by December 15, 2005.

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[1] See chapter 179, §46 herein

[2] See chapter 179, §49 herein

7. 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 services agency. The notice shall include information on the branch's rationale for making the changes and details concerning the workload and performance measures upon which the changes are based.

8. The judicial branch shall submit a semiannual update to the legislative services agency 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.

9. The judicial branch shall provide a report to the general assembly by January 1, 2006, 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, 2004, and ending June 30, 2005, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2005, and ending June 30, 2006. A copy of the report shall be provided to the legislative services agency.

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, 2005, and ending June 30, 2006, 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 9.7 percent of the basic salaries of the judges covered under chapter 602, article 9:

. . . . . $ 2,039,664

Sec. 3. Section 602.6401, subsection 1, Code 2005, is amended to read as follows:

1. ~~One~~ Two hundred ~~ninety-one~~ six magistrates shall be apportioned among the counties as provided in this section. Magistrates appointed pursuant to section 602.6402 shall not be counted for purposes of this section.

Sec. 4. NEW SECTION. 602.8102A NOTICES RETURNED FOR UNKNOWN ADDRESS — RESENDING.

Notwithstanding any other provision of the Code to the contrary, and subject to rules prescribed by the supreme court, if the clerk of the district court sends a mailing or notice to a person or party and the mailing or notice is returned by the postal service to the clerk of the district court as undeliverable, the clerk is not required to send a repeat or subsequent mailing or notice unless the clerk receives an updated mailing address.

Sec. 5. Section 602.8105, subsection 2, Code 2005, is amended to read as follows:

2. The clerk of the district court shall collect the following fees for miscellaneous services:

a. For filing, entering, and endorsing a mechanic's lien, twenty dollars, and if a suit is brought, the fee is taxable as other costs in the action.

b. For filing and entering an agricultural supply dealer's lien and any other statutory lien, twenty dollars.

c. For a certificate and seal, ten dollars. However, there shall be no charge for a certificate and seal to an application to procure a pension, bounty, or back pay for a member of the armed services or other person.

d. For certifying a change in title of real estate, twenty dollars.

e. For filing a praecipe to issue execution under chapter 626, twenty-five dollars.

f. For filing a praecipe to issue execution under chapter 654, fifty dollars.

g. For filing a confession of judgment under chapter 676, fifty dollars if the judgment is five thousand dollars or less, and one hundred dollars if the judgment exceeds five thousand dollars.

~~e.~~ h. Other fees provided by law.

Sec. 6. Section 901.4, Code 2005, 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 court shall ~~serve~~ send a copy of all of the presentence investigation report ~~upon~~ by ordinary or electronic mail, to 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 by ordinary or electronic mail 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. Pursuant to section 904.602, the presentence investigation report may also be released by ordinary or electronic mail by the department of corrections or a judicial district department of correctional services to another jurisdiction for the purpose of providing interstate probation and parole compact or interstate compact for adult offender supervision 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 by ordinary or electronic mail to the department.

Sec. 7. STUDY OF COURT RULES RELATING TO TRIBAL COURTS. The general assembly acknowledges that contact and interaction between the Iowa court system and federally recognized tribal courts are ever increasing and the general assembly urges the Iowa supreme court to study this interaction and consider developing and prescribing rules that relate to the tribal court system, tribal court orders, judgments, and decrees.

Sec. 8. Section 607A.8, Code 2005, is amended to read as follows:

607A.8 FEES AND EXPENSES FOR JURORS.

Grand jurors and petit jurors in all courts shall receive ten dollars as compensation for each day's service or attendance, including attendance required for the purpose of being considered for service, reimbursement for mileage expenses at the rate specified in section 602.1509 for each mile traveled each day to and from their residences to the place of service or attendance, and reimbursement for actual expenses of parking, as determined by the clerk. The supreme court may adopt rules that allow additional compensation for jurors whose attendance and service exceeds seven days. A juror who is a person with a disability may receive reimbursement for the costs of alternate transportation from the juror's residence to the place of service or attendance. A juror shall not receive reimbursement for mileage expenses or actual expenses of parking when the juror travels in a vehicle for which another juror is receiving reimbursement for mileage and parking expenses.

Sec. 9. 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. 10. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE SERVICES AGENCY. All reports or copies of reports required to be provided by the judicial branch for fiscal year 2005-2006 to the legislative services agency shall be provided in an electronic format. The legislative services agency 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. 11. EFFECTIVE DATE. The section of this Act appropriating funds that are contingent upon the general fund of the state receiving funds from the Microsoft settlement, being deemed of immediate importance, takes effect upon enactment.

Approved June 14, 2005, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 807, an Act relating to and making appropriations to the judicial branch, and providing an effective date.

House File 807 is approved on this date, with the following exception, which I hereby disapprove:

I am unable to approve the item designated as Section 11 in its entirety. This section deals with a reference to a contingent appropriation from the Microsoft settlement and would have it be effective upon enactment. The language making the contingent appropriation was removed during session, thereby making this section unnecessary.

For the above reasons, I respectfully disapprove this item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 807 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

* Item veto; see message at end of the Act

CHAPTER 172

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

H.F. 808

AN ACT relating to and making appropriations involving state government, including provisions affecting agriculture and natural resources, and provisions relating to a wind energy production tax credit, and providing for fees.

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

AGRICULTURE AND NATURAL RESOURCES
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
GENERAL APPROPRIATIONS

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, 2005, and ending June 30, 2006, 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:

.....	$	17,213,319
.....	FTEs	412.52

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
DESIGNATED APPROPRIATIONS

Sec. 2. SENIOR FARMERS MARKET NUTRITION PROGRAM. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering a senior farmers market nutrition program, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	77,000
.....	FTEs	1.00

Sec. 3. CHRONIC WASTING DISEASE. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering a chronic wasting disease control program for the control of chronic wasting disease which threatens farm deer as provided in chapter 170, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	100,000
.....	FTEs	1.60

The program may include procedures for the inspection and testing of farm deer, responses to reported cases of chronic wasting disease, and methods to ensure that owners of farm deer may engage in the movement and sale of farm deer.

Sec. 4. 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, 2005,

and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of supporting the department's membership in the state interagency Missouri river authority, created in section 28L.1, in the Missouri river basin association:

. . . . . $ 9,535

Sec. 5. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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. 6. 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, 2005, and ending June 30, 2006, 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, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 643,166

Sec. 7. AVIAN INFLUENZA. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the support of testing and monitoring avian influenza:

. . . . . $ 50,000

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 the continued testing and monitoring of avian influenza until the close of the succeeding fiscal year.

Sec. 8. APIARY REGULATION. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For support of apiary regulation as provided in chapter 160, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 40,000

Sec. 9. SOIL AND WATER CONSERVATION DISTRICTS. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of reimbursing commissioners of soil and water conservation districts for administrative expenses including but not limited to travel expenses, technical training, and professional dues:

. . . . . $ 250,000[1]

A soil and water conservation district receiving moneys from an allocation provided pursuant to this section shall submit a report to the soil conservation division of the department of agriculture and land stewardship by January 1, 2006, accounting for moneys which have been expended or unexpended or which have been obligated or encumbered. The report shall state how the moneys were used.

[1] See chapter 179, §36 herein

DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

Sec. 10. 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, 2005, and ending June 30, 2006, 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:

..... $ 16,883,439
..... FTEs 1,105.46

Sec. 11. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... $ 31,370,766

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 services agency and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

Sec. 12. GROUNDWATER PROTECTION FUND. There is appropriated from the groundwater protection fund created in section 455E.11 to the department of natural resources for the fiscal year beginning July 1, 2005, and ending June 30, 2006, from those moneys which are not allocated pursuant to that section, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes related to providing for groundwater quality:

..... $ 3,455,832

DEPARTMENT OF NATURAL RESOURCES
RELATED TRANSFERS

Sec. 13. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2005, from the fees required to be deposited in the special snowmobile 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, 2005, and ending June 30, 2006, 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. 14. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2005, 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, 2005, and ending June 30, 2006, 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.

DEPARTMENT OF NATURAL RESOURCES
DESIGNATED APPROPRIATIONS

Sec. 15. 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, 2005, and ending June 30, 2006, 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. 16. FLOODPLAIN PERMIT BACKLOG. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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. 17. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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

IOWA STATE UNIVERSITY
DESIGNATED APPROPRIATION

Sec. 18. OPEN FEEDLOTS HOUSING BEEF CATTLE — WATER QUALITY RESEARCH PROJECT. There is appropriated from the agrichemical remediation fund created in section 161.7 to Iowa state university for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting a water quality research project which studies the effectiveness of alternative technologies used to reduce risks to water quality from effluent originating from open feedlots which house beef cattle:

..... $ 100,000

In conducting the project, Iowa state university shall cooperate with the Iowa cattlemen's association, the department of natural resources, the department of agriculture and land stew-

ardship, and the United States department of agriculture natural resource conservation service.

DEPARTMENT OF AGRICULTURE
AND LAND STEWARDSHIP
HORSE AND DOG
REGULATION — FEES

Sec. 19. Section 99D.22, subsection 3, paragraph d, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Establish a registration fee imposed on each horse which is a thoroughbred, quarter horse, or standardbred which shall be paid by the breeder of the horse. The department shall not impose the registration fee more than once on each horse. The amount of the registration fee shall not exceed thirty dollars. The moneys paid to the department from registration fees shall be considered repayment receipts as defined in section 8.2, and shall be used for the administration and enforcement of this subsection.

Sec. 20. Section 99D.22, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. The department of agriculture and land stewardship shall adopt rules establishing a schedule of registration fees to be imposed on owners of dogs that are whelped and raised for the first six months of their lives in Iowa for purposes of promoting native dogs as provided in this chapter, including section 99D.12 and this section. The amount of the registration fees shall be imposed as follows:

(1) An owner of a dam registering the dam, twenty-five dollars.

(2) An owner of a litter registering the litter, ten dollars.

(3) An owner of a dog registering the dog, five dollars.

b. The moneys paid to the department from registration fees as provided in paragraph "a" shall be considered repayment receipts as defined in section 8.2, and shall be used for the administration and enforcement of programs for the promotion of native dogs.

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
AND DEPARTMENT OF NATURAL RESOURCES
DEER REGULATION AND FEES

Sec. 21. NEW SECTION. 170.3A CHRONIC WASTING DISEASE CONTROL PROGRAM.

The department shall establish and administer a chronic wasting disease control program for the control of chronic wasting disease which threatens farm deer. The program shall include procedures for the inspection and testing of farm deer, responses to reported cases of chronic wasting disease, and methods to ensure that owners of farm deer may engage in the movement and sale of farm deer.

Sec. 22. NEW SECTION. 170.3B FARM DEER ADMINISTRATION FEE.

The department may establish a farm deer administration fee which shall be annually imposed on each landowner who keeps farm deer in this state. The amount of the fee shall not exceed two hundred dollars per year. The fee shall be collected by the department in a manner specified by rules adopted by the department after consulting with the farm deer council established in section 170.2. The collected fees shall be credited to the farm deer administration fund created pursuant to section 170.3C.

Sec. 23. NEW SECTION. 170.3C FARM DEER ADMINISTRATION FUND — APPROPRIATION.

A farm deer administration fund is created in the state treasury under the control of the department.

1. The fund shall be composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund. The fund shall include all moneys collected from the farm deer administration fee as provided in section 170.3B.

2. The moneys in the fund are appropriated exclusively to the department for the purpose of administering the chronic wasting disease control program as provided in section 170.3A.

3. Section 8.33 shall not apply to moneys credited to the fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

Sec. 24. Section 483A.24, subsection 2, paragraph c, if enacted by 2005 Iowa Acts, Senate File 206,[2] section 8, is amended to read as follows:

c. Upon written application on forms furnished by the department, the department shall issue annually without fee two deer hunting licenses, one antlered or any sex deer hunting license and one antlerless deer only deer hunting license, to the owner of a farm unit or a member of the owner's family, but only a total of two licenses for both, and to the tenant of a farm unit or a member of the tenant's family, but only a total of two licenses for both. The deer hunting licenses issued shall be valid only for use on the farm unit for which the applicant applies pursuant to this paragraph. The owner or the tenant need not reside on the farm unit to qualify for the free deer hunting licenses to hunt on that farm unit. The free deer hunting licenses issued pursuant to this paragraph shall be valid and may be used during any shotgun deer season. The licenses may be used to harvest deer in two different seasons. In addition, a person who receives a free deer hunting license pursuant to this paragraph shall pay a one dollar fee for each license that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

Approved June 14, 2005

CHAPTER 173

APPROPRIATIONS — ADMINISTRATION AND REGULATION

H.F. 810

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, and providing an effective date.

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

Section 1. 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, 2005, and ending June 30, 2006, 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:

.....	$	4,798,641
.....	FTEs	423.20

[2] Chapter 139 herein

In addition to the amount appropriated in this subsection, the department is authorized to expend an additional amount not to exceed $359,560 for the purposes designated in this subsection. Such amount shall be expended from general fund moneys deposited in revolving funds under the control of the department that were appropriated to the department pursuant to 2004 Iowa Acts, chapter 1175, section 2. The department shall develop a plan for repayment to the general fund of the total amount appropriated to the department for start-up funding for revolving funds under the control of the department pursuant to 2004 Iowa Acts, chapter 1175, section 2. Any amount expended pursuant to this paragraph shall be considered a repayment amount to the general fund and shall reduce the total amount to be repaid to the general fund under the plan developed by the department. The department shall submit the plan for repayment to the department of management for approval. Upon review and approval by the department of management, the department of administrative services shall submit the plan to the general assembly for its review.

UTILITY COSTS

2. For the payment of utility costs:

..... $ 3,080,865

Notwithstanding section 8.33, 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, 2006.

3. For distribution to other departments:

..... $ 158,295

Moneys appropriated in this subsection shall be separately accounted for in a distribution account and shall be distributed to other governmental entities based upon formulas established by the department to pay for services provided governmental entities by the department as described in chapter 8A.

4. 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.

5. Any funds and premiums collected by the department for workers' compensation shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims and administrative costs. 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.

Sec. 2. REVOLVING FUNDS. There is appropriated to the department of administrative services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, from the revolving funds designated in chapter 8A and from internal service funds created by the department, such amounts as the department deems necessary for the operation of the department consistent with the requirements of chapter 8A.

Sec. 3. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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 established by section 8A.224 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.

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. 4. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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. 5. 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, 2005, and ending June 30, 2006, 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:

.....	$	1,207,341
.....	FTEs	105.50

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 services agency of the additional full-time equivalent positions retained.

Sec. 6. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	457,864
.....	FTEs	6.00

Sec. 7. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,883,441
.....	FTEs	34.00

2. BANKING DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	6,793,223
.....	FTEs	71.00

3. CREDIT UNION DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,382,568
.....	FTEs	18.00

4. INSURANCE DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,369,854
.....	FTEs	101.00

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 services agency, 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.

c. The insurance division shall allocate $10,000 from the examination receipts for the payment of its fees to the national council of insurance legislators.[1]

5. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 836,921
..... FTEs 12.75

Of the appropriation made and FTEs authorized in this subsection, $54,250 and 0.75 FTEs are contingent upon the enactment of 2005 Iowa Acts, Senate File 405.[2]

6. UTILITIES DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,000,000
..... 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 services agency, 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.

7. CHARGES — TRAVEL. 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 administrative services. 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. 8. 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, 2005, and ending June 30, 2006, 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. 9. 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, 2005, and ending June 30, 2006, 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

[1] The phrase "national conference of insurance legislators" probably intended

[2] Chapter 104 herein

governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

	$	1,729,857
	FTEs	19.25

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:

	$	343,149
	FTEs	8.00

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:

	$	136,458
	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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	111,236
	FTEs	2.00

Sec. 10. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and 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:

	$	313,195[3]
	FTEs	9.00

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. 11. 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, 2005, and ending June 30, 2006, 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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	312,660
	FTEs	7.00

2. DEAF SERVICES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	362,710
	FTEs	6.00

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] See chapter 179, §33 herein

3. STATUS OF IOWANS OF ASIAN AND PACIFIC ISLANDER HERITAGE DIVISION
For support, maintenance, and miscellaneous purposes:
..... $ 6,000
4. PERSONS WITH DISABILITIES DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 184,971
..... FTEs 3.50
5. LATINO AFFAIRS DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 166,718
..... FTEs 3.00
6. STATUS OF WOMEN DIVISION
For salaries, support, maintenance, and 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:
..... $ 329,530
..... FTEs 3.00
7. STATUS OF AFRICAN-AMERICANS DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 119,991
..... FTEs 2.00
8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 752,398
..... FTEs 8.18
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.
9. 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. 12. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, for the purposes designated:
1. ADMINISTRATION DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 1,564,755[4]
..... FTEs 32.25
2. ADMINISTRATIVE HEARINGS DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 614,114
..... FTEs 23.00
3. INVESTIGATIONS DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 1,407,295
..... FTEs 41.00

[4] See chapter 179, §34 herein

4. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,356,836
..... FTEs 113.25

Of the funds appropriated in this subsection, $80,000 and 1.00 FTE shall be used for the operation, expansion, and maintenance of the direct care worker registry.[5]

5. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 52,869
..... 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.

6. CHILD ADVOCACY BOARD

For foster care review and the court appointed special advocate program, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,962,059
..... FTEs 38.99

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. The court appointed special advocate program shall investigate and develop opportunities for expanding fund-raising for the program.

c. 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. 13. 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, 2005, and ending June 30, 2006, 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:

..... $ 2,574,702
..... FTEs 27.53

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, 2005, and ending June 30, 2006, 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 en-

[5] See chapter 179, §48 herein

forcement of the excursion boat gambling laws, and for not more than the following full-time equivalent positions:

	$	2,417,052
	FTEs	35.22

Sec. 14. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to sections 423.26 and 423.27 prior to their deposit in the road use tax fund pursuant to section 423.43 to the administrative hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

	$	1,424,042

Sec. 15. 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, 2005, and ending June 30, 2006, 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, and for not more than the following full-time equivalent positions:

	$	2,164,904
	FTEs	32.00

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, 2005, then there is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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 of the enterprise resource planning system, and for not more than the following full-time equivalent position:

	$	57,435
	FTEs	1.00

3. SALARY MODEL ADMINISTRATOR

For salary, support, and miscellaneous purposes of the salary model administrator, and for not more than the following full-time equivalent position:

	$	123,598
	FTEs	1.00

The salary model administrator shall work in conjunction with the legislative services agency 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, the department of administrative services, the five institutions under the jurisdiction of the state board of regents, the judicial district departments of correctional services, and the state department of transportation shall provide salary data to the department of management and the legislative services agency 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 services agency. 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.

Sec. 16. 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, 2005, and ending June 30, 2006, 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

Sec. 17. 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, 2005, and ending June 30, 2006, 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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 660,233
. . . . . FTEs 10.00

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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 1,837,967
. . . . . FTEs 32.00

3. BIENNIAL REPORTING

For administering the biennial reporting requirements for limited liability companies as required in section 490A.131, if enacted by 2005 Iowa Acts, House File 859:[6]

. . . . . $ 275,000

Sec. 18. 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, 2005, and ending June 30, 2006, 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, chapter 17A.

Sec. 19. 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 851,261
. . . . . FTEs 28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 20. IPERS — GENERAL OFFICE. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and other operational purposes to pay the costs of the

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* Item veto; see message at end of the Act

[6] Chapter 135, §109 herein

Iowa public employees' retirement system, and for not more than the following full-time equivalent positions:

..... $ 10,582,931
..... FTEs 95.13

Sec. 21. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 26,623,360[7]
..... FTEs 400.66

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 423B and 423E.

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 17, without cost to a city or county.

The department of revenue shall submit a written report to the general assembly by January 1, 2006, concerning the department's progress in developing a system to track tax credits.

2. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... $ 27,462

Sec. 22. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor fuel tax fund created by section 452A.77 to the department of revenue for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

..... $ 1,249,847

Sec. 23. 2004 Iowa Acts, chapter 1175, section 1, subsection 3, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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 until the close of the succeeding fiscal year.

Sec. 24. 2004 Iowa Acts, chapter 1175, section 7, unnumbered paragraph 2, is amended to read as follows:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~411,296~~
419,296
..... FTEs 6.00

Sec. 25. 2004 Iowa Acts, chapter 1175, section 12, subsection 4, is amended to read as follows:

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

..... $ ~~64,393~~
364,393

[7] See chapter 179, §35 herein

Of the funds appropriated in this subsection, $300,000 is allocated for security-related costs and other expenses associated with the national governors association national meeting. Notwithstanding section 8.33, the moneys allocated for the meeting 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.[8]

Sec. 26. 2004 Iowa Acts, chapter 1175, section 16, subsection 2, is amended to read as follows:

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, 2004, and ending June 30, 2005, 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:

..... $ ~~1,806,048~~
1,856,048

..... FTEs 30.22

Of the funds appropriated in this subsection, $50,000 is allocated for costs associated with the examination of new gaming license applications.

Sec. 27. NEW SECTION. 8.7 REPORTING OF GIFTS RECEIVED.

All gifts, bequests, and grants received by a department or accepted by the governor on behalf of the state shall be reported to the Iowa ethics and campaign disclosure board and the government oversight committees. The ethics and campaign disclosure board shall, by January 31 of each year, submit to the fiscal services division of the legislative services agency a written report listing all gifts, bequests, and grants received during the previous calendar year with a value over one thousand dollars and the purpose for each such gift, bequest, or grant. The submission shall also include a listing of all gifts, bequests, and grants received by a department from a person if the cumulative value of all gifts, bequests, and grants received by the department from the person during the previous calendar year exceeds one thousand dollars, and the ethics and campaign disclosure board shall include, if available, the purpose for each such gift, bequest, or grant. However, reports on gifts, grants, or bequests filed by the state board of regents pursuant to section 8.44 shall be deemed sufficient to comply with the requirements of this section.

Sec. 28. EFFECTIVE DATE. The sections of this Act amending 2004 Iowa Acts, chapter 1175, being deemed of immediate importance, take effect upon enactment.

Approved June 14, 2005, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 810, 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, and providing an effective date.

House File 810 is approved on this date, with the following exception, which I hereby disapprove:

[8] See chapter 179, §21 herein

I am unable to approve the item designated as Section 17, subsection 1, second unnumbered paragraph in its entirety. This paragraph requires the Department of Administrative Services to provide data processing services to the Secretary of State's Office to support voter registration file maintenance and storage at no charge. When the Department of Administrative Services was created, it was designed to bring an entrepreneurial management model to state government to generate more efficient services and a more accountable government. Exempting a single agency from paying for services it receives is counter to the business model, causes rates for all other customers of the Department to increase, and creates a federal over-recovery issue for the Department. This is a policy I cannot support.

For the above reasons, I respectfully disapprove this item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 810 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 174

APPROPRIATIONS — JUSTICE SYSTEM

H.F. 811

AN ACT relating to and making appropriations to the justice system, revising pretrial release requirements for certain criminal offenses, and providing an effective date.

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

DIVISION I
FY 2005-2006 APPROPRIATIONS
JUSTICE SYSTEM

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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the general office of attorney general for salaries, support, maintenance, miscellaneous purposes including the prosecuting attorneys 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:

..... $ 8,024,280[1]
..... FTEs 214.50

It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph, the department of justice shall maintain a record of the estimated time incurred representing each agency or department.

b. For victim assistance grants:

..... $ 5,000

[1] See chapter 179, §43 herein

The funds appropriated in this lettered paragraph 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.

c. For legal services for persons in poverty grants as provided in section 13.34:
..... $ 900,000

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, 2005, and ending June 30, 2006, 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 co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by November 15, 2005.

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, 2005, and ending June 30, 2006, 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 co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by November 15, 2005, the department's actual costs and an estimate of the time incurred in providing education pursuant to and enforcing this subsection.

4. 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. As a condition of receiving the appropriation in subsection 1, the department of justice shall transfer at least $2,450,000 from the victim compensation fund established in section 915.94 to the victim assistance grant program.

6. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2006, 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, 2004, and actual and expected reimbursements for the fiscal year commencing July 1, 2005.

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 services agency. The department of justice shall submit the report on or before January 15, 2006.

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, 2005, and ending June 30, 2006, 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 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 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, 2005, and ending June 30, 2006, 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:

..... $ 2,810,442
..... 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, 2005, and ending June 30, 2006, 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, and miscellaneous purposes:

..... $ 38,840,761

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 27,199,702

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.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 25,650,778

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 24,916,132

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
. . . . . $ 23,694,840
f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
. . . . . $ 8,039,378
g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
. . . . . $ 22,853,497
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.
h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
. . . . . $ 13,867,603
i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
. . . . . $ 26,244,693
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
k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:
. . . . . $ 241,293
2. The department of corrections shall use funds appropriated in subsection 1 to continue to contract for the services of a Muslim imam.

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, 2005, and ending June 30, 2006, 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 to administer a centralized education program for the correctional system, and miscellaneous purposes:
. . . . . $ 2,829,708
(1) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered 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, 2005, for the privatization of services performed by the department using state employees as of July 1, 2005, 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 co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system.
(2) 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.
(3) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered 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:

. . . . . $ 1,058,358

It is the intent of the general assembly that moneys appropriated in this lettered 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 lettered paragraph 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 lettered 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 lettered paragraph until the close of the succeeding fiscal year.

c. For the development of the Iowa corrections offender network (ICON) data system:

. . . . . $ 427,700

d. For offender mental health and substance abuse treatment:

. . . . . $ 125,000[2]

2. 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, 2005, 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, 2005, 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.

3. 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 co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system by December 1, 2005, regarding the feasibility of expanding the number of acres devoted to organic gardening and to the growing of organic produce for sale.

4. The department of corrections shall submit a report to the general assembly by January 1, 2006, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2004, 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 services agency on a monthly basis concerning moneys recouped from inmate earnings pursuant to sections 904.702, 904.809, and 905.14.

5. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph,[3] the department shall not enter into any agreement with a private sector nongovernmental entity for the purpose of housing inmates committed to the

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[2] See chapter 179, §44 herein

[3] The phrase "the appropriation provided in this section" probably intended

custody of the director of the department, without express authorization of the general assembly to do so.

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, 2005, and ending June 30, 2006, 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:

. . . . . $ 10,501,186

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:

. . . . . $ 8,230,603

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:

. . . . . $ 4,805,458

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:

. . . . . $ 4,427,796

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, and funding for electronic monitoring devices for use on a statewide basis, the following amount, or so much thereof as is necessary:

. . . . . $ 14,167,169

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:

. . . . . $ 10,378,668

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:

. . . . . $ 5,870,653

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:

. . . . . $ 5,970,648

As a condition of the funds appropriated in this paragraph, the eighth judicial district department of correctional services shall establish a drug court that uses the community-panel model.

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.

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* Item veto; see message at end of the Act

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. The department of corrections shall continue to contract with a judicial district department of correctional services to provide for the rental of electronic monitoring equipment which shall be available statewide.

Sec. 7. INTENT — REPORTS.

1. The department of corrections shall submit a report on inmate labor to the general assembly, to the co-chairpersons and the ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by January 15, 2006. 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.

2. The department in cooperation with townships, the Iowa cemetery associations, and other nonprofit or governmental entities may use inmate labor to restore or preserve rural cemeteries and historical landmarks. The department in cooperation with the counties may also use inmate labor to clean up roads, major water sources, and other water sources around the state.

3. Each month the department shall provide a status report regarding private-sector employment to the legislative services agency beginning on July 1, 2005. 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. ELECTRONIC MONITORING REPORT. The department of corrections shall submit a report on electronic monitoring to the general assembly, to the co-chairpersons and the ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by January 15, 2006. The report shall specifically address the number of persons being electronically monitored and break down the number of persons being electronically monitored by offense committed. The report shall also include a comparison of any data from the prior fiscal year with the current year.

Sec. 9. 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. 10. 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, 2005, and ending June 30, 2006, 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:

..... $ 18,444,964
..... 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:

..... $ 21,163,082

Sec. 11. 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, 2005, and ending June 30, 2006, 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:

..... $ 1,075,138
..... FTEs 30.05

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.

The Iowa law enforcement academy may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

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 department of administrative services 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. 12. 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, 2005, and ending June 30, 2006, 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:

..... $ 1,121,044
..... FTEs 17.50

Sec. 13. 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, 2005, and ending June 30, 2006, 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:

..... $ 5,130,040
..... FTEs 312.55

The military division may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables of federal funds equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

2. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,172,230
..... FTEs 24.75

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, 2005, and ending June 30, 2006, 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:

..... $ 3,073,274
..... FTEs 38.00

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:

..... $ 14,760,898
..... FTEs 228.50

3. For the criminalistics laboratory fund, if created in section 602.8108:

..... $ 342,000

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, 2005, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2005. One additional gaming enforcement officer, up to a total of four per riverboat, 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.

4. 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:

..... $ 4,701,141
..... FTEs 75.00

b. For the division of narcotics enforcement for undercover purchases:

..... $ 123,343

5. 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:

..... $ 2,256,998
..... FTEs 42.00

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:

..... $ 638,021
..... FTEs 10.00

Of the amount appropriated in this paragraph, the state fire marshal shall allocate $200 for the mailing of a notice to all affected agencies or emergency services providers informing the agencies or providers about the requirement of an autopsy under section 144.56A.

6. For the division of the Iowa state patrol of the department of public safety, for salaries,

* Item veto; see message at end of the Act

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:

. . . . . $ 43,076,973
. . . . . FTEs 531.00

It is the intent of the general assembly that members of the Iowa state patrol be assigned to patrol the highways and roads in lieu of assignments for inspecting school buses for the school districts.

7. 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:

. . . . . $ 316,179

An employee of the department of public safety who retires after July 1, 2005, but prior to June 30, 2006, 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:

. . . . . $ 699,587
. . . . . 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 950,788
. . . . . FTEs 27.50

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. DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING. In addition to any other funds appropriated to the division of criminal and juvenile justice planning of the department of human rights, there is appropriated from the general fund of the state to the division of criminal and juvenile justice planning for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the establishment and administration of the sex offender treatment and supervision task force:

. . . . . $ 75,000

Sec. 17. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION. There is appropriated from the wireless E911 emergency communications fund to the admin-

istrator of the homeland security and emergency management division of the department of public defense for the fiscal year beginning July 1, 2005, and ending June 30, 2006, an amount not exceeding two hundred thousand dollars to be used for implementation, support, and maintenance of the functions of the administrator and program manager under chapter 34A and to employ the auditor of the state to perform an annual audit of the wireless E911 emergency communications fund.

Sec. 18. IOWA LAW ENFORCEMENT ACADEMY — FEES. Notwithstanding section 80B.11B, the Iowa law enforcement academy may charge more than one-half the cost of providing the basic training course if a majority of the Iowa law enforcement academy council authorizes charging more than one-half of the cost of providing basic training. This section is repealed on June 30, 2006.

Sec. 19. NEW SECTION. 144.56A PUBLIC SAFETY OFFICER DEATH — REQUIRED NOTICE — AUTOPSY.

A person who is authorized to pronounce individuals dead is required to inform one of the persons authorized to request an autopsy, as provided in section 144.56, that an autopsy will be required if the individual who died was a public safety officer who may have died in the line of duty and an eligible beneficiary of the deceased seeks to claim a federal public safety officer death benefit.

Sec. 20. Section 158.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Offenders committed to the custody of the director of the department of corrections who cut the hair, or trim or shave the beard of any other offender within a correctional facility, without receiving direct compensation from the person receiving the service.

DIVISION II
METHAMPHETAMINE BAIL
PROVISIONS

Sec. 21. Section 804.21, subsection 1, Code 2005, as amended by 2005 Iowa Acts, Senate File 169,[4] section 7, is amended to read as follows:

1. A person arrested in obedience to a warrant shall be taken without unnecessary delay before the nearest or most accessible magistrate. The officer shall at the same time deliver to the magistrate the warrant with the officer's return endorsed on it and subscribed by the officer with the officer's official title. However, this section, and sections 804.22 and 804.23, do not preclude the release of an arrested person within the period of time the person would otherwise remain incarcerated while waiting to be taken before a magistrate if the release is pursuant to pretrial release guidelines or a bond schedule promulgated by the judicial council, unless the person is charged with manufacture, delivery, possession with intent to manufacture or deliver, or distribution of methamphetamine. If, however, a person is released pursuant to pretrial release guidelines, a magistrate must, within twenty-four hours of the release, or as soon as practicable on the next subsequent working day of the court, either approve in writing of the release, or disapprove of the release and issue a warrant for the person's arrest.

Sec. 22. Section 804.22, unnumbered paragraph 2, Code 2005, as amended by 2005 Iowa Acts, Senate File 169,[5] section 8, is amended to read as follows:

This section and the rules of criminal procedure do not affect the provisions of chapter 805 authorizing the release of a person on citation or bail prior to initial appearance, unless the person is charged with manufacture, delivery, possession with intent to manufacture or deliver, or distribution of methamphetamine. The initial appearance of a person so released shall be scheduled for a time not more than thirty days after the date of release.

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[4] Chapter 15 herein
[5] Chapter 15 herein

Sec. 23. Section 811.2, subsection 1, unnumbered paragraph 2, Code 2005, as amended by 2005 Iowa Acts, Senate File 169,[6] section 10, is amended to read as follows:

Any bailable defendant who is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under chapter 124 and is ordered released shall be required, as a condition of that release, to submit to a substance abuse evaluation and follow any recommendations proposed in the evaluation for appropriate substance abuse treatment. However, if a bailable defendant is charged with manufacture, delivery, possession with the intent to manufacture or deliver, or distribution of methamphetamine, its salts, optical isomers, and salts of its optical isomers, the defendant shall, in addition to a substance abuse evaluation, remain under supervision and be required to undergo random drug tests as a condition of release.

Sec. 24. Section 811.2, subsection 3, Code 2005, as amended by 2005 Iowa Acts, Senate File 169,[7] section 11, is amended to read as follows:

3. RELEASE AT INITIAL APPEARANCE. This chapter does not preclude the release of an arrested person as authorized by section 804.21, unless the arrested person is charged with manufacture, delivery, possession with the intent to manufacture or deliver, or distribution of methamphetamine.

Sec. 25. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION III
SUPPLEMENTAL APPROPRIATIONS

Sec. 26. 2004 Iowa Acts, chapter 1175, section 183, subsection 1, paragraph c, is amended to read as follows:

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ ~~23,536,936~~
23,636,936

Of the funds allocated in this paragraph "c", $100,000 is allocated for the costs of remodeling and construction to establish a specialized 24-bed mental health unit for offenders who are not ordered to inpatient mental health treatment. The unit shall operate as an adjunct to the licensed hospital program within the Oakdale correctional facility.

DEPARTMENT OF CORRECTIONS — ADMINISTRATION

Sec. 27. 2004 Iowa Acts, chapter 1175, section 184, subsection 1, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For general administration, including salaries, support, maintenance, employment of an education director to administer a centralized education program for the correctional system, and miscellaneous purposes:

. . . . . $ ~~2,784,393~~
3,198,809

JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES

Sec. 28. 2004 Iowa Acts, chapter 1175, section 185, subsection 1, is amended to read as follows:

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2004, and ending June 30, 2005, the following amounts, or so much thereof as is necessary, to be allocated as follows:

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[6] Chapter 15 herein

[7] Chapter 15 herein

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:

. . . . . $ ~~10,090,207~~
10,142,332

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:

. . . . . $ ~~7,755,402~~
7,803,027

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:

. . . . . $ ~~4,631,423~~
4,668,548

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:

. . . . . $ ~~4,248,965~~
4,268,465

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:

. . . . . $ ~~12,982,837~~
13,105,462

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:

. . . . . $ ~~10,064,717~~
10,105,217

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:

. . . . . $ ~~5,677,314~~
5,700,939

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:

. . . . . $ ~~5,574,865~~
5,606,740

The appropriations made in this subsection include additional funding for costs to address additional methamphetamine drug offenders under supervision.

Sec. 29. 2004 Iowa Acts, chapter 1175, section 188, is amended to read as follows:

SEC. 188. 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, 2004, and ending June 30, 2005, 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:

. . . . . $ ~~16,663,446~~
18,247,561

. . . . . 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:

. . . . . $ ~~19,355,297~~
22,251,339

Sec. 30. 2004 Iowa Acts, chapter 1175, section 192, subsection 2, unnumbered paragraph 1, is amended to read as follows:

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:

. . . . . $ ~~14,058,510~~
14,208,510

. . . . . FTEs 221.50

Sec. 31. 2004 Iowa Acts, chapter 1175, section 192, subsection 4, paragraph a, is amended to read as follows:

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:

. . . . . $ ~~2,181,998~~
2,281,998

. . . . . FTEs 39.00

Notwithstanding section 8.33, moneys appropriated in this lettered paragraph 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. 32. 2004 Iowa Acts, chapter 1175, section 193, is amended to read as follows:

SEC. 193. 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, 2004, and ending June 30, 2005, 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:

. . . . . $ ~~825,752~~
911,752

. . . . . FTEs 28.00

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. 33. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
APPROPRIATIONS FROM HEALTHY IOWANS TOBACCO TRUST

Sec. 34. In addition to any other funds appropriated from the healthy Iowans tobacco trust created in section 12.65 to the department of corrections for the fiscal year beginning July 1, 2005, and ending June 30, 2006, there is appropriated from the healthy Iowans tobacco trust to the department of corrections for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the judicial district departments of correctional services:

. . . . . $ 800,000

Of the funds appropriated in this division, $100,000 shall be allocated to each judicial district department of correctional services.

DIVISION V
CONTINGENT APPROPRIATIONS FROM
MICROSOFT SETTLEMENT

Sec. 35. DIVISION OF THE IOWA STATE PATROL. In addition to any other funds appropriated from the general fund of the state to the division of the Iowa state patrol, there is appropriated from the general fund of the state to the division of the Iowa state patrol for the fiscal year beginning July 1, 2005, and ending June 30, 2006, an amount not exceeding $785,000 to be used for motor vehicle depreciation. The funds appropriated in this section are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from costs or attorney fees awarded the state in settlement of its antitrust action against Microsoft brought under chapter 553. However, if the amounts received as a result of this settlement are in excess of $785,000, the excess amounts shall not be appropriated to the division of the Iowa state patrol pursuant to this section.

Sec. 36. DIVISION OF CRIMINAL INVESTIGATION AND BUREAU OF IDENTIFICATION. In addition to any other funds appropriated from the general fund of the state to the division of criminal investigation and bureau of identification, there is appropriated from the general fund of the state to the division of criminal investigation and bureau of identification for the fiscal year beginning July 1, 2005, and ending June 30, 2006, an amount not exceeding $929,206. The funds appropriated in this section are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from costs or attorney fees awarded the state in settlement of its antitrust action against Microsoft brought under chapter 553. However, if the amounts received as a result of this settlement are in excess of $929,206, the excess amounts shall not be appropriated to the division of criminal investigation and bureau of identification pursuant to this section.

Approved June 14, 2005, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 811, an Act relating to and making appropriations to the justice system, revising pretrial release requirements for certain criminal offenses, and providing an effective date.

House File 811 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Division I, Section 6, subsection 1, paragraph h, first unnumbered paragraph in its entirety. This paragraph deals with a reference to the establishment of a community panel drug court in the eighth judicial district department of correctional service, which during the final days, the funding was removed, however the language remained due to an oversight. Since the funding was removed and not included, this language becomes unnecessary.

I am unable to approve the item designated as Division I, Section 14, subsection 5, paragraph b, first unnumbered paragraph in its entirety. This paragraph deals with a reference to the allocation of $200 for the mailing of a notice to all affected agencies or emergency services providers informing the agencies or providers about the requirement of an autopsy under section 144.56A. Unfortunately, the wording may actually serve as a barrier to proper notification. The cost of mailing notices to hundreds of public safety agencies, professional organizations, and other relevant parties, including county medical examiners, may substantially exceed the $200 amount. As such, I want to ensure that the Department of Public Safety is not hindered or unduly limited in their ability to provide notice by multiple means, including mailing notices even if the cost of such mailings exceeds $200.

I have instructed the Department of Public Safety, in cooperation with the State Medical Examiner, to fully inform agencies whose employees and volunteers are subject to the provisions of the new Iowa Code Section 144.56A of this provision as well as families of the deceased. The Department of Public Safety will enlist various means of providing notification, through presentations at conferences of organizations representing public safety officers, articles and notices in those organizations' newsletters, and notices by U.S. mail or electronic mail, when available, to those organizations and agencies with covered employees or volunteers.

For the above reasons, I respectfully disapprove these items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 811 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 175

APPROPRIATIONS — HEALTH AND HUMAN SERVICES

H.F. 825

AN ACT relating to and making appropriations to the department of human services, the department of elder affairs, the Iowa department of public health, the commission of veterans affairs and the Iowa veterans home, and the department of inspections and appeals, providing for fee increases, and including other related provisions and appropriations, and providing effective dates.

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

DIVISION I
GENERAL FUND AND BLOCK GRANT APPROPRIATIONS
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, 2005, and ending June 30, 2006, 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, 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:

..... $ 2,792,116
..... FTEs 27.75

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 appropriated in this section, $174,198 shall be transferred to the office of the governor for the Iowa commission on volunteer service to be used for the retired and senior volunteer program.

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, 2005, and ending June 30, 2006, 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:

..... $ 1,759,020
..... FTEs 7.45

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.

Of the moneys appropriated in this subsection, $30,310 shall be used to continue to provide funding to local communities that have previously received funding from the centers for disease control and prevention of the United States department of health and human services for secondhand smoke education initiatives.

2. ADULT WELLNESS

For maintaining or improving the health status of adults, with target populations between the ages of 18 through 60:

..... $ 304,067

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:

..... $ 915,761
..... FTEs 6.65

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:

..... $ 1,265,342
..... FTEs 1.35

Of the funds appropriated in this subsection, not more than $100,000 shall be used to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants.

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:

..... $ 1,264,299
..... FTEs 9.90

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:

..... $ 9,233,985

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:

..... $ 401,808[1]
..... FTEs 1.50

The amount appropriated in this subsection includes $150,000 in additional funding for childhood lead poisoning prevention activities for counties not receiving federal funding for this purpose, and of this amount, $50,000 is allocated for a pilot project to address lead poisoning prevention and remediation activities in a three-county program in north central Iowa with a combined population of at least 50,000.

8. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

..... $ 1,078,039
..... FTEs 5.25

9. INJURIES

For providing support and protection to victims of abuse or injury, or programs that are de-

[1] See chapter 179, §39 herein

signed to prevent abuse or injury, and for not more than the following full-time equivalent positions:

. . . . . $ 1,379,258[2]
. . . . . FTEs 1.80

Of the funds appropriated in this subsection, not more than $670,214 shall be used for the healthy opportunities to experience success (HOPES) – healthy families Iowa (HFI) program established pursuant to section 135.106. The department shall transfer the funding allocated for the HOPES-HFI program to the Iowa empowerment board for distribution and shall assist the board in managing the contracting for the funding. The funding shall be distributed to renew the grants that were provided to the grantees that operated the program during the fiscal year ending June 30, 2005.

Of the funds appropriated in this subsection, $643,500 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:

. . . . . $ 6,964,033[3]
. . . . . FTEs 110.05

The office of the state medical examiner and the commissioner of public safety shall give consideration to a proposal offered by Polk county for the state criminalistics laboratory to share facilities with Polk county.

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:

. . . . . $ 1,073,884
. . . . . FTEs 3.00

12. IOWA COLLABORATIVE SAFETY NET PROVIDER NETWORK

The purpose of this subsection is to create a formal network of safety net providers to do all of the following: preserve and expand the health care safety net for vulnerable Iowans; emphasize preventive services and disease management, reduction of errors, continuity of care, and the medical home concept; recognize that safety net providers are the primary means of access to health care for the uninsured in this state; and provide a mechanism to identify the extent to which the uninsured in this state access health care safety net providers. Of the amount appropriated in this division of this Act for the medical assistance program, $1,100,000 is transferred to the appropriations made in this subsection.[4] The amount transferred is allocated as follows:

a. To contract for a program to develop an Iowa collaborative safety net provider network:

. . . . . $ 450,000

(1) The Iowa department of public health shall issue a request for proposals to select the most qualified applicant to develop and administer an Iowa collaborative safety net provider network that includes community health centers, rural health clinics, free clinics, and other safety net providers. The department shall coordinate conditions of the request for proposals with the data and information requirements of the task force on indigent care created pursuant to section 249J.14A, as enacted by 2005 Iowa Acts, House File 841,[5] section 16. The request for proposals shall also require the person awarded the contract to enroll as a member of the task force on indigent care. The person awarded the contract shall do all of the following:

(a) Establish an Iowa safety net provider advisory group consisting of representatives of community health centers, rural health clinics, free clinics, other safety net providers, patients, and other interested parties.

(b) Develop a planning process to logically and systematically implement the Iowa collaborative safety net provider network.

(c) In cooperation with the free clinics of Iowa and individual free clinics, the Iowa associa-

[2] See chapter 179, §39 herein

[3] See chapter 179, §39 herein

[4] The phrase "transferred to the Iowa department of public health for the appropriations made in this subsection." probably intended

[5] Chapter 167 herein

tion of rural health clinics, and the Iowa/Nebraska primary care association, develop a database of all community health centers, rural health clinics, free clinics, and other safety net providers. The data collected shall include the demographics and needs of the vulnerable populations served, current provider capacity, and the resources and needs of the participating safety net providers.

(d) Develop network initiatives for collaboration between community health centers, rural health clinics, free clinics, other safety net providers, and other health care providers to, at a minimum, improve quality, improve efficiency, reduce errors, and provide clinical communication between providers. The network initiatives shall include, but are not limited to, activities that address all of the following:

(i) Training.

(ii) Information technology.

(iii) Financial resource development.

(iv) A referral system for ambulatory care.

(v) A referral system for specialty care.

(vi) Pharmaceuticals.

(vii) Recruitment of health professionals.

(2) The Iowa department of public health shall issue a request for proposals to provide for an evaluation of the performance of the Iowa collaborative safety net provider network and its impact on the medically underserved.

b. For an incubation grant program to community health centers that receive a total score of 85 based on the evaluation criteria of the health resources and services administration of the United States department of health and human services:

. . . . . $ 650,000

The Iowa department of public health shall select qualified applicants eligible under this lettered paragraph, and shall approve grants in prorated amounts to all such selected qualified applicants based on the total amount of funding appropriated. A grantee shall meet all federal requirements for a federally qualified health center, including demonstrating a commitment to serve all populations in the grantee's respective medically underserved community and satisfying the administrative, management, governance, service-related, utilization of funding, and audit requirements unique to federally qualified health centers as provided under section 330 of the federal Public Health Service Act, as amended, and as codified at 42 U.S.C. § 254(b). A grant may be approved for a two-year period. However, if a grantee is approved as a federally qualified health center during the grant period, the grant and accompanying funding shall be terminated for the remainder of the grant period. If a grantee is not approved as a federally qualified health center during the grant period, the grantee may apply for a subsequent grant under this lettered paragraph on a competitive basis. A recipient of a grant under this lettered paragraph shall provide a local match of 25 percent of the grant funds received.

13. 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.

14. 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.

15. 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. In lieu of the appropriation made in section 135.150, subsection 1, there is appropriated from funds available in the gambling treatment fund created in section 135.150 to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. ADDICTIVE DISORDERS

To be utilized for the benefit of persons with addictions:

..... $ 1,690,000

It is the intent of the general assembly that from the moneys appropriated in this subsection, persons with a dual diagnosis of substance abuse and gambling addictions shall be given priority in treatment services.

2. GAMBLING TREATMENT PROGRAM

The funds in the gambling treatment fund after the appropriation in subsection 1 is made are appropriated to the department to 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. Of the amount appropriated in subsection 1, up to $100,000 may be used for the licensing of gambling treatment programs as provided in section 135.150.

COMMISSION OF VETERANS AFFAIRS

Sec. 4. 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, 2005, and ending June 30, 2006, 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:

..... $ 320,717
..... FTEs 4.00

a. Of the funds appropriated in this subsection, $50,000 shall be used by the commission to contract with the Iowa commission on volunteer service created pursuant to chapter 15H to utilize local veterans affairs commissions and the retired and senior volunteers program to increase the utilization by eligible individuals of benefits available through the federal department of veterans affairs.

b. Of the funds appropriated in this subsection, $75,000 shall be used for the commission's costs associated with the contracts implemented under paragraph "a".

2. IOWA VETERANS HOME

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 16,309,443
..... FTEs 855.22

HUMAN SERVICES

Sec. 5. 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, 2005, and ending June 30, 2006, from moneys received under the federal temporary assistance for needy families (TANF) 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, 2004, and ending September 30, 2005, and beginning October 1, 2005,

and ending September 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

. . . . . $ 44,277,569

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:

. . . . . $ 16,702,033

4. For general administration:

. . . . . $ 3,730,547

5. For local administrative costs:

. . . . . $ 2,181,296

6. For state child care assistance:

. . . . . $ 14,556,560

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. The funds appropriated in this subsection shall be transferred to the child care and development block grant appropriation.

7. For mental health and developmental disabilities community services:

. . . . . $ 4,798,979

8. For child and family services:

. . . . . $ 31,538,815

9. For child abuse prevention grants:

. . . . . $ 250,000

10. For pregnancy prevention grants on the condition that family planning services are funded:

. . . . . $ 2,520,037

a. If the department receives approval of a waiver from the centers for Medicare and Medicaid services of the United States department of health and human services to provide family planning services, of the amount appropriated in this subsection, $533,580 shall be transferred to the appropriation in this Act for child and family services.

b. Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2005, 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, 2005, 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 of childbearing age within the geographic area to be served by the grant.

11. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:

. . . . . $ 1,037,186

12. 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

13. 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 section 28.9, as amended by this Act:
. . . . . $ 7,350,000

The department shall transfer TANF 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.

14. For a pilot program to be established in a judicial district, selected by the department and the judicial council, to provide employment and support services to delinquent child support obligors as an alternative to commitment to jail as punishment for contempt of court:
. . . . . $ 200,000

Of the amounts appropriated in this section, $12,808,841 for the fiscal year beginning July 1, 2005, 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 2006 legislative session to adjust appropriations or the transfer amount or take other actions to address the reduced amount.

Sec. 6. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2005, and ending June 30, 2006, shall be used to provide assistance in accordance with chapter 239B.

2. The department may use a portion of the moneys credited to the FIP account under this section as necessary for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions which are in addition to any other full-time equivalent positions authorized in this division of this Act:
. . . . . FTEs 17.33

3. Moneys appropriated in this division of this Act and credited to the FIP account for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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) The department may continue to implement the family development and self-sufficiency grant program statewide during FY 2005-2006.

b. For the diversion subaccount of the FIP account:
. . . . . $ 2,814,000

(1) 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.

(2) 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 2005-2006.

c. For the food stamp employment and training program:
. . . . . $ 64,278

4. Of the child support collections assigned under FIP, 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 FIP account and a portion may be used to increase recoveries.

5. The department may adopt emergency administrative rules for the family investment, food stamp, and medical assistance programs, if necessary, to comply with federal requirements.

Sec. 7. 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, 2005, and ending June 30, 2006, 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 (FIP) account and used for family investment program assistance under chapter 239B:

. . . . . $ 40,439,695

1. Of the funds appropriated in this section, $9,274,134 is allocated for the JOBS program.

2. Of the funds appropriated in this section, $100,000 shall be used to provide a grant to an Iowa-based nonprofit organization with a history of providing tax preparation assistance to low-income Iowans in order to expand the usage of the earned income tax credit. The purpose of the grant is to supply this assistance to underserved areas of the state. The grant shall be provided to an organization that has existing national foundation support for supplying such assistance that can also secure local charitable match funding.

Sec. 8. 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 7,829,317
. . . . . FTEs 423.00

1. The department shall expend up to $31,000, including federal financial participation, for the fiscal year beginning July 1, 2005, 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.

2. 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. 9. 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, 2005, and ending June 30, 2006, 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, 2005, 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:

. . . . . $ 519,040,317[6]

1. Medically necessary abortions are those performed under any of the following conditions:

[6] See chapter 179, §40 herein

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. 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.

3. Of the funds appropriated to the Iowa department of public health for addictive disorders, $950,000 for the fiscal year beginning July 1, 2005, shall be transferred to the department of human services for an integrated substance abuse managed care system.

4. If the federal centers for Medicare and Medicaid services approves a waiver request from the department, the department shall provide a period of 12 months of guaranteed eligibility for medical assistance family planning services only, regardless of the change in circumstances of a woman who was a medical assistance recipient when a pregnancy ended. The department shall also provide this guaranteed eligibility to women of childbearing age with countable income at or below 200 percent of the federal poverty level.

5. a. The department shall aggressively pursue options for providing medical assistance or 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.

b. Of the funds appropriated in this section, $100,000 shall be used for participation in one or more pilot projects operated by a private provider to allow the individual or individuals to receive service in the community in accordance with principles established in Olmstead v. L.C., 527 U.S. 581 (1999), for the purpose of providing medical assistance or 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 the policy provisions.

6. Of the funds available in this section, up to $3,050,082 may be transferred to the field operations or general administration appropriations in this Act for implementation and operational costs associated with Part D of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173.

7. The department shall expand the health insurance data match program as directed pursuant to 2004 Iowa Acts, chapter 1175, section 119, subsection 1, paragraph "c", to also match insureds against a listing of hawk-i program enrollees. The information submitted under the expansion shall be used solely to identify third-party payors for hawk-i program enrollees and shall be kept confidential. The department, in consultation with insurance carriers, shall adopt rules to implement this subsection. The department may adopt emergency rules to implement this subsection and insurance carriers shall begin providing the information required upon adoption of the rules.

8. The department shall provide educational opportunities to providers under the medical assistance program to improve payment accuracy by avoiding mistakes and overbilling.

9. The department shall modify billing practices to allow for collection of rebates from prescription drug manufacturers under the medical assistance program for purchase of injectable drugs administered in physicians' offices.

10. The department shall adjust managed care capitation payments from the payment structure in effect as of June 30, 2004, to optimize family planning claiming.

11. The medical assistance pharmaceutical and therapeutics committee established pursuant to section 249A.20A shall develop options for increasing the savings relative to psychotropic drugs, while maintaining patient care quality. This subsection shall not be construed to amend, modify, or repeal the exception provided pursuant to section 249A.20A relating to drugs prescribed for mental illness. The committee shall submit a report of any options the committee recommends to the general assembly by January 1, 2006. Any options developed or recommended shall not be implemented without an affirmative action enacted by the general assembly.

12. The department shall expand coverage under the medical assistance program to cover smoking cessation drugs.

13. The department shall expand coverage under the medical assistance program to cover weight reduction treatments and drugs.

14. The department shall adopt rules to require that if a product is to be considered by the pharmaceutical and therapeutics committee established pursuant to section 249A.20A for inclusion on the preferred drug list, the pharmaceutical and therapeutics committee shall respond to all inquiries regarding the process at least 72 hours prior to a meeting of the committee to consider inclusion of the product. Additionally, the rules shall require that the committee provide a pharmaceutical manufacturer of a product with 20 days' prior written notice of consideration of the manufacturer's product for inclusion on the preferred drug list to allow adequate time for preparation of appropriate materials to be submitted to the committee for review. The rules shall also require that adequate time be provided for each interested individual to address the committee regarding a product to be considered for inclusion on the preferred drug list by the committee. A final decision regarding inclusion of a product on the preferred drug list shall not be made in an executive session of the committee.

Sec. 10. 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, 2005, and ending June 30, 2006, 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:

.....	$	612,574
.....	FTEs	20.95

Sec. 11. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts, including salaries, support, maintenance, and miscellaneous purposes:

.....	$	14,711,985

Sec. 12. STATE SUPPLEMENTARY ASSISTANCE.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

* Item veto; see message at end of the Act

For the state supplementary assistance program:

. . . . . $ 19,810,335

2. 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 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.

3. If during the fiscal year beginning July 1, 2005, 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 division of 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. 13. 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 16,618,275[7]

Sec. 14. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

. . . . . $ 15,800,752

1. a. Of the funds appropriated in this section, $14,375,228 shall be used for state child care assistance in accordance with section 237A.13.

b. The department shall adopt rules to increase the upper income eligibility requirements under the state child care assistance program for families from 140 percent of the federal poverty level to 145 percent of the federal poverty level and for families with a special needs child from 175 percent of the federal poverty level to 200 percent of the federal poverty level. The poverty level changes shall take effect September 1, 2005. The department may adopt emergency rules to implement this paragraph.

2. Of the funds appropriated in this section, $900,000 shall be used for implementation of a quality rating system for child care providers, in accordance with legislation enacted to authorize implementation of the rating system.

3. 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.

4. 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.

5. 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. Projec-

[7] See chapter 179, §42 herein

tions 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.

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.

Sec. 15. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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:

..... $ 6,226,283
..... 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:

..... $ 9,830,692
..... FTEs 218.53

3. 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, 2005.

Sec. 16. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 75,200,000

In order to address a reduction of $5,200,000 from the amount allocated under this appropriation in prior years for purposes of juvenile delinquent graduated sanction services, up to $5,200,000 of the amount of federal temporary assistance for needy families block grant funding appropriated in this division of this Act for child and family services, shall be made available for purposes of juvenile delinquent graduated sanction services.

2. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under the medical assistance program 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 division of 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 $35,883,519 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

b. If at any time after September 30, 2005, 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. Of the funds allocated in this subsection, $1,465,009 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.

d. If House File 538[8] or other legislation is enacted during the 2005 session of the general assembly providing for submission of an application for federal approval of a waiver to provide coverage under the medical assistance program for children who need behavioral health care services and qualify for the care level provided by a psychiatric medical institution for children licensed under chapter 135H and are in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parents, guardians, or custodians are unable to provide such treatment, and the waiver is approved, the department may transfer funds appropriated in this section to the appropriation made in this division of this Act for the medical assistance program in order to pay the nonfederal share of the costs incurred under the waiver.

4. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services funding. Of the funds appropriated in this section, $2,500,000 is allocated specifically for expenditure through the decategorization of child welfare funding pools and governance boards established pursuant to section 232.188. In addition, up to $1,000,000 of the amount of federal temporary assistance for needy families block grant funding appropriated in this division of this Act for child and family services shall be made available for purposes of decategorization of child welfare services as provided in this subsection. 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. 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.

6. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 2005, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to $7,252,955.

7. Federal funds received by the state during the fiscal year beginning July 1, 2005, 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.

8. 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.

9. Of the funding appropriated in this section, $3,696,285 shall be used for protective child care assistance.

10. 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. Of the amount allocated in this subsection, up to $1,431,597 shall be made available to provide school-based supervision of children adjudicated under chapter 232, of which not more than $15,000 may be used for the purpose of training. 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.

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

[8] Chapter 117 herein

by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 2005.

b. Notwithstanding chapter 232 or any other provision of law to the contrary, a district or 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.

11. Notwithstanding 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.

12. Of the amount appropriated in this section, $1,000,000 shall be transferred to the Iowa department of public health to be used for the child protection center grant program in accordance with section 135.118.

13. Of the amount appropriated in this section, $148,000 shall be used for funding of one or more child welfare diversion and mediation pilot projects as provided in 2004 Iowa Acts, chapter 1130, section 1.

14. If the department receives federal approval to implement a waiver under Title IV-E of the federal Social Security Act to enable providers to serve children who remain in the children's families and communities, for purposes of eligibility under the medical assistance program children who participate in the waiver shall be considered to be placed in foster care.

15. Of the amount appropriated in this section, the following amounts are allocated for the indicated child welfare system improvements:

a. For family team meetings and other family engagement efforts:
..... $ 900,000

b. For recruiting, training, and development of additional resource families, including but not limited to families providing kinship, foster, and adoptive care:
..... $ 325,000

c. For field staff working with families to have flexible funding to purchase services and other support and to fill urgent family needs:
..... $ 250,000

d. For funding of shelter care so that 15 emergency beds are available statewide for the fiscal year within the statewide average of 288 beds addressed in the department's shelter care plan:
..... $ 200,000

e. For expansion of community partnerships to prevent child abuse:
..... $ 100,000

16. The general assembly finds that it is important for adequate, comprehensive mental health services to be available to the children of this state; that Iowa is seeking to develop a coordinated system of mental health care for children through a redesign of the children's mental health system; that Iowa is one of only two states that have not participated in the comprehensive community mental health services program for children and their families grant offered by the substance abuse and mental health services administration (SAMHSA) of the

United States department of health and human services; and that implementing such an initiative requires long-term sustainability and support. The general assembly expresses appreciation to the department for applying to SAMHSA for the comprehensive services program grant to implement a six-year project located in northeast Iowa. The purpose of the project is to create a family-driven, coordinated system of care for children with mental illness to serve as a model for developing a statewide approach based on family-provider partnerships and long-term sustainability. The general assembly strongly supports the grant application and implementation of the project as vital steps in redesigning the children's mental health system.

17. The department shall revise policies or administrative rules applicable when a breastfeeding infant is removed from the infant's home in accordance with chapter 232, to allow the infant's mother to continue to breastfeed the infant when such contact with the mother is in the best interest of the infant.

Sec. 17. ADOPTION SUBSIDY.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For adoption subsidy payments and services:

. . . . . $ 32,250,000

2. The department may transfer funds appropriated in this section to the appropriations in this Act for child and family services to be used for adoptive family recruitment and other services to achieve adoption.

3. Federal funds received by the state during the fiscal year beginning July 1, 2005, as the result of the expenditure of state funds 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 the services and activities funded 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 expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 18. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2005, and ending June 30, 2006, are appropriated to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for distribution as follows:

1. An amount equal to 10 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, 2004. Moneys appropriated for distribution in accordance with this subsection 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, 2004. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2005, 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:

. . . . . $ 318,000

4. For continuation of the department's minority youth and family projects under the redesign of the child welfare system:

. . . . . $ 375,000

5. For grants to counties implementing a runaway treatment plan under section 232.195.

6. The remainder for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1.

Sec. 19. 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, 2005, and ending June 30, 2006, 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, 2005, shall remain the same as the payment amount in effect on June 30, 2005.

Sec. 20. 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, 2005, and ending June 30, 2006, 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. 21. 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 13,079,889
. . . . . FTEs 228.00

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:

. . . . . $ 7,439,591
. . . . . FTEs 113.15

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:

. . . . . $ 17,334,091
. . . . . FTEs 317.80

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:

. . . . . $ 6,131,181
. . . . . FTEs 100.44

Sec. 22. 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 12,600,000

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 7,050,000

3. 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.

4. The state resource centers may expand the time limited assessment and respite services during the fiscal year.

5. 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.

6. 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 2005-2006.

Sec. 23. MI/MR/DD STATE CASES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

. . . . . $ 10,914,619[9]

2. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, $100,000 is allocated for state cases from the amounts appropriated from the fund created in section 8.41 to the department of human services from the funds received from the federal government under 42 U.S.C., chapter 6A, subchapter XVII, relating to the community mental health center block grant, for the federal fiscal years beginning October 1, 2003, and ending September 30, 2004, beginning October 1, 2004, and ending September 30, 2005, and beginning October 1, 2005, and ending September 30, 2006. The allocation made in this subsection shall be made prior to any other distribution allocation of the appropriated federal funds.

Sec. 24. 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, 2005, and ending June 30, 2006, 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 division of 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 moneys 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.

[9] See chapter 179, §42 herein

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.

*6. *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 from the federal alcohol, drug abuse, and mental health administration to provide mental health services for the homeless and the existing grantee has expressed a desire to no longer provide services or the grantee's contract was terminated by the department for nonperformance, 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 October 1, 2005. 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. 25. 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, 2005, and ending June 30, 2006, 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, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,621,338
..... FTEs 65.00

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.

* Item veto; see message at end of the Act

Sec. 26. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	$	53,790,628
.....	FTEs	1,844.00

Priority in filling full-time equivalent positions shall be given to those positions related to child protection services.

Sec. 27. 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, 2005, and ending June 30, 2006, 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:

.....	$	13,342,196
.....	FTEs	293.00

Of the funds appropriated in this section, $57,000 is allocated for the prevention of disabilities policy council established in section 225B.3.

Of the funds appropriated in this section, $30,000 is allocated to the department of human services for a statewide coordinator for the program of all-inclusive care for the elderly as defined in section 249H.3. The coordinator shall work in collaboration with the department of elder affairs in carrying out the coordinator's duties.

Sec. 28. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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. 29. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. (1) For the fiscal year beginning July 1, 2005, 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.

(2) For the fiscal year beginning July 1, 2005, the total state funding amount for the nursing facility budget shall not exceed $161,600,000. The department, in cooperation with nursing facility representatives, shall review projections for state funding expenditures for reimbursement of nursing facilities on a quarterly basis and the department shall determine if an adjustment to the medical assistance reimbursement rate is necessary in order to provide reimbursement within the state funding amount. Any temporary enhanced federal financial participation that may become available to the Iowa medical assistance program during the fiscal year shall not be used in projecting the nursing facility budget. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c", and subsection 3, paragraph "a", subparagraph (2), if the state funding expenditures for the nursing facility budget for the fiscal year beginning July 1, 2005, are projected to exceed the amount specified in this subparagraph, the department shall adjust the inflation factor of the reimbursement rate calculation for only the nursing facilities reimbursed under the case-mix reimbursement system to maintain expenditures of the nursing facility budget within the specified amount.

(3) For recalculation of the per diem cost and the patient-day-weighted medians used in rate setting for nursing facilities effective July 1, 2005, the inflation factor applied from the midpoint of the cost report period to the first day of the state fiscal year rate period shall not be less than zero percent.

b. For the fiscal year beginning July 1, 2005, the department shall reimburse pharmacy dispensing fees using a single rate of $4.39 per prescription, or the pharmacy's usual and customary fee, whichever is lower.

c. For the fiscal year beginning July 1, 2005, reimbursement rates for inpatient and outpatient hospital services shall be increased by 3 percent over the rates in effect on June 30, 2005. 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 beyond the 3 percent increase provided in this paragraph.

d. For the fiscal year beginning July 1, 2005, 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. (1) For the fiscal year beginning July 1, 2005, reimbursement rates for home health agencies shall be increased by 3 percent over the rates in effect on June 30, 2005, not to exceed a home health agency's actual allowable cost.

(2) The department shall establish a fixed-fee reimbursement schedule for home health agencies under the medical assistance program beginning July 1, 2006.

f. For the fiscal year beginning July 1, 2005, 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, 2005, the reimbursement rates for dental services shall be increased by 3 percent over the rates in effect on June 30, 2005.

h. Beginning July 1, 2005, the reimbursement rates for community mental health centers shall be increased by 3 percent over the rates in effect on June 30, 2005.

i. For the fiscal year beginning July 1, 2005, the maximum reimbursement rate for psychiatric medical institutions for children shall be $156.03 per day.

j. For the fiscal year beginning July 1, 2005, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursement rates shall be increased by 3 percent over the rates in effect on June 30, 2005, 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, for the fiscal year beginning July 1, 2005, the average reimbursement rate for health care providers eligible for use of the federal Medicare resource-based relative value scale reimbursement methodology under that section shall be increased by 3 percent over the rate in effect on June 30, 2005; however, this rate shall not exceed the maximum level authorized by the federal government.

2. For the fiscal year beginning July 1, 2005, 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, 2005, 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, 2005, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $14.91, the rate for children ages 6 through 11 years shall be $15.58, the rate for children ages 12 through 15 years shall be $17.18, and the rate for children ages 16 and older shall be $17.27.

6. For the fiscal year beginning July 1, 2005, the maximum reimbursement rates for social service providers shall be increased by 3 percent over the rates in effect on June 30, 2005, or to the provider's actual and allowable cost plus inflation for each service, whichever is less. The rates may also be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2005, 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, 2005, the reimbursement rates for rehabilitative treatment and support services providers shall be increased by 3 percent over the rates in effect on June 30, 2005. It is the intent of the general assembly that the increase in reimbursement rates authorized in this subsection shall be used for the provision of direct care with an emphasis on increasing the compensation for direct care workers.

9. a. For the fiscal year beginning July 1, 2005, the combined service and maintenance components of the reimbursement rate paid for shelter care services purchased under a contract shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be $86.20 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.

b. Notwithstanding section 232.141, subsection 8, for the fiscal year beginning July 1, 2005, the amount of the statewide average of the actual and allowable rates for reimbursement of juvenile shelter care homes that is utilized for the limitation on recovery of unpaid costs shall be increased by $2.51 over the amount in effect for this purpose in the preceding fiscal year.

c. Notwithstanding section 8A.311, commencing during the fiscal year beginning July 1, 2005, the department may enter into contracts with shelter care providers as necessary to maintain the availability of shelter care services for children in all areas of the state.

10. For the fiscal year beginning July 1, 2005, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

11. Beginning on September 1, 2005, for child care providers reimbursed under the state child care assistance program, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 2002. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered. If the federal government provides additional funding for child care during the fiscal year beginning July 1, 2005, the additional funding shall be used to develop and implement an electronic billing and payment system for child care providers.

12. For the fiscal year beginning July 1, 2005, 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 this section.

Sec. 30. SHELTER CARE REQUEST FOR PROPOSALS. The department of human services shall amend the request for proposals issued on April 15, 2005, for a program to provide for the statewide availability of emergency juvenile shelter care during the fiscal year beginning July 1, 2005, to increase the statewide daily average number of beds covered under the request to 288 beds in order to include 15 unallocated beds statewide for emergency placements. However, if the date of enactment of this Act does not allow sufficient time for the department to amend the request for proposals as otherwise required by this section, the department shall apply the requirement in the negotiations with the program awarded the contract and shall include the requirement in the final contract.

Sec. 31. 2001 Iowa Acts, chapter 192, section 4, subsection 3, paragraphs e and f, as amended by 2004 Iowa Acts, chapter 1175, section 154, are amended to read as follows:

e. The department shall calculate the rate ceiling for the direct-care cost component at 120 percent of the median of case-mix adjusted costs. Nursing facilities with case-mix adjusted costs at 95 percent of the median or greater, shall receive an amount equal to their costs not to exceed 120 percent of the median. ~~Nursing facilities with case-mix adjusted costs below 95 percent of the median shall receive an excess payment allowance by having their payment rate for the direct-care cost component calculated as their case-mix adjusted cost plus 100 percent of the difference between 95 percent of the median and their case-mix adjusted cost, not to exceed 10 percent of the median of case-mix adjusted costs. Beginning July 1, 2004, nursing facilities with case-mix adjusted costs below 95 percent of the median shall receive an excess payment allowance by having their payment rate for the direct-care cost component calculated as their case-mix adjusted cost plus 50 percent of the difference between 95 percent of the median and their case-mix adjusted cost, not to exceed 10 percent of the median of case-mix adjusted costs. Any excess payment allowance realized from the direct care cost component of the modified price-based case-mix reimbursement shall be expended to increase the compensation of direct care workers or to increase the ratio of direct care workers to residents. The department of human services shall implement a new monitoring and reporting system to assess compliance with the provisions of this paragraph.~~

f. The department shall calculate the rate ceiling for the nondirect care cost component at 110 percent of the median of non-case-mix adjusted costs. Nursing facilities with non-case-mix adjusted costs at 96 percent of the median or greater shall receive an amount equal to their costs not to exceed 110 percent of the median. ~~Nursing facilities with non-case-mix adjusted costs below 96 percent of the median shall receive an excess payment allowance that is their costs plus 65 percent of the difference between 96 percent of the median and their non-case-mix adjusted costs, not to exceed 8 percent of the median of non-case-mix adjusted costs. Beginning July 1, 2004, nursing facilities with non-case-mix adjusted costs below 96 percent of the median shall receive an excess payment allowance that is their costs plus 32.5 percent of the difference between 96 percent of the median and their non-case-mix adjusted costs, not to exceed 8 percent of the median of non-case-mix adjusted costs. Any excess payment allowance realized from the nondirect care cost component of the modified price-based case-mix reimbursement shall be used to fund quality of life improvements. The department of human services shall implement a new monitoring and reporting system to assess compliance with the provisions of this paragraph.~~

Sec. 32. 2003 Iowa Acts, chapter 178, section 45, unnumbered paragraph 3, as enacted by 2004 Iowa Acts, chapter 1175, section 160, is amended to read as follows:

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 child and family services until the close of the ~~succeeding~~ fiscal year beginning July 1, 2005.

Sec. 33. 2004 Iowa Acts, chapter 1175, section 109, 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. 34. 2004 Iowa Acts, chapter 1175, section 113, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding section 8.33, moneys appropriated in this section that were allocated by the department for the purpose of meeting federal food stamp electronic benefit transfer requirements 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 succeeding fiscal year.

Sec. 35. 2004 Iowa Acts, chapter 1175, section 134, is amended by adding the following new subsection:

NEW SUBSECTION. 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.

Sec. 36. 2004 Iowa Acts, chapter 1175, section 135, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 8.33, moneys appropriated in this section for field operations 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 with up to fifty percent to be used for implementation and operational costs associated with Part D of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, until the close of the succeeding fiscal year.

Sec. 37. EMERGENCY RULES. If specifically authorized by a provision of this division of this Act, the department of human services or the mental health, mental retardation, developmental disabilities, and brain injury 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.

Sec. 38. REPORTS. Any reports or information required to be compiled and submitted under this division of this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative services agency, and the legislative caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 39. INDIGENT PATIENT PROGRAM. If the Eighty-first General Assembly, 2005

Regular Session, enacts legislation subsequent to the enactment of 2005 Iowa Acts, House File 841,[10] relating to the medical and surgical treatment of indigent patients as provided in chapter 255 that is in conflict with the provisions of 2005 Iowa Acts, House File 841,[11] including provisions relating to the quota under chapter 255, the provisions of 2005 Iowa Acts, House File 841,[12] shall prevail.

Sec. 40. 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 2005-2006 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, 2005.
3. The provision directing the department of human services to amend the request for proposals issued on April 15, 2005, to provide for statewide emergency juvenile shelter care.
4. The provision amending 2003 Iowa Acts, chapter 178, section 45, unnumbered paragraph 3, as enacted by 2004 Iowa Acts, chapter 1175, section 160.
5. The provision amending 2004 Iowa Acts, chapter 1175, section 109.
6. The provision amending 2004 Iowa Acts, chapter 1175, section 113.
7. The provision amending 2004 Iowa Acts, chapter 1175, section 134.
8. The provision amending 2004 Iowa Acts, chapter 1175, section 135.

DIVISION II
SENIOR LIVING TRUST FUND, HOSPITAL TRUST FUND, AND PHARMACEUTICAL SETTLEMENT ACCOUNT

Sec. 41. 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, 2005, and ending June 30, 2006, 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 and for not more than the following full-time equivalent positions:

.....	$	8,289,368
.....	FTEs	3.00

Notwithstanding section 249H.7, the department of elder affairs shall distribute up to $400,000 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. 42. 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, 2005, and ending June 30, 2006, 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:

.....	$	732,750
.....	FTEs	5.00

[10] Chapter 167 herein
[11] Chapter 167 herein
[12] Chapter 167 herein

Sec. 43. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To supplement the medical assistance appropriation, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 59,647,109[13]

2. To provide reimbursement for health care services 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 and for not more than the following full-time equivalent positions:

. . . . . $ 1,033,406
. . . . . FTEs 5.00

3. To implement nursing facility provider reimbursements as provided in 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c":

. . . . . $ 29,950,000

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.

4. 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.

Sec. 44. ASSISTED LIVING CONVERSION GRANTS — NONREVERSION. Notwithstanding section 8.33, moneys committed from the senior living trust fund 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 any fiscal year shall not revert to any fund but shall remain available for expenditure for purposes of the contract.

Sec. 45. IOWA FINANCE AUTHORITY. There is appropriated from the senior living trust fund created in section 249H.4 to the Iowa finance authority for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To provide reimbursement for rent expenses to eligible persons:

. . . . . $ 700,000

Participation in the rent subsidy program shall be limited to only those persons who meet the nursing facility level of care for home and community-based services waiver services as established on or after July 1, 2005.

Sec. 46. HOSPITAL TRUST FUND. 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, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriations made for the medical assistance program for that fiscal year:

. . . . . $ 22,900,000[14]

Sec. 47. PHARMACEUTICAL SETTLEMENT ACCOUNT. There is appropriated from the pharmaceutical settlement account created in section 249A.33 to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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[13] See chapter 179, §41 herein

[14] See chapter 167, §66 herein

To supplement the appropriations made for medical contracts under the medical assistance program:

. . . . . $ 85,000

Sec. 48. MEDICAL ASSISTANCE PROGRAM — REVERSION TO SENIOR LIVING TRUST FUND FOR FY 2005-2006. Notwithstanding section 8.33, if moneys appropriated in this Act for purposes of the medical assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006, from the general fund of the state, the senior living trust fund, the hospital trust fund, or the healthy Iowans tobacco trust fund[15] 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. 49. EFFECTIVE DATE. The section of this division of this Act relating to nonreversion of assisted living conversion grant moneys, being deemed of immediate importance, takes effect upon enactment.

DIVISION III
MENTAL HEALTH, MENTAL RETARDATION,
DEVELOPMENTAL DISABILITIES,
AND BRAIN INJURY SERVICES

Sec. 50. 2004 Iowa Acts, chapter 1175, section 173, subsection 1, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33 and section 426B.5, subsection 1, paragraph "d", 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.

Sec. 51. 2004 Iowa Acts, chapter 1175, section 173, subsection 2, paragraph c, is amended to read as follows:

c. ~~For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2~~ To the department of human services for supplementation of the appropriations made for the medical assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006:

. . . . . $ 2,000,000

Sec. 52. 2004 Iowa Acts, chapter 1175, section 173, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2005-2006 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:

. . . . . $ 23,925,724

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, 2005:

. . . . . $ 17,727,890

NEW SUBSECTION. 4. After applying the applicable statutory distribution formulas to the

[15] This Act as enrolled contains no appropriations from the healthy Iowans tobacco trust fund

amounts indicated in subsection 3 for purposes of producing 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, 2004, 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 5 percent, a withholding factor of 0 percent. In addition, a county that is subject to this lettered paragraph shall receive an inflation adjustment equal to 3 percent of the gross expenditures reported for the county's services fund for the fiscal year.

b. For an ending balance percentage of 5 or more but less than 10 percent, a withholding factor of 0 percent. In addition, a county that is subject to this lettered paragraph shall receive an inflation adjustment equal to 2 percent of the gross expenditures reported for the county's services fund for the fiscal year.

c. For an ending balance percentage of 10 or more but less than 25 percent, a withholding factor of 25 percent.

d. For an ending balance percentage of 25 percent or more, a withholding percentage of 100 percent.

NEW SUBSECTION. 5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of $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".

NEW SUBSECTION. 6. a. In addition to the amount to be distributed under subsection 4, for the fiscal year beginning July 1, 2005, a county with an ending balance percentage under subsection 4 of less than zero shall receive a distribution from the sum of the following:

(1) The amounts appropriated in 2004 Iowa Acts, chapter 1175, section 132 and section 173, subsection 1, that were not distributed and did not revert at the close of the fiscal year beginning July 1, 2004.

(2) The amounts appropriated for the fiscal year beginning July 1, 2005, for the mental health and developmental disabilities community services fund and in this section that were not distributed in accordance with subsections 3, 4, and 5.

b. The amount of a county's distribution under paragraph "a" shall be equal to the county's proportion of the general population of the counties eligible to receive a distribution under this subsection.

c. The distribution amount determined under this subsection shall be included in the county's allowed growth payment determined in accordance with subsections 3, 4, and 5.

Sec. 53. EFFECTIVE DATE. The section of this division of this Act amending 2004 Iowa Acts, chapter 1175, section 173, subsection 1, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
CODE CHANGES

Sec. 54. Section 15H.3, subsection 5, as enacted by 2005 Iowa Acts, House File 478,[16] section 3, is amended to read as follows:

5. Members shall serve staggered terms of three years beginning ~~and ending as provided~~

[16] Chapter 42 herein

~~by section 69.19~~ July 1. Members of the commission shall serve no more than two three-year terms. Any vacancy shall be filled in the same manner as the original appointment.

Sec. 55. NEW SECTION. 16.184 TRANSITIONAL HOUSING REVOLVING LOAN PROGRAM FUND.

1. A transitional housing revolving loan program fund is created within the authority to further the availability of affordable housing for parents that are reuniting with their children while completing or participating in substance abuse treatment. The moneys in the fund are annually appropriated to the authority to be used for the development and operation of a revolving loan program to provide financing to construct affordable transitional housing, including through new construction or acquisition and rehabilitation of existing housing. The housing provided shall be geographically located in close proximity to licensed substance abuse treatment programs. Preference in funding shall be given to projects that reunite mothers with the mothers' children.

2. Moneys transferred by the authority for deposit in the transitional housing revolving loan program fund, moneys appropriated to the transitional housing revolving loan program, and any other moneys available to and obtained or accepted by the authority for placement in the fund shall be deposited in the fund. Additionally, payment of interest, recaptures of awards, and other repayments to the transitional housing revolving loan program fund shall be credited to the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the transitional housing revolving loan program fund shall be credited to the fund. Notwithstanding section 8.33, moneys that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the same purpose in the succeeding fiscal year.

3. The authority shall annually allocate moneys available in the transitional housing revolving loan program fund for the development of affordable transitional housing for parents that are reuniting with the parents' children while completing or participating in substance abuse treatment. The authority shall develop a joint application process for the allocation of federal low-income housing tax credits and the funds available under this section. Moneys allocated to such projects may be in the form of loans, grants, or a combination of loans and grants.

4. The authority shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 56. Section 28.9, subsection 3, Code 2005, is amended to read as follows:

3. a. An early childhood programs grant account is created in the Iowa empowerment fund under the authority of the director of human services. Moneys credited to the account are appropriated to and shall be distributed by the department of human services in the form of grants to community empowerment areas pursuant to criteria established by the Iowa board in accordance with law. The criteria shall include but are not limited to a requirement that a community empowerment area must be designated by the Iowa board in accordance with section 28.5, in order to be eligible to receive an early childhood programs grant.

b. The maximum funding amount a community empowerment area is eligible to receive from the early childhood programs grant account for a fiscal year 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 credited to the account for the fiscal year.

c. A community empowerment area receiving funding from the early childhood program[17] grant account 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 of human services shall provide technical assistance in identifying and meeting the federal requirements. The availability of funding provided from the account is subject to changes in federal requirements and amendments to Iowa law.

d. The moneys distributed from the early childhood program[18] grant account shall be used by community empowerment areas 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

[17] The word "programs" probably intended

[18] The word "programs" probably intended

a primary emphasis on low-income families and children from birth to five years of age. Moneys shall be provided in a flexible manner and shall be used to implement strategies identified by the community empowerment area to achieve such purposes. The department of human services may use a portion of the funding appropriated to the department under this subsection for provision of technical assistance and other support to community empowerment areas developing and implementing strategies with grant moneys distributed from the account.

e. Moneys from a federal block grant that are credited to the early childhood program[19] grant account but 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.

Sec. 57. NEW SECTION. 35D.18 NET GENERAL FUND APPROPRIATION — PURPOSE.

1. The Iowa veterans home shall operate on the basis of a net appropriation from the general fund of the state. The appropriation amount shall be the net amount of state moneys projected to be needed for the Iowa veterans home for the fiscal year of the appropriation. The purpose of utilizing a net appropriation is to encourage the Iowa veterans home to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts among all providers of funding for the services available from the Iowa veterans home.

2. The net appropriation made to the Iowa veterans home may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for 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.

3. Revenues received that are attributed to the Iowa veterans home during a fiscal year shall be credited to the Iowa veterans home account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

a. Federal veterans administration payments.

b. Medical assistance program revenue received under chapter 249A.

c. Federal Medicare program payments.

d. Other revenues generated from current, new, or expanded services that the Iowa veterans home is authorized to provide.

4. For purposes of allocating moneys to the Iowa veterans home from the salary adjustment fund created in section 8.43, the Iowa veterans home shall be considered to be funded entirely with state moneys.

5. Notwithstanding section 8.33, up to five hundred thousand dollars of the Iowa veterans home revenue that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for purposes of the Iowa veterans home until the close of the succeeding fiscal year.

Sec. 58. Section 84A.6, subsection 2, Code 2005, is amended to read as follows:

2. a. The director of the department of workforce development, in cooperation with the department of human services, shall provide job placement and training to persons referred by the department of human services under the promoting independence and self-sufficiency through employment job opportunities and basic skills program established pursuant to chapter 239B and the food stamp employment and training program.

b. The department of workforce development, in consultation with the department of human services, shall develop and implement departmental recruitment and employment practices that address the needs of former and current participants in the family investment program under chapter 239B.

Sec. 59. Section 125.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. A1. "Board" means the state board of health created pursuant to chapter 136.

Sec. 60. Section 125.2, subsection 6, Code 2005, is amended by striking the subsection.

[19] The word "programs" probably intended

Sec. 61. Section 125.3, Code 2005, is amended to read as follows:

125.3 SUBSTANCE ABUSE PROGRAM ~~AND COMMISSION~~ ESTABLISHED.

The Iowa department of public health shall ~~include a program which shall~~ develop, implement, and administer a comprehensive substance abuse program pursuant to sections 125.1 to 125.43. ~~A commission on substance abuse is created to establish certain policies governing the performance of the department in the discharge of duties imposed on it by this chapter and advise the department on other policies. The commission shall consist of nine members appointed by the governor. Appointments shall be made on the basis of interest in and knowledge of substance abuse, however two of the members shall be persons who, in their regular work, have direct contact with substance abuse clients. Only eligible electors of the state of Iowa shall be appointed.~~

Sec. 62. Section 125.7, Code 2005, is amended to read as follows:

125.7 DUTIES OF THE ~~COMMISSION~~ BOARD.

The ~~commission~~ board shall:

1. Approve the comprehensive substance abuse program, developed by the department pursuant to sections 125.1 to 125.43.

2. Advise the department on policies governing the performance of the department in the discharge of any duties imposed on ~~it~~ the department by law.

3. Advise or make recommendations to the governor and the general assembly relative to substance abuse treatment, intervention, ~~and~~ education, and prevention programs in this state.

4. ~~Promulgate~~ Adopt rules for subsections 1 and 6 and review other rules necessary to carry out the provisions of this chapter, subject to review in accordance with chapter 17A.

5. Investigate the work of the department relating to substance abuse, and for this purpose ~~it~~ the board shall have access at any time to all books, papers, documents, and records of the department.

6. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension, or revocation of a license.

7. Act as the appeal board regarding funding decisions made by the department.

Sec. 63. Section 125.9, subsection 1, Code 2005, is amended to read as follows:

1. Plan, establish and maintain treatment, intervention, ~~and~~ education, and prevention programs as necessary or desirable in accordance with the comprehensive substance abuse program.

Sec. 64. Section 125.10, subsections 1 and 11, Code 2005, are amended to read as follows:

1. Prepare and submit a state plan subject to approval by the ~~commission~~ board and in accordance with the provisions of 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan.

11. Develop and implement, with the counsel and approval of the ~~commission~~ board, ~~a~~ the comprehensive plan for treatment of substance abusers, chronic substance abusers, and intoxicated persons in accordance with this chapter.

Sec. 65. Section 125.12, subsection 1, Code 2005, is amended to read as follows:

1. The ~~commission~~ board shall review ~~a~~ the comprehensive ~~and co-ordinated~~ substance abuse program implemented by the department for the treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. Subject to the review of the ~~commission~~ board, the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city and county lines, population concentrations, and existing substance abuse treatment services. ~~In determining the regions, the director is not required to follow the regional map as prepared by the former office for planning and programming.~~

Sec. 66. Section 125.13, subsection 2, paragraphs a, b, i, and j, Code 2005, are amended to read as follows:

a. A hospital providing care or treatment to substance abusers or chronic substance abusers licensed under chapter 135B which is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission~~ board. All survey reports from the accrediting or licensing body must be sent to the department.

b. Any practitioner of medicine and surgery or osteopathic medicine and surgery, in the practitioner's private practice. However, a program shall not be exempted from licensing by the ~~commission~~ board by virtue of its utilization of the services of a medical practitioner in its operation.

i. A substance abuse treatment program not funded by the department which is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission~~ board. All survey reports from the accrediting or licensing body must be sent to the department.

j. A hospital substance abuse treatment program that is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission~~ board. All survey reports for the hospital substance abuse treatment program from the accrediting or licensing body shall be sent to the department.

Sec. 67. Section 125.14, Code 2005, is amended to read as follows:

125.14 LICENSES — RENEWAL — FEES.

The ~~commission~~ board shall ~~meet to~~ consider all cases involving initial issuance, and renewal, denial, suspension, or revocation of a license. The department shall issue a license to an applicant whom the ~~commission~~ board determines meets the licensing requirements of this chapter. Licenses shall expire no later than three years from the date of issuance and shall be renewed upon timely application made in the same manner as for initial issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal of programs contracting with the department for provision of treatment services. A fee may be charged to other licensees.

Sec. 68. Section 125.15A, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. The ~~commission~~ board has suspended, revoked, or refused to renew the existing license of the program.

Sec. 69. Section 125.16, Code 2005, is amended to read as follows:

125.16 TRANSFER OF LICENSE OR CHANGE OF LOCATION PROHIBITED.

A license issued under this chapter may not be transferred, and the location of the physical facilities occupied or utilized by any program licensed under this chapter shall not be changed without the prior written consent of the ~~commission~~ board.

Sec. 70. Section 125.17, Code 2005, is amended to read as follows:

125.17 LICENSE SUSPENSION OR REVOCATION.

Violation of any of the requirements or restrictions of this chapter or of any of the rules ~~properly established~~ adopted pursuant to this chapter is cause for suspension, revocation, or refusal to renew a license. The director shall at the earliest time feasible notify a licensee whose license the ~~commission~~ board is considering suspending or revoking and shall inform the licensee what changes must be made in the licensee's operation to avoid such action. The li-

censee shall be given a reasonable time for compliance, as determined by the director, after receiving such notice or a notice that the ~~commission~~ board does not intend to renew the license. When the licensee believes compliance has been achieved, or if the licensee considers the proposed suspension, revocation, or refusal to renew unjustified, the licensee may submit pertinent information to the ~~commission who~~ board and the board shall expeditiously make a decision in the matter and notify the licensee of the decision.

Sec. 71. Section 125.18, Code 2005, is amended to read as follows:

125.18 HEARING BEFORE ~~COMMISSION~~ BOARD.

If a licensee under this chapter makes a written request for a hearing within thirty days of suspension, revocation, or refusal to renew a license, a hearing before the ~~commission~~ board shall be expeditiously arranged by the department of inspections and appeals whose decision is subject to review by the ~~commission~~ board. ~~If the role of a commission member is inconsistent with the member's job role or function, or if any commission member feels unable for any reason to disinterestedly weigh the merits of the case before the commission, the member shall not participate in the hearing and shall not be entitled to vote on the case.~~ The ~~commission~~ board shall issue a written statement of ~~it's~~ the board's findings within thirty days after conclusion of the hearing upholding or reversing the proposed suspension, revocation, or refusal to renew a license. Action involving suspension, revocation or refusal to renew a license shall not be taken by the ~~commission~~ board unless a quorum is present at the meeting. A copy of the board's decision shall be promptly transmitted to the affected licensee who may, if aggrieved by the decision, seek judicial review of the actions of the ~~commission~~ board in accordance with the terms of chapter 17A.

Sec. 72. Section 125.19, Code 2005, is amended to read as follows:

125.19 REISSUANCE OR REINSTATEMENT.

After suspension, revocation, or refusal to renew a license pursuant to this chapter, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation, or expiration upon refusal to renew, unless ~~by order of~~ the ~~commission~~ board orders otherwise. After that time, proof of compliance with the requirements and restrictions of this chapter and the rules ~~established~~ adopted pursuant to this chapter must be presented to the ~~commission~~ board prior to reinstatement or reissuance of a license.

Sec. 73. Section 125.21, Code 2005, is amended to read as follows:

125.21 CHEMICAL SUBSTITUTES AND ANTAGONISTS PROGRAMS.

1. The ~~commission~~ board has exclusive power in this state to approve and license chemical substitutes and antagonists programs, and to monitor chemical substitutes and antagonists programs to ensure that the programs are operating within the rules ~~established~~ adopted pursuant to this chapter. The ~~commission~~ board shall grant approval and license if the requirements of the rules are met and ~~no~~ state funding is not requested. ~~This section requires approval of~~ The chemical substitutes and antagonists programs conducted by persons exempt from the licensing requirements of this chapter ~~by~~ pursuant to section 125.13, subsection 2, are subject to approval and licensure under this section.

2. The department may do any of the following:

~~1.~~ a. Provide advice, consultation, and technical assistance to chemical substitutes and antagonists programs.

~~2.~~ b. ~~In its discretion, approve~~ Approve local agencies or bodies to assist ~~it~~ the department in carrying out the provisions of this chapter.

Sec. 74. Section 125.43A, Code 2005, is amended to read as follows:

125.43A PRESCREENING — EXCEPTION.

Except in cases of medical emergency or court ordered admissions, a person shall be admitted to a state mental health institute for substance abuse treatment only after a preliminary

intake and assessment by a department-licensed treatment facility or a hospital providing care or treatment for substance abusers licensed under chapter 135B and accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the ~~commission~~ board, or by a designee of a department-licensed treatment facility or a hospital other than a state mental health institute, which confirms that the admission is appropriate to the person's substance abuse service needs. A county board of supervisors may seek an admission of a patient to a state mental health institute who has not been confirmed for appropriate admission and the county shall be responsible for one hundred percent of the cost of treatment and services of the patient.

Sec. 75. Section 125.58, subsection 1, Code 2005, is amended to read as follows:

1. If the department has probable cause to believe that an institution, place, building, or agency not licensed as a substance abuse treatment and rehabilitation facility is in fact a substance abuse treatment and rehabilitation facility as defined by this chapter, and is not exempt from licensing by section 125.13, subsection 2, the ~~commission~~ board may order an inspection of the institution, place, building, or agency. If the inspector upon presenting proper identification is denied entry for the purpose of making the inspection, the inspector may, with the assistance of the county attorney of the county in which the premises are located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been violations of this chapter. The investigation may include review of records, reports, and documents maintained by the facility and interviews with staff members consistent with the confidentiality safeguards of state and federal law.

Sec. 76. NEW SECTION. 135.39C ELDERLY WELLNESS SERVICES — PAYOR OF LAST RESORT.

The department shall implement elderly wellness services in a manner that ensures that the services provided are not payable by a third-party source.

Sec. 77. Section 135.150, subsection 2, Code 2005, is amended to read as follows:

2. a. Moneys appropriated to the department under this section shall be for the purpose of operating a gambling treatment program and 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, crisis call access, education and preventive services, and financial management and credit counseling services.

b. A person shall not maintain or conduct a gambling treatment program funded under this section unless the person has obtained a license for the program from the department. The department shall adopt rules to establish standards for the licensing and operation of gambling treatment programs under this section. The rules shall specify, but are not limited to specifying, the qualifications for persons providing gambling treatment services, standards for the organization and administration of gambling treatment programs, and a mechanism to monitor compliance with this section and the rules adopted under this section.

Sec. 78. Section 136.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The state board of health shall consist of the following members: Five members learned in health-related disciplines, two members who have direct experience with substance abuse treatment or prevention, and four members representing the general public.

Sec. 79. Section 136.3, subsection 7, Code 2005, is amended to read as follows:

7. Adopt, promulgate, amend, and repeal rules and regulations consistent with law for the protection of the public health and prevention of substance abuse, and for the guidance of the

department. All rules ~~which have been or are hereafter~~ adopted by the department ~~shall be~~ are subject to approval by the board. ~~However, rules adopted by the commission on substance abuse for section 125.7, subsections 1 and 7, and rules adopted by the department pursuant to section 135.130 are not subject to approval by the state board of health.~~

Sec. 80. Section 136.3, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 10. Perform those duties authorized pursuant to chapter 125.

Sec. 81. Section 136C.10, subsection 1, Code 2005, is amended to read as follows:
1. a. The department shall establish and collect fees for the licensing and amendment of licenses for radioactive materials, the registration of radiation machines, the periodic inspection of radiation machines and radioactive materials, and the implementation of section 136C.3, subsection 2. Fees shall be in amounts sufficient to defray the cost of administering this chapter. The license fee may include the cost of environmental surveillance activities to assess the radiological impact of activities conducted by licensees.
b. Fees collected shall be remitted to the treasurer of state who shall deposit the funds in the general fund of the state. However, the fees collected from the licensing, registration, authorization, accreditation, and inspection of radiation machines used for mammographically guided breast biopsy, screening, and diagnostic mammography shall be used to support the department's administration of this chapter and the fees collected shall be considered repayment receipts, as defined in section 8.2.
c. When a registrant or licensee fails to pay the applicable fee the department may suspend or revoke the registration or license or may issue an appropriate order. Fees for the license, amendment of a license, and inspection of radioactive material shall not exceed the fees prescribed by the United States nuclear regulatory commission.

Sec. 82. Section 144.13A, subsection 4, paragraph a, unnumbered paragraph 2, Code 2005, is amended to read as follows:
~~Beginning July 1, 2005, ten~~ Ten dollars of each registration fee is appropriated and shall be used for primary and secondary child abuse prevention programs pursuant to section 235A.1, and ten dollars of each registration fee is appropriated and shall be used for the center for congenital and inherited disorders central registry established pursuant to section 136A.6. Notwithstanding section 8.33, moneys appropriated in this unnumbered paragraph 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. 83. NEW SECTION. 144.46A VITAL RECORDS FUND.
1. A vital records fund is created under the control of the department. Moneys in the fund shall be used for purposes of the purchase and maintenance of an electronic system for vital records scanning, data capture, data reporting, storage, and retrieval, and for all registration and issuance activities. Moneys in the fund may also be used for other related purposes including but not limited to the streamlining of administrative procedures and electronically linking offices of county registrars to state vital records so that the records may be issued at the county level.
2. The department shall adopt rules providing for an increase in the fees charged by the state registrar for vital records services under section 144.46 in an amount necessary to pay for the purposes designated in subsection 1.
3. Increased fees collected by the state registrar pursuant to this section shall be credited to the vital records fund. Moneys credited to the fund are appropriated to the department to be used for the purposes designated in subsection 1. Notwithstanding section 8.33, moneys credited to the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated.

Sec. 84. NEW SECTION. 147.28A SCOPE OF PRACTICE REVIEW COMMITTEES — FUTURE REPEAL.

1. The department shall utilize scope of practice review committees to evaluate and make recommendations to the general assembly and to the appropriate examining boards regarding all of the following issues:

a. Requests from practitioners seeking to become newly licensed health professionals or to establish their own examining boards.

b. Requests from health professionals seeking to expand or narrow the scope of practice of a health profession.

c. Unresolved administrative rulemaking disputes between examining boards.

2. A scope of practice review committee established under this section shall evaluate the issues specified in subsection 1 and make recommendations regarding proposed changes to the general assembly based on the following standards and guidelines:

a. The proposed change does not pose a significant new danger to the public.

b. Enacting the proposed change will benefit the health, safety, or welfare of the public.

c. The public cannot be effectively protected by other more cost-effective means.

3. A scope of practice review committee shall be limited to five members as follows:

a. One member representing the profession seeking licensure, a new examining board, or a change in scope of practice.

b. One member of the health profession directly impacted by, or opposed to, the proposed change.

c. One impartial health professional who is not directly or indirectly affected by the proposed change.

d. Two impartial members of the general public.

4. The department may contract with a school or college of public health to assist in implementing this section.

5. The department 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.

6. The department shall adopt rules in accordance with chapter 17A to implement this section.

7. This section is repealed July 1, 2007.

Sec. 85. Section 147.80, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing shall retain individual executive officers, but shall make every effort to share administrative, clerical, and investigative staffs to the greatest extent possible. The department shall annually submit a status report to the general assembly in December regarding the sharing of staff during the previous fiscal year.

Sec. 86. Section 147.82, Code 2005, is amended to read as follows:

147.82 FEES.

~~All~~ Notwithstanding section 12.10, all fees ~~shall be~~ collected under this chapter by an examining board or the department ~~and~~ shall be paid to the treasurer of state and ~~deposited in~~ credited to the general fund of the state, except ~~as provided in sections 147.94 and 147.102.~~ for the following:

1. The department may retain and expend or encumber a portion of fees collected under this chapter for an examining board if the expenditure or encumbrance is directly the result of an unanticipated litigation expense or an expense associated with a scope of practice review committee created pursuant to section 147.28A. Before the department retains, expends, or encumbers funds for an unanticipated litigation expense or a scope of practice review committee, the director of the department of management shall approve the expenditure or encum-

brance. The amount of fees retained pursuant to this subsection shall not exceed five percent of the average annual fees generated by the affected examining board for the two previous fiscal years. The amount of fees retained shall be considered repayment receipts as defined in section 8.2.

2. The department may annually retain and expend not more than two hundred ninety-seven thousand nine hundred sixty-one dollars 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. Fees retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

3. The department may annually retain and expend not more than one hundred thousand dollars 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, 2005, and ending June 30, 2006. Fees retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2 and shall be used for the purposes described in this subsection.

4. The board of dental examiners may annually retain and expend not more than one hundred forty-eight thousand sixty dollars from revenues generated pursuant to section 147.80. Fees retained by the board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2 and shall be used for the purposes of regulating dental assistants.

5. The board of nursing may annually retain and expend ninety percent of the revenues generated from an increase in license and renewal fees established pursuant to section 147.80 for the practice of nursing, above the license and renewal fees in effect as of July 1, 2003. The moneys retained shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes described in this subsection.

6. The board of pharmacy examiners may annually retain and expend ninety percent of the revenues generated from an increase in license and renewal fees established pursuant to sections 124.301 and 147.80, and chapter 155A, for the practice of pharmacy, above the license and renewal fees in effect as of July 1, 2004. The moneys retained shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes described in this subsection.

7. In addition to the amounts authorized in subsections 1 through 6, the examining boards listed in section 147.80 may retain and expend ninety percent of the revenue generated from an increase in license and renewal fees established pursuant to section 147.80 for the practice of the licensed profession for which an examining board conducts examinations above the license and renewal fees in effect as of June 30, 2005. The moneys retained by an examining board shall be used for any of the board's duties, including but not limited to addition of full-time equivalent positions for program services and investigations. Revenues retained by an examining board pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 87. Section 147.94, Code 2005, is amended to read as follows:

147.94 PHARMACISTS.

The provisions of this chapter relative to the making of application for a license, the issuance of a license, the negotiation of reciprocal agreements for recognition of foreign licenses, ~~the collection of license and renewal fees,~~ and the preservation of records shall not apply to the licensing of persons to practice pharmacy, but such licensing shall be governed by the following ~~regulations~~:

1. Every application for a license to practice pharmacy shall be made ~~direct~~ to the secretary of the board of pharmacy examiners.

2. ~~Such~~ A license and all renewals ~~thereof~~ of a license shall be issued by ~~said~~ the board of pharmacy examiners.

3. Every reciprocal agreement for the recognition of any ~~such~~ license issued in another state shall be negotiated by ~~said~~ the board of pharmacy examiners.

~~4. All license and renewal fees exacted from persons licensed to practice pharmacy shall be paid to and collected by the secretary of the pharmacy examiners.~~

~~5.~~ 4. All records in connection with the licensing of pharmacists shall be kept by ~~said~~ the secretary of the board of pharmacy examiners.

Sec. 88. Section 147.102, Code 2005, 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 8A.413, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 89. Section 154A.22, Code 2005, is amended to read as follows:

154A.22 ~~DEPOSIT~~ RECEIPT OF FEES.

1. ~~The~~ Except as otherwise provided in subsection 2, the department shall deposit all fees collected under the provisions of this chapter in the general fund of the state. Compensation and travel expenses of members and employees of the board, and other expenses necessary for the board to administer and carry out the provisions of this chapter shall be paid from funds appropriated from the general fund of the state.

2. The department may retain ninety percent of the revenue generated from an increase in licensure and permit fees established pursuant to section 154A.17 above the licensure and permit fees in effect as of June 30, 2005. The moneys retained by the department shall be used for any of the board's duties, including but not limited to addition of full-time equivalent positions for program services and investigations. Revenues retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 90. Section 155.6, Code 2005, is amended to read as follows:

155.6 ~~FUND CREATED~~ RECEIPT OF FEES.

1. ~~All~~ Except as otherwise provided in subsection 2, all fees collected under the provisions of this chapter shall be paid to the treasurer of state who shall deposit the fees in the general fund of the state. Funds shall be appropriated to the board to be used and expended by the board to pay the compensation and travel expenses of members and employees of the board, and other expenses necessary for the board to administer and carry out the provisions of this chapter.

2. The board may retain ninety percent of the revenue generated from an increase in examination, licensure, and renewal of licensure fees established pursuant to section 155.15 above the examination, licensure, and renewal of licensure fees in effect as of June 30, 2005. The moneys retained by the board shall be used for any of the board's duties, including but not limited to addition of full-time equivalent positions for program services and investigations. Revenues retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 91. Section 217.13, subsection 1, Code 2005, is amended to read as follows:

1. The department of human services shall establish volunteer programs designed to enhance the services provided by the department. Roles for volunteers may include but shall not be limited to parent aides, friendly visitors, commodity distributors, clerical assistants, ~~and~~ medical transporters, and other functions to complement and supplement the department's work with clients. Roles for volunteers shall include conservators and guardians. The department shall adopt rules for programs which are established.

Sec. 92. NEW SECTION. 217.35 FRAUD AND RECOUPMENT ACTIVITIES.

Notwithstanding the requirement for deposit of recovered moneys under 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. The department of human services may use the recovered moneys appropriated to add not more than five full-time equivalent positions, in addition to those funded by annual appropriations. The appropriation of the recovered moneys is 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 previous fiscal year.

2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

Sec. 93. NEW SECTION. 218.6 TRANSFER OF APPROPRIATIONS MADE TO INSTITUTIONS.

Notwithstanding section 8.39, subsection 1, without the prior written consent and approval of the governor and the director of the department of management, the director of human services may transfer funds between the appropriations made for the same type of institution, listed as follows:

1. The state resource centers.
2. The state mental health institutes.
3. The state juvenile institutions consisting of the state training school and the Iowa juvenile home.

Sec. 94. NEW SECTION. 222.92 NET GENERAL FUND APPROPRIATION — STATE RESOURCE CENTERS.

1. The department shall operate the state resource centers on the basis of net appropriations from the general fund of the state. The appropriation amounts shall be the net amounts of state moneys projected to be needed for the state resource centers for the fiscal year of the appropriations. The purpose of utilizing net appropriations is 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 providers of funding for the services available from the state resource centers. The state resource centers shall not be operated under the net appropriations in a manner that results in a cost increase to the state or in cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state resource centers.

2. The net appropriation made for a state resource center may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management, a state resource center may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

3. Subject to the approval of the department, except for revenues segregated as provided in section 249A.11, revenues received that are attributed to a state resource center for a fiscal year shall be credited to the state resource center's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

a. Moneys received by the state from billings to counties under section 222.73.
b. The federal share of medical assistance program revenue received under chapter 249A.
c. Federal Medicare program payments.
d. Moneys received from client financial participation.
e. Other revenues generated from current, new, or expanded services that the state resource center is authorized to provide.

4. For purposes of allocating moneys to the state resource centers from the salary adjustment fund created in section 8.43, the state resource centers shall be considered to be funded entirely with state moneys.

5. Notwithstanding section 8.33, up to five hundred thousand dollars of a state resource center's revenue that remains unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for purposes of the state resource center until the close of the succeeding fiscal year.

Sec. 95. NEW SECTION. 226.9B NET GENERAL FUND APPROPRIATION — PSYCHIATRIC MEDICAL INSTITUTION FOR CHILDREN.

1. The psychiatric medical institution for children beds operated by the state at the state mental health institute at Independence, as authorized in section 135H.6, shall operate on the basis of a net appropriation from the general fund of the state. The allocation made by the department from the annual appropriation to the state mental health institute at Independence for the purposes of the beds shall be the net amount of state moneys projected to be needed for the beds for the fiscal year of the appropriation.

2. Revenues received that are attributed to the psychiatric medical institution for children beds during a fiscal year shall be credited to the mental health institute's account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:
a. The federal share of medical assistance program revenue received under chapter 249A.
b. Moneys received through client financial participation.
c. Other revenues directly attributable to the psychiatric medical institution for children beds.

Sec. 96. NEW SECTION. 226.9C NET GENERAL FUND APPROPRIATION — DUAL DIAGNOSIS PROGRAM.

1. The state mental health institute at Mount Pleasant shall operate 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 each fiscal year, shall be deposited in the mental health institute's account and are appropriated to the department for the dual diagnosis program, including but not limited to all of the following revenues:
a. Moneys received by the state from billings to counties under section 230.20.
b. Moneys received from billings to the Medicare program.
c. Moneys received from a managed care contractor providing services under contract with the department or any private third-party payor.
d. Moneys received through client participation.
e. Any other revenues directly attributable to the dual diagnosis program.

2. The following additional provisions are applicable in regard to the dual diagnosis program:
a. A county may split the charges between the county's mental health, mental retardation, and developmental disabilities services fund created pursuant to section 331.424A and the county's budget for substance abuse expenditures.
b. 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.

c. Prior to an individual's admission for dual diagnosis treatment, the individual shall have been screened through a county's central point of coordination process implemented pursuant to section 331.440 to determine the appropriateness of the treatment.

d. 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.

e. 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.

Sec. 97. Section 226.19, Code 2005, is amended to read as follows:

226.19 DISCHARGE — CERTIFICATE.

1. All patients shall be discharged~~, by~~ in accordance with the procedure prescribed in section 229.3 or section 229.16, whichever is applicable, immediately on regaining ~~their~~ the patient's good mental health.

2. If a patient's care is the financial responsibility of the state or a county, as part of the patient's discharge planning the state mental health institute shall provide assistance to the patient in obtaining eligibility for the federal state supplemental security income program.

Sec. 98. Section 227.4, Code 2005, is amended to read as follows:

227.4 STANDARDS FOR CARE OF PERSONS WITH MENTAL ILLNESS OR ~~DEVELOPMENTAL DISABILITIES~~ MENTAL RETARDATION IN COUNTY CARE FACILITIES.

The administrator, in cooperation with the department of inspections and appeals, shall recommend and the mental health, mental retardation, developmental disabilities, and brain injury commission created in section 225C.5 shall adopt standards for the care of and services to persons with mental illness or ~~developmental disabilities~~ mental retardation residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or ~~developmental disabilities~~ mental retardation who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county mental health and developmental disabilities regional planning councils, and county care facility resident advocate committees to assist in the establishment of standards.

Sec. 99. Section 229A.12, Code 2005, is amended to read as follows:

229A.12 DIRECTOR OF HUMAN SERVICES — RESPONSIBILITY FOR COSTS — REIMBURSEMENT.

The director of human services shall be responsible for all costs relating to the evaluation, treatment, and services provided to a person that are incurred after the person is committed to the director's custody after the court or jury determines that the respondent is a sexually violent predator and pursuant to commitment under any provision of this chapter. If placement in a transitional release program or supervision is ordered, the director shall also be responsible for all costs related to the transitional release program or to the supervision and treatment of any person. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of confinement or of care and treatment provided. To the extent allowed by the United States social security administration, any benefit payments received by the person pursuant to the federal Social Security Act shall be used for the costs incurred. As used in this section, "any person legally liable" does not include a political subdivision.

Sec. 100. NEW SECTION. 231.34 LIMITATION OF FUNDS USED FOR ADMINISTRATIVE PURPOSES.

Of the state funds appropriated or allocated to the department for programs of the area agencies on aging, not more than seven and one-half percent of the total amount shall be used for area agencies on aging administrative purposes.

Sec. 101. NEW SECTION. 232.1A FOSTER CARE PLACEMENT — ANNUAL GOAL.

The annual state goal for children placed in foster care that is funded under the federal Social Security Act, Title IV-E, is that not more than fifteen percent of the children will be in a foster care placement for a period of more than twenty-four months.

Sec. 102. Section 233A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The number of children present at any one time at the state training school at Eldora shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for subsequent changes in the capacity at the training school.

Sec. 103. Section 233B.1, Code 2005, is amended to read as follows:

233B.1 DEFINITIONS ~~— OBJECTS~~ PURPOSE — POPULATION LIMIT.

1. For the purpose of this chapter, unless the context otherwise requires:

~~1.~~ a. "Administrator" or "director" means the director of the department of human services.

~~2.~~ b. "Home" means the Iowa juvenile home.

~~3.~~ c. "Superintendent" means the superintendent of the Iowa juvenile home.

2. The Iowa juvenile home shall be maintained for the purpose of providing care, custody and education of ~~such~~ the children ~~as~~ are[20] committed to the home. ~~Such~~ The children shall be wards of the state. ~~Their~~ The children's education shall embrace instruction in the common school branches and in such other higher branches as may be practical and will enable the children to gain useful and self-sustaining employment. The administrator and the superintendent of the home shall assist all discharged children in securing suitable homes and proper employment.

3. The number of children present at any one time at the Iowa juvenile home shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for subsequent changes in the capacity at the home.

Sec. 104. Section 234.12A, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department of human services ~~may establish~~ shall maintain an electronic benefits transfer program utilizing electronic funds transfer systems. The program~~, if established,~~ shall at a minimum provide for all of the following:

Sec. 105. Section 237A.28, Code 2005, is amended to read as follows:

237A.28 CHILD CARE CREDIT FUND.

A child care credit fund is created in the state treasury under the authority of the department of human services. The moneys in the fund shall consist of moneys deposited pursuant to section 422.100 and ~~shall be used for child care services as annually~~ are appropriated ~~by the general assembly~~ to the department to be used for the state child care assistance program in accordance with section 237A.13.

Sec. 106. Section 239B.4, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. The department shall continue to work with the department of workforce development and local community collaborative efforts to provide support services for 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.

[20] According to enrolled Act

NEW SUBSECTION. 3B. 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, and any successor legislation. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance who may receive assistance while living in an alternative setting other than with their parent or legal guardian.

Sec. 107. Section 239B.11, Code 2005, is amended to read as follows:

239B.11 FAMILY INVESTMENT PROGRAM ACCOUNT — DIVERSION PROGRAM SUBACCOUNT — DIVERSION PROGRAM.

1. An account is established in the state treasury to be known as the family investment program account under control of the department to which shall be credited all funds appropriated by the state for the payment of assistance and JOBS program expenditures. All other moneys received at any time for these purposes, including child support revenues, shall be deposited into the account as provided by law. All assistance and JOBS program expenditures under this chapter shall be paid from the account.

2. a. A diversion program subaccount is created within the family investment program account. The subaccount may be used to provide incentives to divert ~~applicants'~~ a family's participation in the family investment program if the ~~applicants meet~~ family meets the department's income eligibility requirements for ~~assistance~~ the diversion program. Incentives may be provided in the form of payment or services ~~with a focus on helping applicants~~ to help a family to obtain or retain employment. The diversion program subaccount may also be used for payments to participants as necessary to cover the expenses of removing barriers to employment and to assist in stabilizing employment. In addition, the diversion program subaccount may be used for funding of services and payments for persons whose family investment program eligibility has ended, in order to help the persons to stabilize or improve their employment status.

b. The diversion program shall be implemented statewide in a manner that preserves local flexibility in program design. The department shall assess and screen individuals who would most likely benefit from diversion program assistance. The department may adopt additional eligibility criteria for the diversion program as necessary for compliance with federal law and for screening those families who would be most likely to become eligible for the family investment program if diversion program incentives would not be provided to the families.

Sec. 108. Section 249.3, subsection 4, paragraphs e and g, Code 2005, are amended to read as follows:

e. Receive full medical assistance benefits under chapter 249A and are not required to meet a spend-down or pay a premium to be eligible for such benefits.

g. Have income ~~exceeding~~ of at least one hundred ~~thirty-five~~ twenty percent of the federal poverty level but not exceeding the medical assistance income limit for the eligibility group for the individual person's living arrangement.

Sec. 109. Section 249A.12, subsection 6, paragraph c, Code 2005, is amended to read as follows:

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~~ has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case.

Sec. 110. Section 249A.12, subsection 6, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision

in an intermediate care facility for persons with mental retardation provided under the medical assistance program.

Sec. 111. Section 249A.12, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. When paying the necessary and legal expenses for intermediate care facility for persons with mental retardation services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with mental retardation, and the state or a county of legal settlement shall not be obligated for any amount in excess of the rates.

Sec. 112. Section 249A.24, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The commission shall submit an 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 general assembly's joint appropriations subcommittee on health and human services.

Sec. 113. Section 249A.26, Code 2005, is amended to read as follows:

249A.26 STATE AND COUNTY PARTICIPATION IN FUNDING FOR SERVICES TO PERSONS WITH DISABILITIES — CASE MANAGEMENT.

1. The state shall pay for one hundred percent of the nonfederal share of the services paid for under any prepaid mental health services plan for medical assistance implemented by the department as authorized by law.

2. a. ~~The~~ Except as provided for disallowed costs in section 249A.27, the county of legal settlement shall pay for fifty percent of the nonfederal share of the cost and the state shall have responsibility for the remaining fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill. To the maximum extent allowed under federal law and regulations, the department shall consult with and inform a county of legal settlement's central point of coordination process, as defined in section 331.440, regarding the necessity for and the provision of any service for which the county is required to provide reimbursement under this subsection.

b. The state shall pay for one hundred percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based services waiver services for persons who have no legal settlement or the legal settlement is unknown so that the persons are deemed to be state cases.

c. The case management services specified in this subsection shall be paid for by a county only if the services are provided outside of a managed care contract.

3. To the maximum extent allowed under federal law and regulations, a person with mental illness or mental retardation shall not be eligible for any service which is funded in whole or in part by a county share of the nonfederal portion of medical assistance funds unless the person is referred through the central point of coordination process, as defined in section 331.440. However, to the extent federal law allows referral of a medical assistance recipient to a service without approval of the central point of coordination process, the county of legal settlement shall be billed for the nonfederal share of costs for any adult person for whom the county would otherwise be responsible.

4. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the cost of services provided to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan. The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons ~~without a county of~~ who have no legal settlement or the legal settlement is unknown so that the persons are deemed to be state cases.

5. The state shall pay for the entire nonfederal share of the costs for case management services provided to persons seventeen years of age or younger who are served in a home and community-based services waiver program under the medical assistance program for persons with mental retardation.

6. Funding under the medical assistance program shall be provided for case management services for eligible persons seventeen years of age or younger residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in the service plan and the decategorization project county is willing to provide the nonfederal share of the costs.

7. Unless a county has paid or is paying for the nonfederal share of the costs of a person's home and community-based waiver services or placement in an intermediate care facility for persons with mental retardation 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 for a person at the level of care provided in an intermediate care facility for persons with mental retardation due to the person reaching the age of majority, the state shall pay for the nonfederal share of the costs of an eligible person's services under the home and community-based services waiver for persons with brain injury.

~~5.~~ 8. If a dispute arises between different counties or between the department and a county as to the legal settlement of a person who receives medical assistance for which the nonfederal share is payable in whole or in part by a county of legal settlement, and cannot be resolved by the parties, the dispute shall be resolved as provided in section 225C.8.

9. Notwithstanding section 8.39, the department may transfer funds appropriated for the medical assistance program to a separate account established in the department's case management unit in an amount necessary to pay for expenditures required to provide case management for mental health, mental retardation, and developmental disabilities services under the medical assistance program 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 originally appropriated.

Sec. 114. Section 249A.26A, Code 2005, is amended to read as follows:

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~~ has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case.

Sec. 115. NEW SECTION. 249A.32A HOME AND COMMUNITY-BASED SERVICES WAIVERS — LIMITATIONS.

In administering a home and community-based services waiver, the total number of openings at any one time shall be limited to the number approved for the 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.

Sec. 116. NEW SECTION. 249A.32B EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT FUNDING.

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 program funding under the medical assistance program, to the extent possible, to implement the screening component of the early and periodic screening, diagnosis, and treatment program through the schools. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this section.

Sec. 117. Section 249J.8, subsection 4, as enacted by 2005 Iowa Acts, House File 841,[21] section 8, is amended to read as follows:

4. The department shall track the impact of the out-of-pocket expenditures on ~~patient~~ expansion population enrollment and shall report the findings on at least a quarterly basis to the medical assistance projections and assessment council established pursuant to section 249J.19. The findings shall include estimates of the number of expansion population members complying with payment of required out-of-pocket expenditures, the number of expansion population members not complying with payment of required out-of-pocket expenditures and the reasons for noncompliance, any impact as a result of the out-of-pocket requirements on the provision of services to the populations previously served, the administrative time and cost associated with administering the out-of-pocket requirements, and the benefit to the state resulting from the out-of-pocket expenditures. To the extent possible, the department shall track the income level of the member, the health condition of the member, and the family status of the member relative to the out-of-pocket information.

Sec. 118. Section 252B.4, subsection 3, Code 2005, is amended to read as follows:

3. Fees collected pursuant to this section shall be ~~retained by the department for use by~~ considered repayment receipts, as defined in section 8.2, and shall be used for the purposes of the unit. The director or a designee shall keep an accurate record of ~~funds so retained~~ the fees collected and expended.

Sec. 119. Section 252B.23, subsection 11, Code 2005, is amended to read as follows:

11. All surcharge payments shall be received and disbursed by the collection services center. The surcharge payments received by the collection services center shall be considered repayment receipts as defined in section 8.2 and shall be used to pay the costs of any contracts with a collection entity.

Sec. 120. NEW SECTION. 252B.25 USE OF FUNDING FOR ADDITIONAL POSITIONS.

1. The director, within the limitations of the amount appropriated for the unit, or moneys transferred for this purpose from the family investment program account created in section 239B.11, may establish new positions and add employees to the 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 for the fiscal year.

2. a. The director may establish new positions and add state employees to the 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 unit, 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 two hundred 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.

Sec. 121. Section 321J.25, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. "Program" means a substance abuse awareness program provided under a contract entered into between the provider and the ~~commission on substance abuse of the~~ Iowa department of public health under chapter 125.

[21] Chapter 167 herein

Sec. 122. Section 321J.25, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A substance abuse awareness program is established in each of the regions established by the ~~commission on substance abuse~~ director of public health pursuant to section 125.12. The program shall consist of an insight class and a substance abuse evaluation, which shall be attended by the participant, to discuss issues related to the potential consequences of substance abuse. The parent or parents of the participant shall also be encouraged to participate in the program. The program provider shall consult with the participant or the parents of the participant in the program to determine the timing and appropriate level of participation for the participant and any participation by the participant's parents. The program may also include a supervised educational tour by the participant to any or all of the following:

Sec. 123. Section 505.25, Code 2005, is amended to read as follows:

505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE ~~PROGRAM~~ AND HAWK-I PROGRAMS.

A carrier, as defined in section 514C.13, shall enter into a health insurance data match program with the department of human services for the sole purpose of comparing the names of the carrier's insureds with the names of recipients of the medical assistance program under chapter 249A or enrollees of the hawk-i program under chapter 514I.

Sec. 124. Section 514I.11, subsection 2, Code 2005, is amended to read as follows:

2. The trust fund 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 trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter and except as provided in subsection 4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

Sec. 125. Section 514I.11, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Moneys in the fund are appropriated to the department and shall be used to offset any program costs.

NEW SUBSECTION. 4. The department may transfer moneys appropriated from the fund to be used for the purpose of expanding health care coverage to children under the medical assistance program.

NEW SUBSECTION. 5. The department shall provide periodic updates to the general assembly regarding expenditures from the fund.

Sec. 126. Section 600.17, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The department of human services shall make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

Sec. 127. COMMISSION ON SUBSTANCE ABUSE — RULES. The administrative rules adopted by the commission on substance abuse that are in effect as of June 30, 2005, shall remain in effect until modified or rescinded by the state board of health.

Sec. 128. Sections 125.4, 125.5, and 125.6, Code 2005, are repealed.

Sec. 129. EFFECTIVE DATES.

1. The amendment in this division of this Act to section 144A.13A,[22] being deemed of immediate importance, takes effect upon enactment.

2. The amendment in this division of this Act to section 15H.3, subsection 5, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to April 19, 2005.

[22] Section "144.13A" probably intended

DIVISION V
SUBSTITUTE DECISION MAKER ACT

Sec. 130. NEW SECTION. 231E.1 TITLE.
This chapter shall be known and may be cited as the "Iowa Substitute Decision Maker Act".

Sec. 131. NEW SECTION. 231E.2 OFFICE OF SUBSTITUTE DECISION MAKER — FINDINGS AND INTENT.

1. a. The general assembly finds that many adults in this state are unable to meet essential requirements to maintain their physical health or to manage essential aspects of their financial resources and are in need of substitute decision-making services. However, a willing and responsible person may not be available to serve as a private substitute decision maker or the adult may not have adequate income or resources to compensate a private substitute decision maker.

b. The general assembly further finds that a process should exist to assist individuals in finding alternatives to substitute decision-making services and less intrusive means of assistance before an individual's independence or rights are limited.

c. The general assembly further finds that a substitute decision maker may be necessary to finalize a person's affairs after death when there is no willing and appropriate person available to serve as the person's personal representative.

2. a. It is, therefore, the intent of the general assembly to establish a state office of substitute decision maker and authorize the establishment of local offices of substitute decision maker to provide substitute decision-making services to adults and their estates after their deaths, when no private substitute decision maker is available.

b. It is also the intent of the general assembly that the office of substitute decision maker provide assistance to both public and private substitute decision makers throughout the state in securing necessary services for their wards, principals, clients, and decedents and to assist substitute decision makers, wards, principals, clients, courts, and attorneys in the orderly and expeditious handling of substitute decision-making proceedings.

Sec. 132. NEW SECTION. 231E.3 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:

1. "Client" means an individual for whom a representative payee is appointed.
2. "Commission" means the commission of elder affairs.
3. "Conservator" means conservator as defined in section 633.3.
4. "Court" means court as defined in section 633.3.
5. "Decedent" means the individual for whom an estate is administered or executed.
6. "Department" means the department of elder affairs established in section 231.21.
7. "Director" means the director of the department of elder affairs.
8. "Estate" means estate as defined in section 633.3.
9. "Guardian" means guardian as defined in section 633.3.
10. "Incompetent" means incompetent as defined in section 633.3.
11. "Local office" means a local office of substitute decision maker.
12. "Local substitute decision maker" means an individual under contract with the department to act as a substitute decision maker.
13. "Personal representative" means personal representative as defined in section 633.3.
14. "Planning and service area" means a geographic area of the state designated by the commission for the purpose of planning, developing, delivering, and administering services for elders.
15. "Power of attorney" means a durable power of attorney for health care as defined in section 144B.1 or a power of attorney that becomes effective upon the disability of the principal as described in section 633.705.
16. "Principal" means an individual for whom a power of attorney is established.

17. "Representative payee" means an individual appointed by a government entity to receive funds on behalf of a client pursuant to federal regulation.

18. "State agency" means any executive department, commission, board, institution, division, bureau, office, agency, or other executive entity of state government.

19. "State office" means the state office of substitute decision maker.

20. "State substitute decision maker" means the administrator of the state office of substitute decision maker.

21. "Substitute decision maker" means a guardian, conservator, representative payee, attorney in fact under a power of attorney, or personal representative.

22. "Substitute decision making" or "substitute decision-making services" means the provision of services of a guardian, conservator, representative payee, attorney in fact under a power of attorney, or personal representative.

23. "Ward" means the individual for whom a guardianship or conservatorship is established.

Sec. 133. NEW SECTION. 231E.4 STATE OFFICE OF SUBSTITUTE DECISION MAKER — ESTABLISHED — DUTIES — DEPARTMENT RULES.

1. A state office of substitute decision maker is established within the department to create and administer a statewide network of substitute decision makers who provide substitute decision-making services if other substitute decision makers are not available to provide the services.

2. The director shall appoint an administrator of the state office who shall serve as the state substitute decision maker. The state substitute decision maker shall be qualified for the position by training and expertise in substitute decision-making law. The state substitute decision maker shall also have knowledge of social services available to meet the needs of persons adjudicated incompetent or in need of substitute decision making.

3. The state office shall do all of the following:

a. Select persons through a request for proposals process to establish local offices of substitute decision maker in each of the planning and service areas. Local offices shall be established statewide on or before July 1, 2015.

b. Monitor and terminate contracts with local offices based on criteria established by rule of the department.

c. Retain oversight responsibilities for all local substitute decision makers.

d. Act as substitute decision maker if a local office is not available to so act.

e. Work with the department of human services, the Iowa department of public health, the governor's developmental disabilities council, and other agencies to establish a referral system for the provision of substitute decision-making services.

f. Develop and maintain a current listing of public and private services and programs available to assist wards, principals, clients, personal representatives, and their families and establish and maintain relationships with public and private entities to assure the availability of effective substitute decision-making services for wards, principals, clients, and estates.

g. Provide information and referrals to the public regarding substitute decision-making services.

h. Provide personal representatives for estates where a person is not available for that purpose.

i. Maintain statistical data on the local offices including various methods of funding, the types of services provided, and the demographics of the wards, principals, clients, and decedents and report to the general assembly on or before November 1, annually, regarding the local offices and recommend any appropriate legislative action.

j. Develop, in cooperation with the judicial council as established in section 602.1202, a substitute decision-maker education and training program. The program may be offered to both public and private substitute decision makers. The state office shall establish a curriculum committee, which includes but is not limited to probate judges, to develop the education and training program.

4. The state office may do any of the following:

a. Accept and receive gifts, grants, or donations from any public or private entity in support of the state office.

b. Accept the services of individual volunteers and volunteer organizations.

c. Employ staff necessary to administer the state office and enter into contracts as necessary.

5. The department shall provide administrative support to the state office.

6. The department shall adopt rules in accordance with chapter 17A necessary to create and administer the state and local offices, relating to but not limited to all of the following:

a. An application and intake process and standards for receipt of substitute decision-making services from the state or a local office.

b. A process for the removal or termination of the state or a local substitute decision maker.

c. An ideal range of staff-to-client ratios for the state and local substitute decision makers.

d. Minimum training and experience requirements for professional staff and volunteers.

e. A fee schedule. The department may establish by rule a schedule of reasonable fees for the costs of substitute decision-making services provided under this chapter. The fee schedule established may be based upon the ability of the ward, principal, client, or estate to pay for the services but shall not exceed the actual cost of providing the services. The state office or a local office may waive collection of a fee upon a finding that collection is not economically feasible. The rules may provide that the state office or a local office may investigate the financial status of a ward, principal, or client who,[23] or an estate that requests substitute decision-making services or for whom or which the state or a local substitute decision maker has been appointed for the purpose of determining the fee to be charged by requiring the ward, principal, client, or estate to provide any written authorizations necessary to provide access to records of public or private sources, otherwise confidential, needed to evaluate the individual's or estate's financial eligibility. The rules may also provide that the state or a local substitute decision maker may, upon request and without payment of fees otherwise required by law, obtain information necessary to evaluate the individual's or estate's financial eligibility from any office of the state or of a political subdivision or agency of the state that possesses public records. In estate proceedings, the state or local decision maker shall be compensated pursuant to chapter 633, division III, part 8.

f. Standards and performance measures for evaluation of local offices.

g. Recordkeeping and accounting procedures to ensure that the state office and local offices maintain confidential, accurate, and up-to-date financial, case, and statistical records. The rules shall require each local office to file with the state office, on an annual basis, an account of all public and private funds received and a report regarding the operations of the local office for the preceding fiscal year.

h. Procedures for the sharing of records held by the court or a state agency with the state office, which are necessary to evaluate the state office or local offices, to assess the need for additional substitute decision makers, or to develop required reports.

Sec. 134. NEW SECTION. 231E.5 LOCAL OFFICE OF SUBSTITUTE DECISION MAKER.

1. The state substitute decision maker shall select persons to provide local substitute decision-making services in each of the planning and service areas, based upon a request for proposals process developed by the department.

2. The local office shall comply with all requirements established for the local office by the department and shall do all of the following:

a. Maintain a staff of professionally qualified individuals to carry out the substitute decision-making functions.

b. Identify client needs and local resources to provide necessary support services to recipients of substitute decision-making services.

c. Collect program data as required by the state office.

d. Meet standards established for the local office.

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[23] According to enrolled Act

e. Comply with minimum staffing requirements and caseload restrictions.

f. Conduct background checks on employees and volunteers.

g. With regard to a proposed ward, the local office shall do all of the following:

(1) Determine the most appropriate form of substitute decision making needed, if any, giving preference to the least restrictive alternative.

(2) Determine whether the needs of the proposed ward require the appointment of[24] guardian or conservator.

(3) Assess the financial resources of the proposed ward based on the information supplied to the local office at the time of the determination.

(4) Inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the proposed ward's guardian or conservator.

(5) Determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least restrictive form.

(6) If determined necessary, file a petition for the appointment of a guardian or conservator pursuant to chapter 633.

h. With regard to an estate, the local office may appoint a personal representative to file a petition to open an estate who shall do all of the following:

(1) Retain legal counsel as described in section 231E.11 to be compensated from the proceeds of the estate pursuant to chapter 633, division III, part 8.

(2) Liquidate all assets of the estate.

(3) Distribute the assets of the estate pursuant to chapter 633, division VII, parts 7 and 8, and other applicable provisions of law.

3. A local office may do any of the following:

a. Contract for or arrange for provision of services necessary to carry out the duties of a local substitute decision maker.

b. Accept the services of volunteers or consultants and reimburse them for necessary expenses.

c. Employ staff and delegate to members of the staff the powers and duties of the local substitute decision maker. However, the local office shall retain responsibility for the proper performance of the delegated powers and duties. All delegations shall be to persons who meet the eligibility requirements of the specific type of substitute decision maker.

4. An individual acting as the state or a local substitute decision maker shall comply with applicable requirements for guardians, conservators, or personal representatives pursuant to chapter 633, attorneys in fact under a power of attorney pursuant to chapter 633 or a durable power of attorney for health care pursuant to chapter 144B, or representative payees pursuant to federal law and regulations.

5. Notwithstanding any provision to the contrary, an individual acting as the state or a local substitute decision maker shall not be subject to the posting of a bond pursuant to chapter 633. An individual acting as the state or a local substitute decision maker shall complete at least eight hours of training annually as certified by the department.

Sec. 135. NEW SECTION. 231E.6 COURT-INITIATED OR PETITION-INITIATED APPOINTMENT OF STATE OR LOCAL SUBSTITUTE DECISION MAKER — GUARDIANSHIP OR CONSERVATORSHIP — DISCHARGE.

The court may appoint on its own motion or upon petition of any person, the state office or local office of substitute decision maker, to serve as guardian or conservator for any proposed ward in cases in which the court determines that the proceeding will establish the least restrictive form of substitute decision making suitable for the proposed ward and if the proposed ward meets all of the following criteria:

1. Is a resident of the planning and service area in which the local office is located from which services would be provided or is a resident of the state, if the state office would provide the services.

2. Is eighteen years of age or older.

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[24] The phrase "appointment of a" probably intended

3. Does not have suitable family or another appropriate entity willing and able to serve as guardian or conservator.

4. Is incompetent.

5. Is an individual for whom guardianship or conservatorship services are the least restrictive means of meeting the individual's needs.

Sec. 136. NEW SECTION. 231E.7 SUBSTITUTE DECISION MAKER-INITIATED APPOINTMENT.

The state office or local office may on its own motion or at the request of the court intervene in a guardianship or conservatorship proceeding if the state office or local office or the court considers the intervention to be justified because of any of the following:

1. An appointed guardian or conservator is not fulfilling prescribed duties or is subject to removal under section 633.65.

2. A willing and qualified guardian or conservator is not available.

3. The best interests of the ward require the intervention.

Sec. 137. NEW SECTION. 231E.8 PROVISIONS APPLICABLE TO ALL APPOINTMENTS AND DESIGNATIONS — DISCHARGE.

1. The court shall only appoint or intervene on its own motion or act upon the petition of any person under section 231E.6 or 231E.7 if such appointment or intervention would comply with staffing ratios established by the department and if sufficient resources are available to the state office or local office. Notice of the proposed appointment shall be provided to the state office or local office prior to the granting of such appointment.

2. The state office or local office shall maintain reasonable personal contact with each ward, principal, or client for whom the state office or local office is appointed or designated in order to monitor the ward's, principal's, or client's care and progress. For any estates in which the state office or local office is involved, the state office or local office shall move estate proceedings forward in a reasonable and expeditious manner and shall monitor the progress of any legal counsel retained on a regular basis.

3. Notwithstanding any provision of law to the contrary, the state office or local office appointed by the court or designated under a power of attorney document may access all confidential records concerning the ward or principal for whom the state office or local office is appointed or designated, including medical records and abuse reports.

4. In any proceeding in which the state or local office is appointed or is acting as guardian or conservator, the court shall waive court costs or filing fees, if the state office or local office certifies to the court that the state office or local office has waived its fees in their entirety based upon the ability of the ward to pay for the services of the state office or local office. In any estate proceeding, the court costs shall be paid in accordance with chapter 633, division VII, part 7.

5. The state or a local substitute decision maker shall be subject to discharge or removal, by the court, on the grounds and in the manner in which other guardians, conservators, or personal representatives are discharged or removed pursuant to chapter 633.

Sec. 138. NEW SECTION. 231E.9 FEES — APPROPRIATED.

Fees received by the state office and by local offices for services provided as state or local substitute decision maker shall be deposited in the general fund of the state and the amounts received are appropriated to the department for the purposes of administering this chapter.

Sec. 139. NEW SECTION. 231E.10 CONFLICTS OF INTEREST — LIMITATIONS.

Notwithstanding section 633.63 or any other provision to the contrary, a local substitute decision maker shall not provide direct services to or have an actual or the appearance of any conflict of interest relating to any individual for whom the local substitute decision maker acts in a substitute decision-making capacity unless such provision of direct services or the appearance of a conflict of interest is approved and monitored by the state office in accordance with rules adopted by the department.

Sec. 140. NEW SECTION. 231E.11 DUTY OF ATTORNEY GENERAL, COUNTY ATTORNEY, OR OTHER COUNSEL.

1. The attorney general shall advise the state office on legal matters and represent the state office in legal proceedings.

2. Upon the request of the attorney general, a county attorney may represent the state office or a local office in connection with the filing of a petition for appointment as guardian or conservator and with routine, subsequent appearances.

3. A local attorney experienced in probate matters may represent the personal representative for all routine matters associated with probating an estate.

Sec. 141. NEW SECTION. 231E.12 LIABILITY.

All employees and volunteers of the state office and local offices operating under this chapter and other applicable chapters and pursuant to rules adopted under this and other applicable chapters are considered employees of the state and state volunteers for the purposes of chapter 669 and shall be afforded protection under section 669.21 or 669.24, as applicable. This section does not relieve a guardian or conservator from performing duties prescribed under chapter 633.

Sec. 142. NEW SECTION. 231E.13 IMPLEMENTATION.

Implementation of this chapter is subject to availability of funding as determined by the department. The department shall notify the Code editor upon implementation of this chapter.

Sec. 143. Section 235B.6, subsection 2, paragraph e, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (11) The state office or a local office of substitute decision maker as defined in section 231E.3, appointed by the court as a guardian or conservator of the adult named in a report as the victim of abuse or the person designated to be responsible for performing or obtaining protective services on behalf of a dependent adult pursuant to section 235B.18.

Sec. 144. Section 633.63, subsection 3, Code 2005, is amended to read as follows:

3. A private nonprofit corporation organized under chapter 504, Code 1989, or current chapter 504 or 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~~ if the corporation does not possess a proprietary or legal interest in an organization which provides direct services to the individual.

Sec. 145. Section 633.63, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The state or a local substitute decision maker as defined in section 231E.3 is authorized to act in a fiduciary capacity in this state in accordance with chapter 231E.

DIVISION VI
LONG-TERM LIVING SYSTEM

Sec. 146. NEW SECTION. 231F.1 INTENT FOR IOWA'S LONG-TERM LIVING SYSTEM.

1. The general assembly finds and declares that the intent for Iowa's long-term living system is to ensure all Iowans access to an extensive range of high-quality, affordable, and cost-effective long-term living options that maximize independence, choice, and dignity for consumers.

2. The long-term living system should be comprehensive, offering multiple services and support in home, community-based, and facility-based settings; should utilize a uniform assessment process to ensure that such services and support are delivered in the most integrated and life-enhancing setting; and should ensure that such services and support are provided by a well-trained, motivated workforce.

3. The long-term living system should exist in a regulatory climate that appropriately ensures the health, safety, and welfare of consumers, while not being overly restrictive or inflexible.

4. The long-term living system should sustain existing informal care systems including family, friends, volunteers, and community resources; should encourage innovation through the use of technology and new delivery and financing models, including housing; should provide incentives to consumers for private financing of long-term living services and support; and should allow Iowans to live independently as long as they desire.

5. Information regarding all components of the long-term living system should be effectively communicated to all persons potentially impacted by the need for long-term living services and support in order to empower consumers to plan, evaluate, and make decisions about how best to meet their own long-term living needs.

Approved June 14, 2005, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 825, an Act relating to and making appropriations to the Department of Human Services, the Department of Elder Affairs, the Iowa Department of Public Health, the Commission of Veterans Affairs and the Iowa Veterans Home, and the Department of Inspections and Appeals, providing for fee increases, and including other related provisions and appropriations, and providing effective dates.

At the beginning of the legislative session, I challenged the Legislature to take action to protect the health security of Iowans. This bill takes a number of noteworthy steps to accomplish that goal.

This bill includes an increase of almost $10 million to increase reimbursement for child care providers and to expand eligibility for low income families to qualify for state child care assistance, a key piece of our early childhood initiative. This bill complements those efforts with a $4.5 million increase for the children's health insurance program (HAWK-I), to provide health coverage for increasing numbers of children.

During the past several years of difficult budget times, other states have had to cut services or reduce eligibility to maintain their Medicaid programs. Iowa has managed to avoid cutting services to our most vulnerable and found a way to actually improve services and provide health coverage for an additional 30,000 Iowans through this bill and House File 841,[25] the IowaCare Act. Today, we take steps to improve health security by providing $6 million in Medicaid funding to pay for health services in the home and community for almost 2,500 ill or disabled Iowans. We also provide funding for a three percent reimbursement rate increase for all medical providers under the Medicaid program to maintain the high quality of care in our health care system.

Despite the good efforts highlighted above, I have several concerns with this budget. Although I am pleased that the Legislature did not cut Medicaid services and did increase provider reimbursement rates, based on current estimates, the Medicaid program was still not fully funded. Legislators will need to address this through a supplemental for Medicaid when they return next January.

[25] Chapter 167 herein

This budget also continues to rely heavily on the Senior Living Trust to fund essential health care services. This year we made a step to reduce that reliance. However, in order to continue protecting the health security of Iowans, we will need to further reduce the reliance on the Senior Living Trust while taking steps to pay back and strengthen the Trust.

I am also disappointed that the Legislature did not take action to save lives by increasing the tobacco tax, which in turn would reduce cigarette consumption, particularly among children. Children are particularly likely to stop smoking, or not start in the first place, when the price is increased. Increasing the tobacco tax by $0.80 will lead to an estimated 15.6 percent decrease in youth smoking rates and a 4.2 percent decrease in adult smoking rates. Estimates also indicate that in the first five years alone, a tobacco tax increase will lead to $8.5 million in health care cost savings for heart and stroke illnesses and $5.9 million in health care savings by avoiding low birth weight births. I am hopeful that the Legislature will take action on the tobacco tax to save lives and protect the health security of Iowans next year.

House File 825 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 9, subsection 14, in its entirety. This subsection prescribes requirements that the Department of Human Services would be required to abide by in order to implement the cost saving provisions of Iowa's preferred drug list (PDL) in the Medicaid program. These requirements are impractical and would create an unnecessary barrier to the effective implementation of the PDL. The requirements also seek to give drug manufacturers preferential treatment. Currently, the Department posts the agenda of the Pharmaceutical and Therapeutics Committee including drugs to be considered 30 days in advance for all interested parties, not just pharmaceutical manufacturers, to review. Current practice also allows all interested parties to comment. I believe that the process should provide timely notice to and opportunity for comment from all interested parties. The current practice accomplishes this.

I am unable to approve the item designated as Section 24, subsection 6, in its entirety. This subsection directs the Department of Human Services to continue contracting with current service providers for mental health services provided to the homeless rather than requesting competitive bids as required under federal law. I believe that it is a good government practice to get the best value and best service possible; therefore, I support using a competitive bidding process.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 825 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 176

HEALTHY IOWANS TOBACCO TRUST
AND TOBACCO SETTLEMENT TRUST FUND — APPROPRIATIONS

H.F. 862

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, 2005, and ending June 30, 2006, 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. To supplement the medical assistance program appropriations for the fiscal year, including for reimbursement of noninstitutional medical assistance providers with the exception of anesthesia and dental providers and to continue the resource-based relative value system of reimbursement based upon the reimbursement rates established for the fiscal year beginning July 1, 2005, and ending June 30, 2006, pursuant to 2005 Iowa Acts, House File 825,[1] if enacted; for reimbursement of dental services, hospitals, home health care services, critical access hospitals, expansion of home health care services and habilitative day care for children with special needs, and expansion of respite care services provided through home and community-based waivers based upon the reimbursement rates established for the fiscal year beginning July 1, 2005, and ending June 30, 2006, pursuant to 2005 Iowa Acts, House File 825,[2] if enacted; and for provision of coverage to women who require treatment for breast or cervical cancer as provided in section 249A.3, subsection 2, paragraph "b":

. . . . . $ 35,013,803

Of the amount appropriated in this paragraph, $50,000 shall be used to continue the efforts of the Iowa chronic care consortium pursuant to 2003 Iowa Acts, chapter 112, section 12, as amended by 2003 Iowa Acts, chapter 179, sections 166 and 167.

b. For child and family services and adoption subsidy services including for reimbursement of rehabilitative treatment and support services providers, adoption, independent living, shelter care, and home studies services providers, and other service providers under the purview of the department of human services:

. . . . . $ 4,257,623

c. To continue the supplementation of the children's health insurance program appropriation:

. . . . . $ 200,000

d. For general administration of health-related programs:

. . . . . $ 274,000

2. 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:

. . . . . $ 5,011,565
. . . . . 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 in this paragraph "a", two full-time equiva-

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[1] Chapter 175 herein
[2] Chapter 175 herein

lent 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, 2005, for that purpose.

b. For provision of smoking cessation and smoking-related diseases 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 and smoking-related diseases 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.

c. For additional substance abuse treatment under the substance abuse treatment program:

. . . . . $ 11,800,000

(1) The department shall use funds appropriated in this paragraph "c" 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 "c" 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 "c" to share research-based best practices for treatment with substance abuse treatment facilities.

(4) The department shall use funds appropriated in this paragraph "c" to develop a results-based funding approach for substance abuse treatment services.

(5) The department shall use funds appropriated in this paragraph "c" 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 "c".

d. For the healthy Iowans 2010 plan within the Iowa department of public health and for not more than the following full-time equivalent positions:

. . . . . $ 2,509,960
. . . . . FTEs 4.00

(1) Of the funds appropriated in this paragraph "d", 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 "d", 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 "d", not more than $600,000 shall be used for the state poison control center.

(4) Of the funds appropriated in this paragraph "d", 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 "d", not more than $76,388 shall be used for the childhood lead poisoning prevention program.

e. For the automated external defibrillator grant program established pursuant to section 135.26:

. . . . . $ 250,000

f. For implementation and maintenance of a public access defibrillation plan to provide access to automatic external defibrillators throughout the state capitol complex on a 24-hour, 7 days per week basis and for not more than the following full-time equivalent positions:
..... $ 100,000
..... FTEs 1.00

g. For the center for congenital and inherited disorders established pursuant to section 136A.3:
..... $ 26,000

h. For a grant program to provide substance abuse prevention programming for children:
..... $ 400,000[3]

A program approved for a grant under the program shall meet all of the following criteria:

(1) The program is administered by a federally chartered nonprofit organization.

(2) The program is located in multiple locations across the state, including in at least one location in a county ranked in the bottom quartile of population when compared with other counties.

(3) The program has been nationally recognized for its effectiveness in reducing substance abuse by children.

(4) The program is able to use the grant funding to target a minimum of 1,000 children for substance abuse prevention programming.

The Iowa department of public health shall procure a sole source contract to implement this paragraph "h".

A program approved for a grant shall participate in a program evaluation as a requirement for receiving grant funds.

i. 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[4]

(1) The program described in this paragraph "i" shall meet all of the following requirements:

(a) The program shall be a statewide mentoring program that is an alternative to mentoring programs that utilize the standards of effective practice.

(b) The program shall contract with a university to assist in curriculum development and performance evaluation.

(c) The program shall provide for some level of public-private partnership.

(d) The program shall obtain the assistance of the Iowa department of public health in the development of the performance evaluation design.

(e) The program shall demonstrate improvement in meeting current standards.

(2) The Iowa department of public health shall negotiate a sole source contract with a nonprofit corporation that mentors through live music and receives funds through private partnership to implement this paragraph "i".

(3) The Iowa department of public health may use up to $50,000 of the moneys appropriated under this paragraph "i" to provide technical assistance to and monitoring of the program.

(4) Notwithstanding section 8.33, moneys appropriated under this paragraph "i" that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purpose designated in the succeeding fiscal year.

j. For a grant program to provide substance abuse prevention programming, including tobacco use prevention programming, for children:
..... $ 800,000

The Iowa department of public health shall utilize a request for proposals process to implement this paragraph "j". A program approved for a grant under paragraph "h" or paragraph "i" shall not be eligible for a grant under this paragraph "j".

All grant recipients shall participate in a program evaluation as a requirement for receiving grant funds.[5]

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[3] See chapter 179, §19 herein

[4] See chapter 179, §19 herein

[5] See chapter 179, §20 herein

3. To the department of corrections:

. . . . . $ 1,214,000

a. Of the funds appropriated in this subsection, $296,217 is allocated to the second judicial district department of correctional services to replace expired federal funding for day programming and to replace expired federal funding for the drug court program. Of the amount allocated in this paragraph, $40,000 shall be used for substance abuse treatment.

b. Of the funds appropriated in this subsection, $100,359 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.

*f. *Of the funds appropriated in this subsection, $60,000 is allocated to the Iowa correctional institution for women at Mitchellville for a value-based treatment program.**

4. To the department for the blind:

. . . . . $ 130,000

To plan, establish, administer, and promote a statewide program to provide audio news and information services to blind or visually impaired persons residing in this state as provided pursuant to section 216B.3, subsection 18, paragraphs "a" and "b".

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, 2005, and ending June 30, 2006, 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, 2005, and ending June 30, 2006, for deposit in the school ready children grants account:

. . . . . $ 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, 2005, and ending June 30, 2006, 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:

. . . . . $ 1,187,285

Sec. 5. 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), $7,600,000 is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12 to the healthy

* Item veto; see message at end of the Act

Iowans tobacco trust created in section 12.65 for the fiscal year beginning July 1, 2005, and ending June 30, 2006.

Approved June 14, 2005, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 862, an Act relating to and making appropriations from the Healthy Iowans Tobacco Trust and the Tobacco Settlement Trust Fund.

House File 862 is approved on this date, with the following exception which I hereby disapprove:

I am unable to approve the item designated as Section 1, subsection 3, paragraph f. This language requires allocation of funds for the implementation of a treatment program at the Iowa Correctional Institution for Women in Mitchellville. A similar value-based treatment program at the Newton Correctional Facility is the subject of a constitutional challenge currently before the U.S. District Court. In order to avoid confusion, state appropriations for value-based treatment programming should not be expanded to other correctional institutions until the courts resolve this issue and provide clear direction as to what is and is not permissible.

For the above reasons, I respectfully disapprove of the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 862 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 177

COMPENSATION FOR PUBLIC EMPLOYEES
AND ADDITIONAL PROVISIONS

H.F. 881

AN ACT relating to the compensation and benefits for public officials and employees and members of the general assembly, providing for related matters, making appropriations, and including effective and retroactive applicability date provisions.

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

Section 1. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2005,

effective for the pay period beginning July 1, 2005, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the judicial branch from the salary adjustment fund or if the appropriation is not sufficient, from funds appropriated to the judicial branch pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated during the fiscal year beginning July 1, 2005, effective with the pay period beginning July 1, 2005, and for subsequent pay periods.

a. Chief justice of the supreme court:
..... $ 132,720

b. Each justice of the supreme court:
..... $ 128,000

c. Chief judge of the court of appeals:
..... $ 127,920

d. Each associate judge of the court of appeals:
..... $ 123,120

e. Each chief judge of a judicial district:
..... $ 122,000

f. Each district judge except the chief judge of a judicial district:
..... $ 117,040

g. Each district associate judge:
..... $ 102,000

h. Each associate juvenile judge:
..... $ 102,000

i. Each associate probate judge:
..... $ 102,000

j. Each judicial magistrate:
..... $ 30,400

k. Each senior judge:
..... $ 6,800

3. Persons receiving the salary rates established under this section shall not receive any additional salary adjustments provided by this Act.

Sec. 2. ELECTIVE EXECUTIVE OFFICIALS.

1. The annual salary rates specified in this section are effective for the fiscal year beginning July 1, 2005, with the pay period beginning July 1, 2005, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section from the salary adjustment fund or if the appropriation is not sufficient, from funds appropriated to the department or agency pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the person holding the position indicated:

a. OFFICE OF THE GOVERNOR AND LIEUTENANT GOVERNOR

(1) Salary for the governor:
..... $ 130,000

(2) Salary for the lieutenant governor:
..... $ 103,212

b. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Salary for the secretary of agriculture:
..... $ 103,212

c. DEPARTMENT OF JUSTICE

Salary for the attorney general:
..... $ 123,669

d. OFFICE OF THE AUDITOR OF STATE
Salary for the auditor of state:
..... $ 103,212
e. OFFICE OF THE SECRETARY OF STATE
Salary for the secretary of state:
..... $ 103,212
f. OFFICE OF THE TREASURER OF STATE
Salary for the treasurer of state:
..... $ 103,212

Sec. 3. APPOINTED STATE OFFICERS. Notwithstanding section 20.5, subsection 3, the governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 4 of this Act within the range provided, by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate, the chief justice of the supreme court shall establish the salary for the state court administrator, the ethics and campaign disclosure board shall establish the salary of the executive director, and the state fair board shall establish the salary of the secretary of the state fair board, each within the salary range provided in section 4 of this Act.

The governor, in establishing salaries as provided in section 4 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 4 of this Act and who is a full-time, year-round employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 4. STATE OFFICERS — SALARY RANGE. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 2005, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 3 of this Act shall determine the salary to be paid to the person indicated at a rate within this salary range from funds appropriated by the general assembly for that purpose.

1. The following are salary ranges for state officers for the fiscal year beginning July 1, 2005, effective with the pay period beginning July 1, 2005:

SALARY RANGE	Minimum	Maximum
a. Range 1	$ 8,800	$ 33,753
b. Range 2	$ 45,395	$ 68,100
c. Range 3	$ 52,210	$ 78,315
d. Range 4	$ 60,040	$ 90,062
e. Range 5	$ 69,045	$ 103,571
f. Range 6	$ 79,405	$ 119,107
g. Range 7	$ 95,055	$ 142,578

2. The following are range 1 positions: There are no range 1 positions for the fiscal year beginning July 1, 2005.

3. The following are range 2 positions: administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division on the status of Asian and Pacific islander heritage, the division on the status of African-Americans, the division of deaf services, and the division of Latino affairs of the department of human rights, and administrator of the division of professional licensing and regulation of the department of commerce.

4. The following are range 3 positions: administrator of the division of homeland security and emergency management of the department of public defense, administrator of the division of criminal and juvenile justice planning of the department of human rights, administrator of the division of community action agencies of the department of human rights, executive director of the commission of veterans affairs, and chairperson and members of the employment appeal board of the department of inspections and appeals.

5. The following are range 4 positions: director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the department for the blind, executive director of the ethics and campaign disclosure board, members of the public employment relations board, and chairperson, vice chairperson, and members of the board of parole.

6. The following are range 5 positions: state public defender, drug policy coordinator, labor commissioner, workers' compensation commissioner, director of the department of cultural affairs, director of the department of elder affairs, director of the law enforcement academy, and administrator of the historical division of the department of cultural affairs.

7. The following are range 6 positions: superintendent of banking, superintendent of credit unions, administrator of the alcoholic beverages division of the department of commerce, director of the department of inspections and appeals, commandant of the veterans home, administrator of the public broadcasting division of the department of education, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, director of the department of natural resources, director of the department of corrections, consumer advocate, and chairperson of the utilities board. The other members of the utilities board shall receive an annual salary within a range of not less than 90 percent but not more than 95 percent of the annual salary of the chairperson of the utilities board.

8. The following are range 7 positions: administrator of the state racing and gaming commission of the department of inspections and appeals, director of the department of education, director of human services, director of the department of economic development, executive director of the Iowa telecommunications and technology commission, executive director of the state board of regents, director of the state department of transportation, director of the department of workforce development, director of revenue, director of public health, state court administrator, secretary of the state fair board, director of the department of management, and director of the department of administrative services.

Sec. 5. 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, excluding the state board of regents, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the amount of $38,500,000,[1] or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

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.

[1] See chapter 179, §22 herein

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 section 6 of this Act for employees not covered by a collective bargaining agreement.

Of the amount appropriated in this section, $4,880,000 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.

Sec. 6. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2005, the maximum salary levels of all pay plans provided for in section 8A.413, subsection 2, as they exist for the fiscal year ending June 30, 2005, shall be increased by 2.5 percent for the pay period beginning March 24, 2006, and any additional changes in the pay plans shall be approved by the governor.

b. For the fiscal year beginning July 1, 2005, employees may receive a step increase or the equivalent of a step increase.

2. The pay plans for state employees who are exempt from chapter 8A, subchapter IV, and who are included in the department of administrative service'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.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly pursuant to this Act or set by the governor, other persons designated in section 3 of this Act, employees designated under section 8A.412, subsection 5, and employees covered by 11 IAC 53.6(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. 7. 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, 2005, and ending June 30, 2006, 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:

..... $ 1,635,317

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

..... $ 9,233,486

3. Except as otherwise provided in 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 Act.

Sec. 8. 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 Act.

Sec. 9. GENERAL FUND SALARY MONEYS. Funds appropriated for distribution from the salary adjustment fund in section 5 of this Act relate only to salaries supported from general fund appropriations of the state except for employees of the state board of regents.

Sec. 10. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this Act which are received and may be expended for purposes of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 11. 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. 12. SICK LEAVE CONVERSION. Effective with the fiscal year beginning July 1, 2006, the sick leave conversion program under the collective bargaining agreement that covers the greatest number of state employees and that affects sick leave accrual and allows sick leave conversion and use upon retirement for payment of certain health insurance premiums, shall be extended to employees in the executive branch, excluding state board of regents employees, not covered by a collective bargaining agreement. Peace officers employed within the department of public safety and department of natural resources that are not covered under a collective bargaining agreement shall have a sick leave conversion program extended to them that is equivalent to the sick leave conversion program of the state police officers council collective bargaining agreement. By December 1, 2005, the department of administrative services shall submit to the general assembly proposed changes to the Code of Iowa and administrative rules needed to implement this program.

Sec. 13. APRIL 8, 2005, REVENUE ESTIMATE. For use by the general assembly in the budget process and the governor's approval or disapproval of the appropriations bills for the fiscal year beginning July 1, 2005, and for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54 for the fiscal year beginning July 1, 2005, the revenue estimate for the fiscal year beginning July 1, 2005, that shall be used in the budget process and such calculation shall be the revenue estimate determined by the revenue estimating conference on April 8, 2005, notwithstanding the provision in section 8.22A, subsection 3, that disallows the use of a revenue estimate agreed to at a later meeting that projects a greater amount than the initial estimated amount agreed to in December 2004. This section also authorizes the use of the estimated revenue figures for the purposes or sources designated in section 8.22A, subsection 5.

Sec. 14. Section 2.10, subsections 1, 2, 5, and 6, Code 2005, are 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~~ twenty-five thousand ~~one hundred twenty~~ dollars for the year ~~1997~~ 2007 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~~ a per diem, as defined in subsection 5, 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~~ an amount per day equal to three-fourths of the per diem of the non-Polk county members. Each member shall receive a ~~two~~ three 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 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.

2. The speaker of the house, presiding officer of the senate, and the majority and minority floor leader of each house shall each receive an annual salary of ~~thirty-one~~ thirty-seven thousand ~~thirty~~ five hundred dollars for the year ~~1997~~ 2007 and subsequent years while serving in that capacity. The president pro tempore of the senate and the speaker pro tempore of the house shall receive an annual salary of ~~twenty-one~~ twenty-seven thousand ~~two hundred ninety~~ dollars for the year ~~1997~~ 2007 and subsequent years while serving in that capacity. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate, the president pro tempore of the senate and the speaker pro tempore of the house, and the majority and minority leader of each house as provided for other members of the general assembly.

5. In addition to the salaries and expenses authorized by this section, a member of the general assembly shall be paid ~~eighty-six dollars per day~~ a per diem, and necessary travel and actual expenses incurred in attending meetings for which per diem or expenses are authorized by law for members of the general assembly who serve on statutory boards, commissions, or councils, and for standing or interim committee or subcommittee meetings subject to the provisions of section 2.14, or when on authorized legislative business when the general assembly is not in session. However, if a member of the general assembly is engaged in authorized legislative business at a location other than at the seat of government during the time the general assembly is in session, payment may be made for the actual transportation and lodging costs incurred because of the business. Such per diem or expenses shall be paid promptly from funds appropriated pursuant to section 2.12.

For purposes of this section, "per diem" means the maximum amount generally allowable to employees of the executive branch of the federal government for per diem while away from home at the seat of government.

6. If a special session of the general assembly is convened, members of the general assembly shall receive, in addition to their annual salaries, ~~the sum of eighty-six dollars per day~~ a per diem for each day the general assembly is actually in special session, and the same travel allowances and expenses as authorized by this section. A member of the general assembly shall receive the additional per diem, travel allowances and expenses only for the days of attendance during a special session.

Sec. 15. Section 99D.5, subsection 4, Code 2005, is amended to read as follows:

4. Commission members are each entitled to receive an annual salary of ~~six~~ ten thousand dollars. Members shall also be reimbursed for actual expenses incurred in the performance of their duties to a maximum of thirty thousand dollars per year for the commission. Each member shall be covered by the blanket surety bond of the state purchased pursuant to section 8A.321, subsection 12.

Sec. 16. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. Section 14 of this Act takes effect upon the convening of the Eighty-second General Assembly in January 2007. The section of this Act relating to the use of the April 8, 2005, revenue estimate, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 10, 2005.

Approved June 14, 2005

CHAPTER 178

APPROPRIATIONS —
INFRASTRUCTURE AND CAPITAL PROJECTS —
LOANS, GRANTS, AND BONDING

H.F. 875

AN ACT relating to and making appropriations to state departments and agencies from the rebuild Iowa infrastructure fund, environment first fund, tobacco settlement trust fund, vertical infrastructure fund, general fund of the state, and related matters, and creating the honey creek premier destination park bond program and authority and providing for the issuance of tax-exempt bonds, and including effective and retroactive applicability date provisions.

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

DIVISION I
STATE GENERAL FUND

Section 1. There is appropriated from the general fund of the state to the following departments and agencies for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF EDUCATION

To the vocational rehabilitation division to replace lost indirect costs:

. . . . . $ 101,164

2. DEPARTMENT OF PUBLIC SAFETY

For capitol building and judicial building security:

. . . . . $ 800,000[1]

DIVISION II
STORMWATER DISCHARGE PERMIT FEES

Sec. 2. STORMWATER DISCHARGE PERMIT FEES APPROPRIATION — AIR QUALITY MONITORING. Notwithstanding any contrary provision of state law, there is appropriated from stormwater discharge permit fees as authorized to be collected pursuant to section 455B.103A to the department of natural resources for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For full-time personnel to conduct air quality monitoring, which may include but is not limited to staffing required to perform field monitoring and laboratory functions, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 275,000

DIVISION III
REBUILD IOWA INFRASTRUCTURE FUND

Sec. 3. There is appropriated from the rebuild Iowa infrastructure fund to the following departments and agencies for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

a. For technology improvement projects, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 3,802,000

Of the amount appropriated in this lettered paragraph, $2,700,000 is allocated for continued

[1] See chapter 179, §45 herein

implementation and operation of the integrated information for Iowa system; $792,000 is allocated for continued development and implementation of the electronic tax administration project; and $310,000 is allocated for maintenance and costs associated with upgrading the enterprise data warehouse.

b. For relocation and project costs directly associated with remodeling projects on the capitol complex and for facility lease payments, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 1,824,000

c. For routine maintenance of state buildings and facilities, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 2,000,000

d. 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 buildings and facilities under the purview of the department:

. . . . . $ 291,891

e. For upgrades to the electrical distribution system serving the capitol complex:

. . . . . $ 1,843,878

f. For remodeling and renovation of the sexually violent predators unit at Cherokee:

. . . . . $ 1,400,000

g. For the costs associated with the replacement of the powerhouse facilities at the Iowa juvenile home at Toledo:

. . . . . $ 1,161,045

h. For improvements to the Wallace state office building:

. . . . . $ 625,000

i. For maintenance of the Terrace Hill complex:

. . . . . $ 571,000

2. DEPARTMENT OF CORRECTIONS

a. For construction of a community-based correctional facility, including district offices, in Fort Dodge:

. . . . . $ 50,000

b. For the lease-payment under the lease-purchase agreement to connect the electrical system supporting the special needs unit in Fort Madison:

. . . . . $ 333,168

c. For remodeling and renovation of the kitchen facilities at the Anamosa correctional facility:

. . . . . $ 940,000

d. For maintenance costs of the department of corrections and board of parole associated with the department of administrative services, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 105,300

e. For rent payments for the community-based corrections facility located in Davenport and the department of corrections training center, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 122,000

3. DEPARTMENT OF CULTURAL AFFAIRS

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 6, paragraph "c":

. . . . . $ 220,000

4. DEPARTMENT OF ECONOMIC DEVELOPMENT

a. To provide a grant to match federal grant dollars that affect areas that are both an enterprise zone and a brownfield site in a county with a population of at least 103,000, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 500,000

b. For costs associated with a study involving an environmental assessment and preliminary cultural and historical impact related to the establishment of a regional ferryboat service between Iowa and Illinois, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 60,000
The funds are to be allocated to an area of the state that has an established ferryboat task force. The funds appropriated in this lettered paragraph are contingent upon the receipt of federal matching funds and financial participation by the state of Illinois in the study.

5. DEPARTMENT OF EDUCATION

a. To provide resources for structural and technological improvements to local libraries and for the enrich Iowa program, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 700,000

b. For maintenance and lease costs associated with connections for part III of the Iowa communications network, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 2,727,000

c. To the public broadcasting division for replacing transmitters, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 2,000,000

d. 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 buildings and facilities under the purview of the community colleges:
. . . . . $ 2,000,000
The moneys appropriated in this lettered paragraph shall be allocated to the community colleges based upon the distribution formula established in section 260C.18C, if enacted by 2005 Iowa Acts, House File 816.[2]

e. For implementation of the provisions of Code chapter 280A, as amended by 2005 Iowa Acts, House File 739,[3] if enacted, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 500,000

6. DEPARTMENT OF HUMAN SERVICES

To provide a grant for the planning, design, and construction of a residential treatment facility for youth with emotional and behavioral disorders in a central Iowa county with a population of approximately 80,000:
. . . . . $ 250,000

7. IOWA FINANCE AUTHORITY

For deposit into the transitional housing revolving loan program fund created in section 16.184, if enacted by 2005 Iowa Acts, House File 825:[4]
. . . . . $ 1,400,000

8. IOWA STATE FAIR AUTHORITY

For vertical infrastructure projects on the state fairgrounds:
. . . . . $ 750,000
For purposes of this subsection, "vertical infrastructure" means the same as defined in section 8.57, subsection 6, paragraph "c".

9. NATIONAL PROGRAM FOR PLAYGROUND SAFETY AT THE UNIVERSITY OF NORTHERN IOWA

For the Iowa safe surfacing initiative, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 500,000
Not more than 2.5 percent of the funds appropriated in this subsection 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.

The national program for playground safety shall submit a report by January 15, 2006, to the

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[2] Chapter 169 herein
[3] Chapter 144 herein
[4] Chapter 175 herein

joint appropriations subcommittee on transportation, infrastructure, and capitals detailing the use of the moneys appropriated in this subsection. The report shall specify the projects for which moneys were used and the cost of each project including the amounts spent on administration.

10. DEPARTMENT OF NATURAL RESOURCES

a. For lake dredging and the construction of bike trails at Lake Cornelia in Wright county, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 429,000

b. For the purchase of property adjacent to Waubonsie state park and for the improvement of facilities at Waubonsie state park:

. . . . . $ 1,500,000

c. For costs associated with renovation and improvements at the Fort Atkinson state preserve:

. . . . . $ 500,000

d. For costs associated with Iowa's membership in the mid-America port commission established in chapter 28K, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 80,000

e. For costs associated with the planning, design, and construction of a destination park:

. . . . . $ 3,000,000

11. DEPARTMENT OF PUBLIC SAFETY

a. For costs of entering into and making payments under a lease-purchase agreement to replace and upgrade the automated fingerprint identification system, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 550,000

b. To the division of fire safety for allocation to the fire service training bureau for the planning, design, and construction of fire regional training facilities in the state:

. . . . . $ 800,000

Of the amount appropriated in this lettered paragraph, $300,000 shall be allocated to the Waterloo fire regional training center.

Of the amount appropriated in this lettered paragraph, $200,000 shall be allocated to the Dubuque fire regional training center.

The division of fire safety shall submit a report by January 15, 2006, to the joint appropriations subcommittee on transportation, infrastructure, and capitals detailing the use of the moneys appropriated in this subsection.

c. To the division of fire safety for allocation to the fire service training bureau to be used for the revolving loan program for equipment purchases by local fire departments, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 500,000

12. STATE BOARD OF REGENTS

a. For major maintenance at the Iowa school for the deaf and the Iowa braille and sight saving school:

. . . . . $ 500,000

b. 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 buildings and facilities under the purview of the state board of regents institutions:

. . . . . $ 6,250,000

13. STATE DEPARTMENT OF TRANSPORTATION

a. 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, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 564,792

b. For a vertical infrastructure improvement grant program for improvements at general aviation airports within the state:
. . . . . $ 750,000
In awarding assistance under the vertical infrastructure improvement grant program, the department shall give preference to projects that demonstrate a collaborative effort between airports.

c. For acquiring, constructing, and improving recreational trails within the state:
. . . . . $ 1,000,000
Of the amount appropriated in this lettered paragraph, $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.

d. For the rail assistance program and to provide economic development project funding:
. . . . . $ 35,959

Sec. 4. There is appropriated from the rebuild Iowa infrastructure fund to the following departments and agencies for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

a. For costs associated with the remodeling of the records and property center:
. . . . . $ 2,200,000

b. For costs associated with the replacement of the powerhouse facilities at the Iowa juvenile home at Toledo:
. . . . . $ 1,521,045

2. DEPARTMENT OF CORRECTIONS

a. For construction of a community-based correctional facility, including district offices, in Fort Dodge:
. . . . . $ 1,400,000

b. For the remodeling and renovation of the kitchen facilities at the Anamosa correctional facility:
. . . . . $ 1,840,000

Sec. 5. DEPARTMENT OF CORRECTIONS. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For construction of a community-based correctional facility, including district offices, in Fort Dodge:
. . . . . $ 2,450,000

Sec. 6. 2001 Iowa Acts, chapter 185, section 12, is amended to read as follows:

SEC. 12. REVERSION. ~~Notwithstanding~~

1. Except as provided in subsection 2 and 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, 2004, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated in section 6, subsection 1, of 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 purpose designated until the close of the fiscal year that begins July 1, 2005, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 7. 2004 Iowa Acts, chapter 1175, section 288, subsection 13, paragraph c, is amended to read as follows:

c. For costs of entering into and making a down payment under a lease-purchase agreement to replace and upgrade the automated fingerprint identification system, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 2004-2005 ..... $ 550,000

The appropriation made in this lettered paragraph to enter into and make payments under a lease-purchase agreement constitutes approval by the general assembly of a financing agreement in excess of $1 million as required by section 12.28, subsection 6.

Sec. 8. COMMISSION OF VETERANS AFFAIRS TRANSFER. Notwithstanding 2002 Iowa Acts, chapter 1173, section 10, subsection 13, any unencumbered and unobligated moneys remaining on the effective date of this section from the appropriation made in 2002 Iowa Acts, chapter 1173, section 10, subsection 12, may be transferred to the appropriation made in 2000 Iowa Acts, chapter 1225, section 19, to be used for the purposes designated in 2000 Iowa Acts, chapter 1225, section 19, as amended by 2004 Iowa Acts, chapter 1175, section 296.

Sec. 9. REVERSION. Notwithstanding section 8.33, moneys appropriated from the rebuild Iowa infrastructure fund in this division of this Act, except for the moneys appropriated in section 1, subsection 2, paragraph "a",[5] for maintenance costs of the department of corrections and subsection 5, paragraph "d", for the vocational rehabilitation division[6] of the department of education, 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, 2008, or until the project for which the appropriation was made is completed, whichever is earlier. This section does not apply to the sections in this division of this Act that were previously enacted and are amended in this division of this Act.

Sec. 10. Section 8.57B, subsection 4, Code 2005, is amended to read as follows:

4. There is appropriated from the rebuild Iowa infrastructure fund to the vertical infrastructure fund, the following:

a. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of fifteen million dollars.

b. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of fifteen million dollars.

c. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of fifty million dollars.

d. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of fifty million dollars.

Sec. 11. Section 328.1, subsection 9, Code 2005, is amended to read as follows:

9. "Airport" means any landing area used regularly by aircraft for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights of way, whether heretofore or hereafter established. "Airport" includes land within a city with a population greater than one hundred seventy-five thousand which is acquired to replace or mitigate land used in an airport runway project at an existing airport when federal law, grant, or action requires such replacement or mitigation.

Sec. 12. Section 452A.79, unnumbered paragraph 2, Code 2005, is amended to read as follows:

~~Annually~~ For the fiscal year beginning July 1, 2005, the first four hundred eleven thousand three hundred eleven dollars derived from the excise tax on the sale of motor fuel used in watercraft shall be deposited in the general fund of the state~~. The~~ and the moneys in excess of four hundred eleven thousand three hundred eleven dollars shall be deposited in the rebuild

[5] The phrase "section 3, subsection 2, paragraph 'd' " probably intended

[6] The appropriation for the vocational rehabilitation division is in section 1, subsection 1, and is from the state general fund

Iowa infrastructure fund. For the fiscal years beginning on or after July 1, 2006, all revenues derived from the excise tax on the sale of motor fuel used in watercraft shall be deposited in the rebuild Iowa infrastructure fund. Moneys deposited to the general fund and to the rebuild Iowa infrastructure fund under this section and section 452A.84 are subject to the requirements of section 8.60 and are subject to appropriation by the general assembly to the department of natural resources for use in its recreational boating program, which may include but is not limited to:

Sec. 13. 2005 Iowa Acts, House File 466,[7] section 3, is repealed.

Sec. 14. EFFECTIVE DATE. The sections of this division of this Act relating to the amendment to 2004 Iowa Acts, chapter 1175, section 288, subsection 13, appropriating moneys for a lease-purchase agreement, relating to the amendment to 2001 Iowa Acts, chapter 185, section 12, and relating to the commission of veterans affairs transfer, being deemed of immediate importance, take effect upon enactment.

DIVISION IV
ENVIRONMENT FIRST FUND

Sec. 15. There is appropriated from the environment first fund to the following departments and agencies for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

a. 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

Not more than 5 percent of the moneys appropriated in this lettered paragraph may be used for costs of administration and implementation of soil and water conservation practices.

b. For continuation of a program that provides multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation:

. . . . . $ 2,700,000

Not more than 5 percent of the moneys appropriated in this lettered paragraph may be used for costs of administration and implementation of soil and water conservation practices.

c. 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

Not more than 5 percent of the moneys appropriated in this lettered paragraph may be used for costs of administration and implementation of soil and water conservation practices.

Of the amount appropriated in this lettered paragraph, $400,000 shall be allocated to the Iowa soybean association's agriculture and environment performance program.

d. 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

Not more than 5 percent of the moneys appropriated in this lettered paragraph may be used for costs of administration and implementation of soil and water conservation practices.

e. To provide financial assistance for the establishment of permanent soil and water conservation practices:

. . . . . $ 5,500,000

(1) Not more than 5 percent of the moneys appropriated in this lettered paragraph may be allocated for cost-sharing to abate complaints filed under section 161A.47.

[7] Chapter 163 herein

(2) Of the moneys appropriated in this lettered paragraph, 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.

(3) Not more than 30 percent of a soil and water conservation 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.

(4) The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in this lettered paragraph to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

(5) The financial incentive payments may be used in combination with department of natural resources moneys.

(6) Not more than 10 percent of the moneys appropriated in this lettered paragraph may be used for costs of administration and implementation of soil and water conservation practices.

f. To encourage and assist farmers in enrolling in and the implementation of federal conservation programs and work with them to enhance their revegetation efforts to improve water quality and habitat:

..... $ 2,000,000

Not more than 5 percent of the moneys appropriated in this lettered paragraph may be used for costs of administration and implementation of soil and water conservation practices.

g. For deposit in the loess hills development and conservation fund created in section 161D.2:

..... $ 600,000

Of the amount appropriated in this lettered paragraph, $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 5 percent of the moneys allocated to the hungry canyons account in this lettered paragraph may be used for administrative costs. No more than 10 percent of the moneys allocated to the loess hills alliance account in this lettered paragraph may be used for administrative costs.

h. For deposit in the southern Iowa development and conservation fund created in section 161D.12:

..... $ 300,000

Not more than 5 percent of the moneys appropriated in this lettered paragraph may be used for administrative costs.

2. DEPARTMENT OF ECONOMIC DEVELOPMENT

For deposit in the brownfield redevelopment fund created in section 15.293 to provide assistance under the brownfield redevelopment program:

..... $ 500,000

3. DEPARTMENT OF NATURAL RESOURCES

a. For statewide coordination of volunteer efforts under the water quality and keepers of the land programs:

..... $ 100,000

b. 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

c. For regular maintenance of state parks and staff time associated with these activities:

..... $ 2,000,000

d. 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

e. For continuing the establishment and operation of water quality monitoring stations:

..... $ 2,955,000

f. For deposit in the administration account of the water quality protection fund, to carry out the purposes of that account:

. . . . . $ 500,000

g. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:

. . . . . $ 1,500,000

Of the amount appropriated in this lettered paragraph, $100,000 shall be allocated for the five island lake in Palo Alto county.

The department shall consider the following criteria for funding lake dredging projects as provided in this lettered paragraph, and shall prioritize projects based on the following:

(1) Documented efforts to address watershed protection, considering testing, conservation efforts, and the amount of time devoted to watershed protection.

(2) Protection of a natural resource and natural habitat.

(3) Percentage of public access and undeveloped lakefront property.

(4) Continuation of current projects partially funded by state resources to achieve department recommendations.

RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 16. 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, 2005, and ending June 30, 2006, the following amount, to be allocated as provided in section 455A.19:

. . . . . $ 11,000,000

Sec. 17. Section 161A.80, subsection 2, paragraphs a and b, Code 2005, are amended to read as follows:

a. This section is repealed on July 1, ~~2005~~ 2015.

b. The principal and interest from any blufflands protection loan outstanding on July 1, ~~2005~~ 2015, and payable to the blufflands protection revolving fund, shall be paid to the administrative director of the division of soil conservation on or after July 1, ~~2005~~ 2015, pursuant to the terms of the loan agreement and shall be credited to the rebuild Iowa infrastructure fund.

Sec. 18. 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, 2006, 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, 2008.

DIVISION V
TOBACCO SETTLEMENT TRUST FUND

Sec. 19.

1. 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, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. DEPARTMENT OF ADMINISTRATIVE SERVICES

(1) For capitol interior restoration:

. . . . . $ 4,500,000

Of the amount appropriated in this subparagraph, $700,000 shall be used for cleanup costs associated with the water damage in the statehouse resulting from the pipe break that occurred on December 24, 2004, and for renovation of areas in the statehouse that experienced such water damage.

The use of the moneys allocated in this subparagraph shall not be construed or interpreted as an indication by the governor or general assembly that the state is the responsible party for the water damage in the statehouse resulting from the pipe break that occurred on December 24, 2004, and for the resulting costs or that the amounts allocated in this subparagraph represent the total amount necessary to address all costs associated with the water damage.

(2) For remodeling and renovation of the sexually violent predators unit located at the state mental health institute at Cherokee:

. . . . . $ 650,000

(3) 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 buildings and facilities under the purview of the department:

. . . . . $ 3,000,000

b. DEPARTMENT OF CORRECTIONS

For the remodeling and renovation of the kitchen facilities at the Anamosa correctional facility:

. . . . . $ 600,000

c. 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 8.57B, subsection 3:

. . . . . $ 1,500,000

The moneys appropriated in this lettered paragraph 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, 2006, the unobligated and unencumbered portions shall be available for use by other community colleges.

d. DEPARTMENT OF HUMAN SERVICES

For planning, design, and construction of a family resource center in a city with a population between 95,000 and 100,000 residents:

. . . . . $ 250,000

e. DEPARTMENT OF PUBLIC SAFETY

For the first phase of the regional emergency responder training facility project of the nonprofit Dubuque county fire fighters association:

. . . . . $ 100,000

f. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

For replacement of equipment for the Iowa communications network notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

. . . . . $ 1,704,719

g. STATE DEPARTMENT OF TRANSPORTATION

For vertical infrastructure improvements at the commercial air service airports within the state:

. . . . . $ 1,500,000

Fifty percent of the funds appropriated in this lettered paragraph 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 lettered paragraph, the airport shall be required to submit applications for funding of specific projects to the department for approval by the state transportation commission.

2. 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.

3. 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. 20. PAYMENTS IN LIEU OF TUITION. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the state board of regents for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes 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):

..... $ 10,329,981

Sec. 21. PRISON DEBT SERVICE. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the office of the treasurer of state for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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):

..... $ 5,422,390

Sec. 22. 2001 Iowa Acts, chapter 185, section 30, is amended to read as follows:

SEC. 30. REVERSION. ~~Notwithstanding~~

1. Except as provided in subsection 2 and 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, 2004, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated in section 25, subsection 3, paragraph "b", and section 28 of 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 purpose designated until the close of the fiscal year that begins July 1, 2005, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 23. 2002 Iowa Acts, chapter 1173, section 1, subsection 7, paragraph a, as amended by 2004 Iowa Acts, chapter 1175, section 310, is amended to read as follows:

a. For parking improvements and provision of street access for the judicial building:

FY 2002-2003	$	700,000
FY 2003-2004	$	0
FY 2004-2005	$	0
FY 2005-2006	$	0

Of the amount appropriated in this lettered paragraph for FY 2002-2003, up to $330,000 may be used for costs associated with ~~operation of the judicial building, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1)~~ site work in the vicinity of the judicial building.

Sec. 24. 2003 Iowa Acts, chapter 177, section 22, subsection 6, paragraph a, is amended by striking the paragraph.

Sec. 25. EFFECTIVE DATE. The section of this division of this Act relating to the amendment to 2001 Iowa Acts, chapter 185, section 30, being deemed of immediate importance, takes effect upon enactment.

Sec. 26. EFFECTIVE DATE. The section of this division of this Act amending 2002 Iowa Acts, chapter 1173, section 1, subsection 7, being deemed of immediate importance, takes effect upon enactment.

Sec. 27. EFFECTIVE DATE. The section of this division of this Act amending 2003 Iowa Acts, chapter 177, section 22, subsection 6, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
VERTICAL INFRASTRUCTURE FUND

Sec. 28. There is appropriated from the vertical infrastructure fund to the following departments and agencies for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

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 buildings and facilities under the purview of the department:

. . . . . $ 5,623,200

Of the amount appropriated in this subsection, up to $200,000 may be used for costs associated with the vertical infrastructure program, notwithstanding section 8.57B, subsection 3.

2. DEPARTMENT OF CULTURAL AFFAIRS

For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:

. . . . . $ 500,000

Historical site preservation grants shall only be awarded for projects which meet the definition of "vertical infrastructure" in section 8.57B, subsection 3.

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. A grant awarded from moneys appropriated in this subsection shall not exceed $100,000 per project. Not more than two grants may be awarded in the same county.

3. 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 8.57B, subsection 3:

. . . . . $ 4,000,000

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, 2006, the unobligated and unencumbered portions shall be available for use by other community colleges.

4. DEPARTMENT OF PUBLIC DEFENSE

a. For construction of a national guard readiness center in or near Fort Dodge:

. . . . . $ 608,000

b. For maintenance and repair of national guard armories and facilities, notwithstanding section 8.57B, subsection 3:

. . . . . $ 1,269,000

c. For upgrading the water treatment facility at Camp Dodge:

. . . . . $ 1,939,800

5. 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

Sec. 29. REVERSION. Notwithstanding section 8.33, moneys appropriated from the vertical infrastructure fund for the fiscal year that begins July 1, 2005, 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, 2008, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 30. DEPARTMENT OF ADMINISTRATIVE SERVICES.

1. There is appropriated from the vertical infrastructure fund to the department of administrative services for the designated fiscal years, the following amounts, or so much thereof as if[8] necessary, to be used for the purposes designated:

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 buildings and facilities under the purview of the department:

FY 2006-2007 . . . . . $ 10,000,000
FY 2007-2008 . . . . . $ 40,000,000
FY 2008-2009 . . . . . $ 40,000,000

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, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION VII
RAILROAD REVOLVING LOAN AND GRANT FUND

Sec. 31. Section 327H.20A, Code 2005, is amended to read as follows:

327H.20A RAILROAD REVOLVING LOAN AND GRANT FUND.

1. A railroad revolving loan and grant fund is established in the office of the treasurer of state under the control of the ~~department~~ authority. Moneys in ~~this~~ the fund shall be expended for ~~loans~~ the following purposes:

a. Grants or loans to provide assistance for the restoration, conservation, improvement, and construction of railroad main lines, branch lines, switching yards, sidings, rail connections, intermodal yards, highway grade separations, and other railroad-related improvements.

b. Grants or loans for rail economic development projects that improve rail facilities, including the construction of branch lines, sidings, rail connections, intermodal yards, and other rail-related improvements that spur economic development and job growth.

2. The ~~department~~ authority shall administer a program for the granting and administration of loans and grants under this section. No more than fifty percent of the total moneys available in the fund in any year shall be awarded in the form of grants. The authority may establish a limit on the amount that may be awarded as a grant for any given project in order to maximize the use of the moneys in the fund. The ~~department~~ authority may enter into agreements with railroad corporations, the United States government, cities, counties, and other persons for carrying out the purposes of this section.

3. ~~Moneys~~ Notwithstanding any other provision to the contrary, on or after July 1, 2006, moneys received as ~~loan~~ repayments for loans made pursuant to this chapter or chapter 327I before, on, or after July 1, 2005, other than repayments of federal moneys subject to section 327H.21, shall be credited to the railroad revolving loan and grant fund. Notwithstanding section 8.33, moneys in the railroad revolving loan and grant fund shall not revert to the general fund of the state but shall remain available indefinitely for expenditure under this section.

[8] According to enrolled Act

Sec. 32. Section 327H.26, Code 2005, is amended to read as follows:

327H.26 ~~DEFINITION~~ DEFINITIONS.

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

1. "Department" means the state department of transportation.

2. "Authority" means the railway finance authority created in chapter 327I.

Sec. 33. Section 327I.8, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Administer the railroad revolving loan and grant fund as provided in section 327H.20A.

Sec. 34. Sections 327H.18 and 327H.20, Code 2005, are repealed.

Sec. 35. Notwithstanding section 327H.18, Code 2005, and chapter 327I, there is appropriated from the general fund of the state to the railroad revolving loan fund established in section 327H.20A for the fiscal year beginning July 1, 2004, and ending June 30, 2005, an amount equal to the amount of the loan repayments made under section 327H.18, Code 2005, and chapter 327I that exceed $1,308,704 during the fiscal year beginning July 1, 2004.

Sec. 36. Notwithstanding section 327H.18, Code 2005, and chapter 327I, there is appropriated from the general fund of the state to the railroad revolving loan and grant fund established in section 327H.20A, as amended by this Act, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, an amount equal to the amount of the loan repayments made under section 327H.18, Code 2005, and chapter 327I that exceed $1,288,481 during the fiscal year beginning July 1, 2005.

Sec. 37. CONTINUATION OF PRIOR AGREEMENTS. It is the intent of the general assembly that the enactment of this division of this Act shall not affect the terms or duration of railroad assistance agreements entered into under chapter 327H prior to the effective date of this division of this Act.

Sec. 38. EFFECTIVE DATE AND APPLICABILITY. The section of this division of this Act that appropriates excess rail assistance loan repayments for the fiscal year beginning July 1, 2004, and ending June 30, 2005, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2004.

DIVISION VIII
IOWA COMMUNICATIONS NETWORK

Sec. 39. Section 8D.3, subsection 3, paragraph i, Code 2005, is amended to read as follows:

i. Evaluate existing and projected rates for use of the system and ensure that rates are sufficient to pay for the operation of the system excluding the cost of construction and lease costs for Parts I, II, and III. The commission shall establish all hourly rates to be charged to all authorized users for the use of the network and shall consider all costs of the network in establishing the rates. A fee established by the commission to be charged to a hospital licensed pursuant to chapter 135B, a physician clinic, or the federal government shall be at an appropriate rate so that, at a minimum, there is no state subsidy related to the costs of the connection or use of the network related to such user.

Sec. 40. Section 8D.13, subsection 11, Code 2005, is amended to read as follows:

11. The fees charged for use of the network and state communications shall be based on the ongoing ~~operational costs~~ expenses of the network and of providing state communications ~~only~~. For the services rendered to state agencies by the commission, the commission shall prepare a statement of services rendered and the agencies shall pay in a manner consistent with procedures established by the department of administrative services.

DIVISION IX
ACCESS IOWA HIGHWAYS

Sec. 41.

1. INTENT. It is the intent of the general assembly to formulate an access Iowa plan which shall designate portions of the commercial and industrial network of highways as access Iowa highways. The goal of the access Iowa plan shall be to enhance the existing Iowa economy and ensure its continuing development and growth in the national and global competitive marketplace by providing for early completion of the construction of the most important portions of the Iowa highway system. These portions of the system shall be those that are essential for support of intrastate transportation and commerce and essential for ensuring Iowans direct access to the nation's system of interstate highways and transportation services.

The general assembly's past actions are consistent with the access Iowa plan. The general assembly has set general policy guidelines for the state transportation commission's planning and programming development, directed that road service be equalized throughout the state, determined that a commercial and industrial network of highways would benefit Iowa transportation services, directed the commission to focus at least part of their legislatively provided resources on the commercial and industrial network, and directed that the commission consider equalization of accessibility for economic development as one of the factors in establishing its plan and program priorities for the commercial and industrial network. These actions recognize that interstate commerce and national economic development are furthered and supported by the national system of interstate and defense highways and the national highway system, and that Iowa commerce and economic development are supported by Iowa's commercial and industrial network of highways.

2. ACCESS IOWA HIGHWAY DESIGNATION. The state department of transportation shall designate portions of the commercial and industrial network of highways as access Iowa highways and shall expedite and accelerate development of access Iowa highways. When designating those portions of the commercial and industrial network as access Iowa highways, the department shall consider the direct and priority linkages between economic centers within the state with populations of 20,000 or more and the enhancement of intrastate mobility and Iowa regional accessibility and national accessibility.

3. REPEAL. This section is repealed effective July 1, 2015.

DIVISION X
HONEY CREEK PREMIER DESTINATION
PARK BOND PROGRAM

Sec. 42. Section 12.30, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. "Authority" means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 12E, 16, 16A, 175, 257C, 261A, ~~or~~ 327I, or 463C, which has the power to issue obligations, except that "authority" does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C.

Sec. 43. NEW SECTION. 463C.1 TITLE.

This chapter shall be known and may be cited as the "Honey Creek Premier Destination Park Bond Program".

Sec. 44. NEW SECTION. 463C.2 DEFINITIONS.

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

1. "Authority" means the honey creek premier destination park authority created in section 463C.4.

2. "Board" means the governing board of the authority.

3. "Bonds" means bonds, notes, and other obligations and financing arrangements issued or entered into by the authority pursuant to this chapter.

4. "Department" means the department of natural resources.

5. "Fund" means the honey creek premier destination park bond fund created in section 463C.11.

6. "Program" means the honey creek premier destination park bond program established in section 463C.10.

Sec. 45. NEW SECTION. 463C.3 LEGISLATIVE FINDINGS.

1. The establishment of the honey creek premier destination park bond program and honey creek premier destination park authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare, and for the promotion of the economy, which are public purposes.

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

3. The authority will assist in the establishment of the honey creek premier destination park in the state which will provide important recreational and economic benefits to the state.

4. Current efforts to develop the honey creek premier destination park in the state have fallen short and the creation of an authority which has the mission of engaging and assisting in these efforts will increase the likelihood of reaching the desired goal.

5. It is necessary to create the honey creek premier destination park bond program and authority to encourage the investment of private capital to stimulate the development and construction of the park including lodges, campgrounds, cabins, and golf courses through the use of public financing, and to this extent it is the public policy of this state to support the honey creek premier destination park bond program in the procurement of necessary moneys for deposit into the honey creek premier destination park bond fund.

Sec. 46. NEW SECTION. 463C.4 ESTABLISHMENT OF HONEY CREEK PREMIER DESTINATION PARK AUTHORITY.

1. The honey creek premier destination park authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.

2. The purposes of the authority include all of the following:

a. To implement and administer the honey creek premier destination park bond program and to establish a stable source of revenue to be used for the purposes designated in this chapter.

b. To issue bonds and enter into funding options, consistent with this chapter, including refunding and refinancing its debt and obligations.

c. To provide for and secure the issuance and repayment of its bonds.

d. To invest funds available under this chapter to provide for a source of revenue in accordance with the program plan.

e. To refund and refinance the authority's debts and obligations, and to manage its funds, obligations, and investments as necessary and if consistent with its purpose.

f. To implement the purposes of this chapter.

3. The authority shall invest its funds and accounts in accordance with this chapter and shall not take action or invest in any manner that would cause the state to become a stockholder in any corporation or that would cause the state to assume or agree to pay the debt or liability of any corporation in violation of the United States Constitution or the Constitution of the State of Iowa.

4. The authority shall not create any obligation of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitation.

5. The authority shall not pledge the credit or taxing power of this state or any political subdivision of this state, or make its debts payable out of any moneys except those of the authority specifically pledged for their payment.

Sec. 47. NEW SECTION. 463C.5 GOVERNING BOARD.

1. The powers of the authority are vested in and shall be exercised by a board consisting of the treasurer of state, the auditor of state, and the director of the department of management. Notwithstanding the provisions of section 12.30, subsection 2, regarding ex officio nonvoting status, the treasurer of state shall act as a voting member of the authority.

2. Two members of the board constitute a quorum.

3. The members shall elect a chairperson, vice chairperson, and secretary, annually, and other officers as the members determine necessary. The treasurer of state shall serve as treasurer of the authority.

4. Meetings of the board shall be held at the call of the chairperson or when a majority of the members so requests.

5. The members of the board shall not receive compensation by reason of their membership on the board.

Sec. 48. NEW SECTION. 463C.6 STAFF — ASSISTANCE BY STATE OFFICERS, AGENCIES, AND DEPARTMENTS.

1. The staff of the office of the treasurer of state shall also serve as staff of the authority under the supervision of the treasurer.

2. State officers, agencies, and departments may render services to the authority within their respective functions, as requested by the authority.

Sec. 49. NEW SECTION. 463C.7 LIMITATION OF LIABILITY.

Members of the board and persons acting on the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter.

Sec. 50. NEW SECTION. 463C.8 GENERAL POWERS OF AUTHORITY.

1. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including but not limited to all of the following powers:

a. The power to issue its bonds and to enter into other funding options as provided in this chapter.

b. The power to have perpetual succession as a public instrumentality and agency of the state, until dissolved in accordance with this chapter.

c. The power to sue and be sued in its own name.

d. The power to make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter.

e. The power to hire and compensate legal counsel, notwithstanding chapter 13.

f. The power to hire investment advisors and other persons as necessary to fulfill its purpose.

g. The power to invest or deposit moneys of or held by the authority in any manner determined by the authority, notwithstanding chapter 12B or 12C.

h. The power to procure insurance, other credit enhancements, and other financing arrangements, and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority and to fulfill the purposes of the authority under this chapter, including but not limited to such arrangements, instruments, contracts, and agreements as bond insurance, liquidity facilities, interest rate agreements, and letters of credit.

i. The power to accept appropriations, gifts, grants, loans, or other aid from public or private entities.

j. The power to adopt rules consistent with this chapter and in accordance with chapter 17A, as the board determines necessary.

k. The power to acquire, own, hold, administer, and dispose of property.

l. The power to determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms and other details of financing, and the method of implementation of the program plan.

m. The power to perform any act not inconsistent with federal or state law necessary to carry out the purposes of the authority.

2. The authority is exempt from the requirements of chapter 8A, subchapter III.

Sec. 51. NEW SECTION. 463C.9 POWERS NOT RESTRICTED — LAW COMPLETE IN ITSELF.

This chapter shall not restrict or limit the powers which the authority has under any other law of this state, but is cumulative as to any such powers. A proceeding, notice, or approval is not required for the creation of the authority or the issuance of obligations or an instrument as security, except as provided in this chapter.

Sec. 52. NEW SECTION. 463C.10 HONEY CREEK PREMIER DESTINATION PARK BOND PROGRAM.

The authority shall assist in the development and expansion of the honey creek premier destination park in the state through the establishment of the honey creek premier destination park bond program. The authority may issue its bonds or notes, or series of bonds or notes, for the purpose of defraying the cost of one or more projects for the development and expansion of the honey creek premier destination park in the state, including lodges, campgrounds, cabins, and golf courses, and make secured and unsecured loans for the acquisition and construction of such projects on terms the authority determines.

Sec. 53. NEW SECTION. 463C.11 HONEY CREEK PREMIER DESTINATION PARK BOND FUND.

1. The honey creek premier destination park bond fund is established as a separate and distinct fund in the state treasury consisting of honey creek premier destination park revenues, any moneys appropriated by the general assembly to the fund, and any other moneys available to and obtained or accepted by the authority for placement in the fund. The moneys in the fund shall be used to develop the honey creek premier destination park in the state by funding the development and construction of facilities in the park including but not limited to lodges, campgrounds, cabins, and golf courses. The treasurer of state is authorized to establish separate and distinct accounts within the honey creek premier destination park bond fund in connection with the issuance of the authority's bonds in accordance with the trust indenture or resolution authorizing the bonds and the authority is authorized to determine which revenues and accounts shall be pledged as security for the bonds. Amounts deposited in the honey creek premier destination park bond fund shall be deposited in the separate and distinct accounts as set forth in the trust indenture or resolution authorizing the bonds. The authority is authorized to pledge and use the gross revenues from the honey creek premier destination park to and for payment of the bonds. Revenues may also be used for the payment of insurance, other credit enhancements, and other financing arrangements. Operating expenses of the honey creek premier destination park may be paid from the revenues to the extent the revenues exceed the amount determined by the authority to be necessary for debt service on the bonds.

2. Payments of interest, repayments of moneys loaned pursuant to this chapter, and recaptures of awards shall be deposited in the fund.

3. Moneys in the fund may be used by the authority for the purpose of providing grants, loans, forgivable loans, loan guarantees under the honey creek premier destination park bond program established in this chapter, and otherwise funding the development and construction of facilities in the park including but not limited to lodges, campgrounds, cabins, and golf courses. The moneys in the fund shall be used for the development and construction of facilities in the honey creek premier destination park.

4. The authority, in consultation with the department, shall determine which projects qualify for assistance from the fund, and which projects shall be funded.

Sec. 54. NEW SECTION. 463C.12 PREMIER DESTINATION PARK BONDS.

1. The authority may issue bonds for the purpose of funding the honey creek premier des-

tination park bond fund established in section 463C.11 and for the purpose of refunding any bonds issued under this section. The authority may issue bonds in principal amounts which, in the opinion of the board, are necessary to provide sufficient funds for the honey creek premier destination park bond fund established in section 463C.11, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds, other expenditures of the authority incident to and necessary or convenient to carry out the bond issue for the fund, and all other expenditures of the board necessary or convenient to administer the fund; provided, however, excluding the issuance of refunding bonds, bonds issued pursuant to this section shall not be issued in an aggregate principal amount which exceeds twenty-eight million dollars.

2. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

3. The authority may pledge amounts deposited in the honey creek premier destination park bond fund established in section 463C.11 as security for the payment of the principal of premium, if any, and interest on the bonds. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the honey creek premier destination park bond fund and any bond reserve funds established pursuant to section 463C.13, all of which may be deposited with trustees or depositories in accordance with bond or security documents, and are not an indebtedness of this state, or a charge against the general credit or general fund of the state, and the state shall not be liable for the bonds except from amounts on deposit in the funds. Bonds issued under this section shall contain a statement that the bonds do not constitute an indebtedness of the state.

4. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, payable over terms and with rights of redemption, and subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of this state and may be sold at prices, at public or private sale, and in a manner as prescribed by the authority. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state, political subdivisions of this state, insurance companies and associations and other persons carrying on an insurance business, banks, trust companies, savings associations, savings and loan associations, and investment companies, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the authority that is approved by the authority. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issuance of bonds.

7. Neither the resolution, trust agreement, or any other instrument by which a pledge is created is required to be recorded or filed under the uniform commercial code to be valid, binding, or effective.

8. All bonds issued by the authority in connection with the program are exempt from taxation by the state of Iowa and the interest on the bonds is exempt from state income taxes and state inheritance and estate taxes.

9. The authority may issue bonds for the purpose of refunding any bonds or notes issued pursuant to this section then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the

redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the board for deposit in the honey creek premier destination park bond fund established in section 463C.11. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this section.

Sec. 55. NEW SECTION. 463C.13 BOND RESERVE FUNDS.

1. The authority may create and establish one or more special funds, to be known as bond reserve funds, and shall pay into each bond reserve fund any moneys appropriated and made available by the authority for the purpose of the bond reserve fund, any proceeds of sale of notes or bonds to the extent provided in the trust indenture, resolution, or other instrument of the treasurer of state authorizing their issuance, and any other moneys which may be available to the authority for the purpose of the bond reserve fund from any other sources. All moneys held in a bond reserve fund, except as otherwise provided in this section, shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the bond reserve fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

2. Moneys in a bond reserve fund shall not be withdrawn from the bond reserve fund at any time in an amount that will reduce the amount of the bond reserve fund to less than the bond reserve fund requirement established for the bond reserve fund, as provided in this section, except for the purpose of making, with respect to bonds secured in whole or in part by the bond reserve fund, payment when due of principal, interest, redemption premiums, and the sinking fund payments with respect to the bonds for the payment of which other moneys are not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of moneys in the bond reserve fund may be transferred by the authority to other reserve funds or the honey creek premier destination park bond fund to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for the bond reserve fund.

3. The authority shall not at any time issue bonds, secured in whole or in part by a bond reserve fund, if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the bond reserve fund, unless the authority at the time of issuance of the bonds deposits in the bond reserve fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the bond reserve fund, will not be less than the bond reserve fund requirement for the bond reserve fund. For the purposes of this section, the term "bond reserve fund requirement" means, as of any particular date of computation, an amount of money, as provided in the trust indenture, resolution, or other instrument of the authority authorizing the bonds with respect to which the bond reserve fund is established, equal to not more than ten percent of the outstanding principal amount of bonds secured in whole or in part by the bond reserve fund.

4. To assure the continued operation and solvency of the authority for the carrying out of its corporate purposes, provision is made in subsection 1 for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the chairperson of the authority shall, on or before January 1 of each calendar year, make and deliver to the governor the chairperson's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated

by the general assembly and paid to the authority pursuant to this section shall be deposited by the authority in the applicable bond reserve fund.

Sec. 56. NEW SECTION. 463C.14 PLEDGES.

It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the treasurer of state shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the treasurer of state whether or not the parties have notice of the lien.

Sec. 57. NEW SECTION. 463C.15 MONEYS OF THE AUTHORITY.

1. Moneys of the authority from whatever source derived, except as otherwise provided in this chapter, shall be paid to the authority and shall be deposited in the honey creek premier destination park bond fund. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall, if required by the authority, be secured in the manner determined by the authority. The auditor of state and the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing, and the authority shall not be required to pay a fee for the examination.

2. The authority may contract with holders of its bonds or notes as to the custody, collection, security, investment, and payment of moneys of the authority, of moneys held in trust or otherwise for the payment of bonds or notes, and to carry out the contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of the moneys may be secured in the same manner as moneys of the authority, and banks and trust companies may give security for the deposits.

3. Subject to the provisions of any contract with bondholders or noteholders and to the approval of the director of the department of administrative services, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, the department of management, and the department of administrative services, within thirty days of its receipt by the authority, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

Sec. 58. NEW SECTION. 463C.16 ANNUAL REPORT.

1. The authority shall submit to the governor, the general assembly, and the attorney general, on or before December 31, annually, a report including information regarding all of the following:

a. Its operations and accomplishments.

b. Its receipts and expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.

c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.

d. A schedule of its bonds outstanding at the end of the previous fiscal year, and a statement of the amounts redeemed and issued during the previous fiscal year.

e. A statement of its proposed and projected activities.

f. Recommendations to the governor and the general assembly, as deemed necessary.

g. A statement of all projects funded in the previous fiscal year.

h. Any other information deemed necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period in attaining these goals.

Sec. 59. NEW SECTION. 463C.17 EXEMPTION FROM COMPETITIVE BID LAWS.

The authority and contracts entered into by the authority in carrying out its public and essen-

tial governmental functions are exempt from the laws of the state which provide for competitive bids and hearings in connection with contracts, except as provided in section 12.30. However, the exemption from competitive bid laws in this section shall not be construed to apply to contracts for the development of the park or the development or construction of facilities in the park, including, but not limited to, lodges, campgrounds, cabins, and golf courses.

Sec. 60. NEW SECTION. 463C.18 BANKRUPTCY.

Prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such periods. The provisions of this section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law, during the period of the contractual obligation.

Sec. 61. NEW SECTION. 463C.19 DISSOLUTION OF THE AUTHORITY.

The authority shall dissolve no later than two years after the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the general fund of the state, unless otherwise directed by the general assembly, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments.

Sec. 62. NEW SECTION. 463C.20 LIBERAL INTERPRETATION.

This chapter, being deemed necessary for the welfare of the state and its people, shall be liberally construed to effect its purpose.

Sec. 63. MATCHING FUNDS. Moneys appropriated in this Act, if enacted, to be used for the purpose of funding the development and construction of the honey creek premier destination park shall be available only for projects that contain a match of four dollars of private funds for each three dollars of state funds.

Sec. 64. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 15, 2005

CHAPTER 179

STATE AND LOCAL GOVERNMENT
FINANCIAL AND REGULATORY MATTERS —
APPROPRIATIONS AND MISCELLANEOUS CHANGES

H.F. 882

AN ACT relating to state and local finances by providing for tax exemptions, credits, tax credit transfers, and other tax-related matters and by making, reducing, and transferring appropriations, providing for fees, providing for wind energy production tax credits, and providing for properly related matters and penalties and including effective and retroactive applicability date provisions.

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

DIVISION I
MH/MR/DD ALLOWED GROWTH FUNDING

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ALLOCATIONS — FISCAL YEAR 2006-2007.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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:

. . . . . $ 35,788,041

2. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2006-2007, and is allocated as follows:

a. For distribution to counties for fiscal year 2005-2006 in accordance with the formula in section 331.438, subsection 2, paragraph "b":

. . . . . $ 12,000,000

b. For deposit in the per capita expenditure target pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 1:

. . . . . $ 19,361,148

c. 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

d. For distribution to counties as cost share for county coverage of services to adult persons with brain injury in accordance with the law enacted as a result of the provisions of 2005 Iowa Acts, House File 876,[1] or other law providing for such coverage to commence in the fiscal year beginning July 1, 2006:

. . . . . $ 2,426,893

DIVISION II
STANDING APPROPRIATIONS

Sec. 2. BUDGET PROCESS FOR FISCAL YEAR 2006-2007.

1. For the budget process applicable to the fiscal year beginning July 1, 2006, on or before October 1, 2005, in lieu of the information specified in section 8.23, subsection 1, unnumbered paragraph 1, and paragraph "a", all departments and establishments of the government shall

[1] Not enacted

transmit to the director of the department of management, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, together with supporting data and explanations as called for by the director of the department of management after consultation with the legislative services agency.

2. The estimates of expenditure requirements shall be in a form specified by the director of the department of management, and the expenditure requirements shall include all proposed expenditures and shall be prioritized by program or the results to be achieved. The estimates shall be accompanied by performance measures for evaluating the effectiveness of the programs or results.

Sec. 3. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2005, and ending June 30, 2006, 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:

1. For instructional support state aid under section 257.20:
. . . . . $ 14,428,271

2. For at-risk children programs under section 279.51, subsection 1:
. . . . . $ 11,271,000

The amount of any reduction in this subsection shall be prorated among the programs specified in section 279.51, subsection 1, paragraphs "a", "b", and "c".

3. For payment for nonpublic school transportation under section 285.2:
. . . . . $ 8,273,763

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.

4. For the educational excellence program under section 294A.25, subsection 1:
. . . . . $ 55,469,053

5. For the state's share of the cost of the peace officers' retirement benefits under section 411.20:
. . . . . $ 2,745,784

6. For payment of livestock production tax credit refunds under section 422.121:
. . . . . $ 1,770,342

Sec. 4. PROPERTY TAX CREDIT FUND — PAYMENTS IN LIEU OF GENERAL FUND REIMBURSEMENT.

1. Notwithstanding section 8.57, prior to the appropriation and distribution to the cash reserve fund of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2004, and ending June 30, 2005, pursuant to section 8.57, subsection 1, of that surplus, $159,663,964 is appropriated to the property tax credit fund which shall be created in the office of the treasurer of state to be used for the purposes of this section.

2. Notwithstanding the amount of the standing appropriation from the general fund of the state in the following designated sections and notwithstanding any conflicting provisions or voting requirements of section 8.56, there is appropriated from the property tax credit fund in lieu of the appropriations in the following designated sections for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts for the following designated purposes:

a. For reimbursement for the homestead property tax credit under section 425.1:
. . . . . $ 102,945,379

b. For reimbursement for the agricultural land and family farm tax credits under sections 425A.1 and 426.1:
. . . . . $ 34,610,183

c. For reimbursement for the military service tax credit under section 426A.1A:
. . . . . $ 2,568,402

d. For implementing the elderly and disabled tax credit and reimbursement pursuant to sections 425.16 through 425.40:

. . . . . $ 19,540,000

If the director determines that the amount of claims for credit for property taxes due plus the amount of claims for reimbursement for rent constituting property taxes paid which are to be paid during the fiscal year may exceed the amount appropriated, the director shall estimate the percentage of the credits and reimbursements which will be funded by the appropriation. The county treasurer shall notify the director of the amount of property tax credits claimed by June 8. The director shall estimate the percentage of the property tax credit and rent reimbursement claims that will be funded by the appropriation and notify the county treasurer of the percentage estimate by June 15. The estimated percentage shall be used in computing for each claim the amount of property tax credit and reimbursement for rent constituting property taxes paid for that fiscal year. If the director overestimates the percentage of funding, claims for reimbursement for rent constituting property taxes paid shall be paid until they can no longer be paid at the estimated percentage of funding. Rent reimbursement claims filed after that point in time shall receive priority and shall be paid in the following fiscal year. If the director underestimates the percentage of funding, the overage shall remain in the fund established in section 425.39 for payments to be made in the next fiscal year.

Sec. 5. Section 8.8, Code 2005, is amended to read as follows:

8.8 SPECIAL OLYMPICS FUND — APPROPRIATION.

A special olympics fund is created in the office of the treasurer of state under the control of the department of management. There is appropriated annually from the general fund of the state to the special olympics fund ~~thirty~~ fifty thousand dollars for distribution to one or more organizations which administer special olympics programs benefiting the citizens of Iowa with disabilities.

Sec. 6. Section 257.35, subsection 4, Code 2005, is amended to read as follows:

4. 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, ~~2004~~ 2005, shall be reduced by the department of management by eleven million seven hundred ninety-eight thousand seven hundred three 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, 2003.

Sec. 7. CASH RESERVE APPROPRIATION FOR FY 2005-2006. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the appropriation to the cash reserve fund provided in section 8.57, subsection 1, paragraph "a", shall not be made. However, any surplus in the general fund of the state for the fiscal year beginning July 1, 2005, and ending June 30, 2006, shall be transferred to the cash reserve fund.

Sec. 8. EFFECTIVE DATE. The section of this division of this Act creating the property tax credit fund, being deemed of immediate importance, takes effect upon enactment.

DIVISION III
OTHER APPROPRIATIONS

Sec. 9. DEPARTMENT OF CULTURAL AFFAIRS — NONPROFIT MUSIC ENTITIES. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2005, and ending June 30, 2006, twenty-five thousand dollars for purposes of providing two twelve thousand five hundred dollar grants to nonprofit music entities. A recipient of a grant shall be a nonprofit entity that is formed with members including local musicians, music promoters, representatives of music venues and businesses, community leaders, and live music enthusiasts who discuss, assess, and expedite the imple-

mentation of a unified music agenda for a local community and aggressively advocates, sponsors, and develops an independent, progressive live music economy in a local community.

Sec. 10. PKU ASSISTANCE. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of special food needed:

..... $ 100,000

Sec. 11. HEALTHY IOWANS TOBACCO TRUST — PKU ASSISTANCE. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of special food needed:

..... $ 60,000

Sec. 12. ENRICH IOWA LIBRARIES PROGRAM. There is appropriated from the rebuild Iowa infrastructure fund to the department of education for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary:

To provide resources for structural and technological improvements to local libraries and for the enrich Iowa program, notwithstanding section 8.57, subsection 6, paragraph "c":

..... $ 200,000

Sec. 13. DEPARTMENT OF EDUCATION — COMMUNITY COLLEGES. There is appropriated from the rebuild Iowa infrastructure fund to the department of education for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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 buildings and facilities under the purview of the community colleges:

FY 2006-2007 ..... $ 2,000,000
FY 2007-2008 ..... $ 2,000,000
FY 2008-2009 ..... $ 2,000,000

The moneys appropriated in this section shall be allocated to the community colleges based upon the distribution formula established in section 260C.18C, if enacted by 2005 Iowa Acts, House File 816.[2]

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, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 14. CIVIL AIR PATROL. There is appropriated from the general fund of the state to the homeland security and emergency management division of the department of public safety[3] for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa civil air patrol:

..... $ 100,000

Sec. 15. HEALTHY IOWANS TOBACCO TRUST — AIDS DRUG ASSISTANCE PROGRAM. There is appropriated from the healthy Iowans tobacco trust created in section 12.65

[2] Chapter 169, §24 herein

[3] The phrase "public defense" probably intended

to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For additional funding to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants:

. . . . . $ 275,000

Sec. 16. GREAT PLACES. There is appropriated from the general fund of the state to the department of cultural affairs 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 100,000

Notwithstanding section 8.33, any 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. 17. UNDERGROUND STORAGE TANK FUND — WATERSHED IMPROVEMENT FUND — FY 2005-2006. Notwithstanding section 455G.3, subsection 1, there is appropriated from the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, subsection 1, to the office of the treasurer of state during the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the watershed improvement fund created in 2005 Iowa Acts, Senate File 200,[4] if enacted:

. . . . . $ 5,000,000

Moneys in the watershed improvement fund are appropriated for the fiscal year beginning July 1, 2005, and ending June 30, 2006, to fulfill the duties of the watershed improvement review board, if enacted by 2005 Iowa Acts, Senate File 200.[5]

Sec. 18. 2005 Iowa Acts, House File 809,[6] section 2, subsection 1, paragraph a, if enacted, is amended to read as follows:

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:

. . . . . $ ~~1,956,332~~
1,841,332

. . . . . FTEs 28.75

Sec. 19. 2005 Iowa Acts, House File 862,[7] section 1, subsection 2, paragraph h, unnumbered paragraph 1, and paragraph i, unnumbered paragraph 1, if enacted, are amended to read as follows:

For a grant program to provide substance abuse prevention programming for children:

. . . . . $ ~~400,000~~
200,000

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~~
200,000

[4] Chapter 159 herein
[5] Chapter 159 herein
[6] Chapter 170 herein
[7] Chapter 176 herein

Sec. 20. 2005 Iowa Acts, House File 862,[8] section 1, subsection 2, paragraph j, if enacted, is amended to read as follows:

j. For a grant program to provide substance abuse prevention programming, including tobacco use prevention programming, for children:

. . . . . $ ~~800,000~~
400,000

The Iowa department of public health shall utilize a request for proposals process to implement this paragraph "j". A program approved for a grant under paragraph "h" or paragraph "i" shall not be eligible for a grant under this paragraph "j".

Eligible grant applicants shall include, but shall not be limited to, mentoring organizations and organizations that practice and implement nationally accepted standards for mentoring programs.

All grant recipients shall participate in a program evaluation as a requirement for receiving grant funds.

Sec. 21. NATIONAL GOVERNORS ASSOCIATION MEETING. 2004 Iowa Acts, chapter 1175, section 12, subsection 4, as amended by 2005 Iowa Acts, House File 810,[9] if enacted, is amended to read as follows:

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

. . . . . $ ~~364,393~~
164,393

Of the funds appropriated in this subsection, ~~$300,000~~ $100,000 is allocated for security-related costs and other expenses associated with the national governors association national meeting. Notwithstanding section 8.33, the moneys allocated for the meeting 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. 22. 2005 Iowa Acts, House File 881,[10] section 5, unnumbered paragraph 1, if enacted, is 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, excluding the state board of regents, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the amount of ~~$38,500,000~~ 40,900,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

Sec. 23. 2001 Iowa Acts, chapter 174, section 1, subsection 2, as amended by 2002 Iowa Acts, chapter 1174, section 8, 2003 Iowa Acts, chapter 179, section 38, and 2004 Iowa Acts, chapter 1175, section 270, 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 . . . . . $ 0
FY 2004-2005 . . . . . $ 0
FY 2005-2006 . . . . . $ ~~29,562,000~~
0
FY 2006-2007 . . . . . $ 17,773,000

Sec. 24. Section 8.55, subsection 2, paragraphs b and d, Code 2005, are amended by striking the paragraphs.

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[8] Chapter 176 herein

[9] Chapter 173, §25 herein

[10] Chapter 177 herein

Sec. 25. Section 8.55, subsection 2, paragraph c, Code 2005, 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 one hundred eighteen million dollars.

Sec. 26. Section 256D.5, subsection 4, Code 2005, is amended to read as follows:

4. For each fiscal year of the fiscal ~~year~~ period beginning July 1, 2004, and ending June 30, ~~2005~~ 2006, the sum of twenty-nine million two hundred fifty thousand dollars.

Sec. 27. Section 490A.131, subsection 5, if enacted by 2005 Iowa Acts, House File 859,[11] section 109, is amended to read as follows:

5. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first ~~odd-numbered~~ even-numbered year following the calendar year in which a limited liability company was formed or a foreign limited liability company was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following ~~odd-numbered~~ even-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state and deposited into the general fund of the state. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

Sec. 28. Section 292.4, Code 2005, is repealed.

Sec. 29. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this division of this Act repealing section 292.4, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2004.

2. The sections of this division of this Act appropriating moneys to the department of cultural affairs for great places and amending 2004 Iowa Acts, chapter 1175, section 12, subsection 4, being deemed of immediate importance, take effect upon enactment.

DIVISION IV
APPROPRIATION REVISIONS

Sec. 30. JOBS FOR AMERICA'S GRADUATES. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For school districts to provide direct services to the most at-risk senior high school students enrolled in school districts through direct intervention by a jobs for America's graduates specialist:

..... $ 400,000

Sec. 31. DEPARTMENT OF ADMINISTRATIVE SERVICES — FINANCIAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of administrative services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For financial administration duties:

..... $ 200,000

Sec. 32. DEPARTMENT OF MANAGEMENT — PERFORMANCE AUDITS. There is appropriated from the general fund of the state to the department of management for the fiscal

[11] Chapter 135 herein

year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For conducting performance audits and developing performance measures, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 216,000
..... FTEs 2.50

Sec. 33. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. If 2005 Iowa Acts, House File 810,[12] is enacted and provides for an appropriation from the general fund of the state to the governor's office of drug control policy for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... $ 13,195

Sec. 34. DEPARTMENT OF INSPECTIONS AND APPEALS — ADMINISTRATION DIVISION. If 2005 Iowa Acts, House File 810,[13] is enacted and provides for an appropriation from the general fund of the state to the department of inspections and appeals, administration division, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... $ 49,000

Sec. 35. DEPARTMENT OF REVENUE — OPERATIONS. If 2005 Iowa Acts, House File 810,[14] is enacted and provides for an appropriation from the general fund of the state to the department of revenue for operations for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... $ 25,882

Sec. 36. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP — SOIL AND WATER CONSERVATION DISTRICTS. If 2005 Iowa Acts, House File 808,[15] is enacted and provides for an appropriation from the general fund of the state to the department of agriculture and land stewardship for purposes of reimbursing commissioners of soil and water conservation districts for expenses, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... $ 50,000

Sec. 37. COLLEGE STUDENT AID COMMISSION. If 2005 Iowa Acts, House File 816,[16] is enacted and provides for an appropriation from the general fund of the state to the college student aid commission for the national guard educational assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... $ 75,000

Sec. 38. DEPARTMENT OF MANAGEMENT. If 2005 Iowa Acts, House File 816[17] is enacted and provides for an appropriation from the general fund of the state to the department of management for allocation to the institute for tomorrow's workforce created under chapter 7K, if enacted by 2005 Iowa Acts, House File 816,[18] for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... $ 100,000

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[12] Chapter 173 herein
[13] Chapter 173 herein
[14] Chapter 173 herein
[15] Chapter 172 herein
[16] Chapter 169 herein
[17] Chapter 169 herein
[18] Chapter 169, §17 herein

Sec. 39. IOWA DEPARTMENT OF PUBLIC HEALTH. If 2005 Iowa Acts, House File 825,[19] is enacted and provides for appropriations from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the following indicated purposes in 2005 Iowa Acts, House File 825,[20] those appropriations are reduced by the following amounts:

1. For environmental hazards:
..... $ 50,000

2. For injuries:
..... $ 50,000

3. For public protection:
..... $ 40,000

Sec. 40. MEDICAL ASSISTANCE APPROPRIATION. If 2005 Iowa Acts, House File 825,[21] is enacted and provides for an appropriation from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the medical assistance program, that appropriation is reduced by the following amount:
..... $ 11,353,381

Sec. 41. SENIOR LIVING TRUST FUND APPROPRIATION. If 2005 Iowa Acts, House File 825,[22] is enacted and provides for an appropriation from the senior living trust fund to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, to supplement the medical assistance appropriation, that appropriation is increased by the following amount:
..... $ 9,353,381

Sec. 42. DEPARTMENT OF HUMAN SERVICES. If 2005 Iowa Acts, House File 825,[23] is enacted and provides for appropriations from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the following indicated purposes, those appropriations are reduced by the following amounts:

1. For the children's health insurance program:
..... $ 50,000

2. For MI/MR/DD state cases:
..... $ 50,000

Sec. 43. DEPARTMENT OF JUSTICE — GENERAL OFFICE. If 2005 Iowa Acts, House File 811,[24] is enacted and provides for an appropriation from the general fund of the state to the department of justice for the department's general office, that appropriation is reduced by the following amount:
..... $ 25,000

Sec. 44. DEPARTMENT OF CORRECTIONS. If 2005 Iowa Acts, House File 811,[25] is enacted and provides for an appropriation from the general fund of the state to the department of corrections for offender substance abuse and mental health treatment for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:
..... $ 100,000

Sec. 45. DEPARTMENT OF PUBLIC SAFETY — BUILDING SECURITY. If 2005 Iowa Acts, House File 875,[26] is enacted and provides for an appropriation from the general fund of

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[19] Chapter 175 herein
[20] Chapter 175 herein
[21] Chapter 175 herein
[22] Chapter 175 herein
[23] Chapter 175 herein
[24] Chapter 174 herein
[25] Chapter 174 herein
[26] Chapter 178 herein

the state to the department of public safety for capitol building and judicial building security for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

. . . . . $ 25,000

Sec. 46. JUDICIAL BRANCH. If 2005 Iowa Acts, House File 807,[27] is enacted and provides for an appropriation from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

. . . . . $ 50,000

Sec. 47. REGISTERED NURSE RECRUITMENT PROGRAM FUNDS. From the funds appropriated for tuition grants pursuant to section 261.25, subsection 1, for the fiscal year beginning July 1, 2005, up to fifty thousand dollars shall be used to provide forgivable loans as provided in section 261.23 to residents of Iowa who are registered nurses and who are seeking to become qualified as nursing faculty in Iowa and to teach in Iowa schools. To qualify for a forgivable loan pursuant to this section, in addition to the requirements of section 261.23, a person shall be enrolled at a not-for-profit accredited school of nursing that is located in this state.

Sec. 48. HEALTH FACILITIES COUNCIL.[28] If 2005 Iowa Acts, House File 810,[29] is enacted and includes an appropriation from the general fund of the state to the department of inspections and appeals for the health facilities council[30] for the fiscal year beginning July 1, 2005, and ending June 30, 2006, any provision of that appropriation designating the use of $80,000 and a full-time equivalent position for a particular purpose shall not be applied.

Sec. 49. YOUTH ENRICHMENT PILOT PROJECT — YOUTH LEADERSHIP PROGRAM.

1. Of the funds appropriated in 2005 Iowa Acts, House File 807,[31] if enacted, from the general fund of the state to the judicial branch for purposes of a youth enrichment pilot project, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, $50,000 is transferred to the department of corrections to be used for a youth leadership program in the sixth judicial district department of correctional services in accordance with subsection 2.

2. The moneys transferred pursuant to subsection 1 shall be used by the judicial district department of correctional services to establish or maintain a youth leadership model program to help at-risk youth in the judicial district department of correctional services. As a part of the program, the judicial district department of correctional services may recruit college or high school students in the judicial district to work with at-risk youth. The student workers shall be recruited regardless of gender, be recommended by their respective schools as good role models, including, but not limited to, students who possess capabilities in one or more of the following areas of ability: intellectual capacity, athletic, visual arts, or performing arts.

Sec. 50. CENTER FOR CONGENITAL AND INHERITED DISORDERS CENTRAL REGISTRY. Notwithstanding section 144.13A, subsection 4, paragraph "a", for the fiscal year beginning July 1, 2005, $40,000 of the fees collected by the state registrar that would otherwise be appropriated and used for the center for congenital and inherited disorders central registry established pursuant to section 136A.6 shall be credited to the general fund of the state.

DIVISION V
MISCELLANEOUS STATUTORY CHANGES

Sec. 51. Section 8D.2, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. For the purposes of this chapter, "public agency" also includes any homeland security or defense facility <u>or disaster response agency</u> established by the administrator of the homeland

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[27] Chapter 171 herein

[28] The word "DIVISION" probably intended

[29] Chapter 173 herein

[30] The word "division" probably intended

[31] Chapter 171 herein

security and emergency management division of the department of public defense or the governor or any facility connected with a security or defense system or disaster response as required by the administrator of the homeland security and emergency management division of the department of public defense or the governor.

Sec. 52. Section 8D.9, subsection 3, Code 2005, is amended to read as follows:

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 and disaster communication purposes. Any utilization of the network that is not related to communications concerning homeland security or a disaster, as defined in section 29C.2, is expressly prohibited. Access under this subsection shall be available only if a state of disaster emergency is proclaimed by the governor pursuant to section 29C.6 or a homeland security or disaster event occurs requiring connection of disparate communications systems between public agencies to provide for a multiagency or multijurisdictional response. Access shall continue only for the period of time the homeland security or disaster event exists. For purposes of this subsection, disaster communication purposes includes training and exercising for a disaster if public notice of the training and exercising session is posted on the website of the homeland security and emergency management division of the department of public defense. A scheduled and noticed training and exercising session shall not exceed five days. Interpretation and application of the provisions of this subsection shall be strictly construed.

Sec. 53. Section 15E.193B, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If the eligible housing business is a partnership, S corporation, or limited liability company using low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development, the name of any partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company and the amount designated as allowed under subsection 8.

Sec. 54. Section 15E.193B, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. An eligible housing business may claim a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The new investment that may be used to compute the tax credit shall not exceed the new investment used for the first one hundred forty thousand dollars of value for each single-family home or for each unit of a multiple dwelling unit building containing three or more units. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V, or chapter 432. Any 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 earlier. If the business is a partnership, S corporation, limited liability company, 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, or estate or trust except as allowed for under subsection 8 when 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.

Sec. 55. Section 15E.193B, subsection 8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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 except when 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 in which case the tax credit certificate may be issued to a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company in the amounts designated by the eligible partnership, S corporation, or limited liability company. An eligible housing business or the designated partner if the business is a partnership, designated shareholder if the business is an S corporation, or designated member if the business is a limited liability company, 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. 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. 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.

Sec. 56. Section 124.212, subsection 4, paragraph c, as enacted by 2005 Iowa Acts, Senate File 169,[32] section 1, is amended to read as follows:

c. Pseudoephedrine. A person shall present a government-issued photo identification card when purchasing a pseudoephedrine product from a pharmacy. A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity.

Sec. 57. Section 142A.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Approve the content of any materials distributed by the youth program pursuant to section 142A.9, prior to distribution of the materials.

Sec. 58. Section 257.14, subsection 3, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 59. Section 331.439, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The county management plan shall designate at least one hospital licensed under chapter 135B that the county has contracted with to provide services covered under the plan. If the designated hospital does not have a bed available to provide the services,

[32] Chapter 15 herein

the county is responsible for the cost of covered services provided at an alternate hospital licensed under chapter 135B.

Sec. 60. Section 364.17, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. A schedule of civil penalties or criminal fines for violations. A city may charge the owner of housing a late payment fee of twenty-five dollars and may add interest of up to one and one-half percent per month if a penalty or fine imposed under this paragraph is not paid within thirty days of the date that the penalty or fine is due. The city shall send a notice of the late payment fee to such owner by first class mail to the owner's personal or business mailing address. The late payment fee and the interest shall not accrue if such owner files an appeal with either the city, if the city has established an appeals procedure, or the district court. Any unpaid penalty, fine, fee, or interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. However, before a lien is filed, the city shall send a notice of intent to file a lien to the owner of the housing by first class mail to such owner's personal or business mailing address.

Sec. 61. Section 364.17, subsection 5, Code 2005, is amended to read as follows:

5. Cities may establish reasonable fees for inspection and enforcement procedures. A city may charge the owner of housing a late payment penalty of twenty-five dollars and may add interest of up to one and one-half percent per month if a fee imposed under this subsection is not paid within thirty days of the date that the fee is due. The city shall send a notice of the late payment penalty to such owner by first class mail to the owner's personal or business mailing address. The late payment penalty and the interest shall not accrue if such owner files an appeal with either the city, if the city has established an appeals procedure, or the district court. Any unpaid fee, penalty, or interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. However, before a lien is filed, the city shall send a notice of intent to file a lien to the owner of the housing by first class mail to such owner's personal or business mailing address.

Sec. 62. Section 384.16, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A budget must show comparisons between the estimated expenditures in each program in the following year ~~and the actual expenditures in each program during the two preceding years~~, the latest estimated expenditures in each program in the current year, and the actual expenditures in each program from the annual report as provided in section 384.22, or as corrected by a subsequent audit report. Wherever practicable, as provided in rules of the committee, a budget must show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

Sec. 63. Section 384.16, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A city that does not submit a budget in compliance with this section shall have all state funds withheld until a budget that is in compliance with this section is filed with the county auditor and subsequently received by the department of management. The department of management shall send notice to state agencies responsible for disbursement of state funds and that notice is sufficient authorization for those funds to be withheld until later notice is given by the department of management to release those funds.

Sec. 64. Section 422.11D, subsection 2, Code 2005, is amended to read as follows:

2. An individual may claim a property rehabilitation tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the 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 of a partnership, limited liability company, S corporation, estate,

or trust except when 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 in which case the amount claimed by a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company shall be based on the amounts designated by the eligible partnership, S corporation, or limited liability company.

*Sec. 65. *Section 423.3, Code 2005, is amended by adding the following new subsection:*

NEW SUBSECTION. 29A. 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 residential treatment facility for youth with emotional or behavioral disorders licensed pursuant to chapter 237 or 135H 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, 2004, and December 31, 2006.

b. The written construction contract was entered into after December 31, 2003.

*c. The sales or services were purchased by a contractor as the agent for the facility or were purchased directly by the facility.**

Sec. 66. Section 423E.5, unnumbered paragraph 1, Code 2005, is 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 423E.4, 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 423E.1, subsection 3. Bonds issued under this section may be sold at public ~~or private~~ sale as provided in chapter 75, or at private sale, without notice and hearing as provided in section 73A.l2. Bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board of directors authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the board of directors deems advisable, including provisions for creating and maintaining reserve funds, the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds, and that such bonds shall rank on a parity with or be junior and subordinate to any bonds which may be then outstanding. Bonds may be issued to refund outstanding and previously issued bonds under this section. Local option sales and services tax revenue bonds are a contract between the school district and holders, and the resolution issuing the bonds and pledging local option sales and services tax revenues to the payment of principal and interest on the bonds is a part of the contract. Bonds issued pursuant to this section shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to any other law relating to the authorization, issuance, or sale of bonds.

Sec. 67. Section 427.1, subsection 21, Code 2005, is amended to read as follows:

21. LOW-RENT HOUSING. The property owned and operated or controlled by a nonprofit organization, as recognized by the internal revenue service, providing low-rent housing for persons who are elderly and persons with physical and mental disabilities. The exemption granted under the provisions of this subsection shall apply only until the ~~terms~~ final payment due date of the borrower's original low-rent housing development mortgage or until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever

* Item veto; see message at end of the Act

is sooner, subject to the provisions of subsection 14. However, if the borrower's original low-rent housing development mortgage is refinanced, the exemption shall apply only until the date that would have been the final payment due date under the terms of the borrower's original low-rent housing development mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner, subject to the provisions of subsection 14.

Sec. 68. Section 427.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 21A. Dwelling unit property owned and managed by a nonprofit organization if the nonprofit organization owns and manages more than forty dwelling units that are located in a city with a population of more than one hundred ten thousand which has a public housing authority that does not own or manage housing stock for the purpose of low-rent housing.

Sec. 69. Section 427.1, subsection 30, Code 2005, is amended to read as follows:

30. MANUFACTURED HOME COMMUNITY OR MOBILE HOME PARK STORM SHELTER. A structure constructed as a storm shelter at a manufactured home community or mobile home park as defined in section 435.1. An application for this exemption shall be filed with the assessing authority not later than February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue. The application shall describe and locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structure's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure shall be assessed for taxation at ~~seventy-five~~ fifty percent of its value as commercial property.

Sec. 70. Section 456A.37, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. "Aquatic invasive species" means a species that is not native to an ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health including but not limited to habitat alteration and degradation, and loss of biodiversity. For the purposes of this section, "aquatic invasive species" are limited to Eurasian water milfoil, purple loosestrife, ~~and~~ zebra mussels, ~~except as provided in subsection 4~~ and those species identified as "aquatic invasive species" by the commission by rule.

Sec. 71. Section 456A.37, subsection 4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

c. If the commission determines that an additional species should be defined as an "aquatic invasive species", the species ~~may~~ shall be defined by the commission by rule as an "aquatic invasive species" ~~subject to enactment of the definition by the general assembly at the next regular session of the general assembly. Failure of the general assembly to enact the definition pursuant to this paragraph constitutes a nullification of the definition effective upon adjournment of that next regular session of the general assembly~~.

Sec. 72. Section 543B.34, subsection 9, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Paying a commission or other valuable consideration or any part of such commission or consideration for performing any of the acts specified in this chapter to a person who is not a licensed broker or salesperson under this chapter or who is not engaged in the real estate business in another state or foreign country, ~~or paying a commission or other valuable consideration for performing any of the acts specified in this chapter to a licensee knowing that the licensee will pay a portion of or all of such commission or consideration to a person or party who is not licensed pursuant to this chapter,~~ provided that the provisions of this section shall not be construed to prohibit the payment of earned commissions or consideration to any of the following:

Sec. 73. Section 543B.60A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

543B.60A PROHIBITED PRACTICES.

1. A licensee shall not request a referral fee after a bona fide offer to purchase is accepted.

2. A licensee shall not request a referral fee after a bona fide listing agreement has been signed.

3. A licensee shall not offer, promote, perform, provide, or otherwise participate in any marketing plan that requires a consumer to receive brokerage services, including referral services, from two or more licensees in a single real estate transaction, as a required condition for the consumer to receive either of the following:

a. Brokerage services from one or more of such licensees.

b. A rebate, prize, or other inducement from one or more such licensees.

4. For purposes of this section, "consumer" shall include parties or prospective parties to a real estate transaction, clients or prospective clients of a licensee, or customers or prospective customers of a licensee.

5. This section does not address relationships between a broker and the broker associates or salepersons licensed under, employed by, or otherwise associated with the broker in a real estate brokerage agency.

6. A violation of this section is deemed a violation of section 543B.29, subsection 3.

7. The purpose of this section is to prohibit licensee practices that interfere with contractual arrangements, place improper restrictions on consumer choice, compromise a licensee's fiduciary obligations, and create conflicts of interest.

Sec. 74. Section 579A.2, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. The lien terminates one year after the cattle have left the custom cattle feedlot. ~~Section 554.9515 shall not apply to a financing statement perfecting the lien.~~ The lien may be terminated by the custom cattle feedlot operator who files a termination statement as provided in chapter 554, article 9.

Sec. 75. Section 579B.4, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. For a lien arising out of producing a crop, the lien becomes effective the day that the crop is first planted. In order to perfect the lien, the contract producer must file a financing statement in the office of the secretary of state as provided in section 554.9308. The contract producer must file a financing statement for the crop within forty-five days after the crop is first planted. The lien terminates one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer. ~~Section 554.9515 shall not apply to a financing statement perfecting the lien.~~ The lien may be terminated by the contract producer who files a termination statement as provided in chapter 554, article 9.

Sec. 76. Section 602.10110, Code 2005, is amended to read as follows:

602.10110 OATH.

All persons on being admitted to the bar shall take an oath or affirmation, as promulgated by the supreme court, declaring to support the Constitutions of the United States and of the state of Iowa, and to faithfully discharge, according to the best of their ability, the duties of an attorney ~~and counselor of this state according to the best of their ability~~.

Sec. 77. Section 692A.4A, if enacted by 2005 Iowa Acts, House File 619,[33] is amended to read as follows:

692A.4A ELECTRONIC MONITORING.

A person required to register under this chapter who is placed on probation, parole, work

[33] Chapter 158, §24 herein

release, special sentence, or any other type of conditional release, may be supervised by an electronic tracking and monitoring system in addition to any other conditions of supervision. However, if the person committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor, the person shall be supervised for a period of at least five years by an electronic tracking and monitoring system in addition to any other conditions of release.

Sec. 78. Section 692A.13A, subsection 1, unnumbered paragraph 1, if enacted by 2005 Iowa Acts, House File 619,[34] is amended to read as follows:

The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk to reoffend for persons newly required to register under this chapter on or after the effective date of this division of this Act, who have committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, the juvenile court, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

Sec. 79. Section 602.10112, Code 2005, is repealed.

Sec. 80. VEHICLE DEALERSHIP STUDY. The legislative council is requested to appoint an interim study committee that will study the motor vehicle licensing law as it pertains to motor vehicle dealerships' moves from one facility and location to another facility and location in the state. A report should be provided to the general assembly by January 15, 2006.

Sec. 81. *EFFECTIVE DATE. The section of this division of this Act enacting section 423.3, subsection 29A, being deemed of immediate importance, takes effect upon enactment.

Sec. 82. 2005 Iowa Acts, House File 739,[35] if enacted, is amended by adding the following new section:

NEW SECTION. Sec. _. EFFECTIVE DATE. The section of this Act amending section 262.9 to establish a research triangle and clearinghouse takes effect July 1, 2006.

Sec. 83. BUDGET GUARANTEE RESOLUTION — RESOLUTION ADOPTION EXTENSION. Notwithstanding the provisions of section 257.14, subsection 3, unnumbered paragraph 3, a school district that wishes to receive a budget adjustment pursuant to that subsection for the school budget year beginning July 1, 2005, shall have until June 1, 2005, to adopt a resolution to receive the budget adjustment and to notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

Sec. 84. APPLICABILITY PROVISION. The sections of this division of this Act amending section 427.1, subsection 21, and enacting new subsection 21A to section 427.1 shall not be considered property tax exemptions within the meaning of or for the purposes of section 25B.7.

Sec. 85. RETROACTIVE APPLICABILITY DATE. The section of this division of this Act amending section 423E.5, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2004.

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[34] Chapter 158, §30 herein

* Item veto; see message at end of the Act

[35] Chapter 144 herein

Sec. 86. EFFECTIVE AND APPLICABILITY DATES. The sections of this division of this Act amending section 427.1, subsection 21, and enacting new subsection 21A to section 427.1, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2005, for assessment years beginning on or after that date.

Sec. 87. APPLICABILITY. Section 25B.7 does not apply to the amendment to section 427.1, subsection 30, in this division of this Act.

Sec. 88. EFFECTIVE DATE. The section of this division of this Act[36] providing an extension of time for adoption of a budget adjustment resolution pursuant to section 257.14, subsection 3, for a budget adjustment for the school budget year beginning July 1, 2005, being deemed of immediate importance, takes effect upon enactment.

Sec. 89. EFFECTIVE DATE. The sections of this division of this Act amending section 602.10110 and repealing section 602.10112, being deemed of immediate importance, take effect upon enactment.

DIVISION VI
EDUCATION

Sec. 90. Section 11.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds, the certified annual financial report, ~~and~~ the certified enrollment as provided in section 257.6, and the revenues and expenditures of any nonprofit school organization established pursuant to section 279.60. Differences in certified enrollment shall be reported to the department of management. The examination of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include an audit of the city's compliance with section 388.10. The examination of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include an audit of the city's compliance with section 388.10.

Sec. 91. Section 256.9, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 53. Prepare and submit to the chairpersons and ranking members of the senate and house education committees a report on the state's progress toward closing the achievement gap, including student achievement for minority subgroups, and a comprehensive summary of state agency and local district activities and practices taken in the past year to close the achievement gap.

Sec. 92. NEW SECTION. 279.60 NONPROFIT SCHOOL ORGANIZATIONS.

The board of directors of a school district may take action to adopt a resolution to establish, and authorize expenditures for the operational support of, an entity or organization for the sole benefit of the school district and its students that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. The entity or organization shall reimburse the school district for expenditures made by the school district on behalf of the entity or organization. Prior to establishing such an entity or organization, the board of directors

[36] Section 83

shall hold a public hearing on the proposal to establish such an entity or organization. Such an entity or organization shall maintain its records in accordance with chapter 22, except that the entity or organization shall provide for the anonymity of a donor at the written request of the donor. The board of directors of a school district shall annually report to the department of education and to the local community the administrative expenditures, revenues, and activities of the entity or organization established by the school district pursuant to this section. The department shall include in its annual condition of education report a statewide summary of the expenditures and revenues submitted in accordance with this section.

Sec. 93. Section 282.18, subsection 2, Code 2005, is amended to read as follows:

2. By ~~January~~ March 1 of the preceding school year for students entering grades one through twelve, or by September 1 of the current school year for students entering kindergarten, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline ~~of January 1 of the previous year~~ specified in this subsection, ~~and one of~~ the ~~criteria defined in~~ procedures of subsection 4 ~~exists for the failure to meet the deadline or if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met~~ apply.

The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. The board of directors of a receiving district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action, but not later than ~~March~~ June 1 of the preceding school year. The parent or guardian may withdraw the request at any time prior to the start of the school year. A denial of a request by the board of a receiving district is not subject to appeal.

Sec. 94. Section 282.18, subsection 4, paragraphs a and b, Code 2005, are amended to read as follows:

a. After ~~January~~ March 1 of the preceding school year and until the third Friday in September of that calendar year, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that good cause, as defined in paragraph "b", exists for failure to meet the ~~January~~ March 1 deadline. The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline. The board of the receiving district shall take action to approve the request if good cause exists. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action. A denial of a request by the board of a receiving district is not subject to appeal.

*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, or a similar set of circumstances consistent with the definition of "good cause"; or 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, or a similar set of circumstances consistent with the definition of "good cause". If the good cause*

* Item veto; see message at end of the Act

*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. 95. Section 282.18, subsections 5 and 6, Code 2005, are amended to read as follows:

5. Open enrollment applications filed after ~~January~~ March 1 of the preceding school year that do not qualify for good cause as provided in subsection 4 shall be subject to the approval of the board of the resident district and the board of the receiving district. The parent or guardian shall send notification to the district of residence and the receiving district that the parent or guardian seeks to enroll the parent's or guardian's child in the receiving district. A decision of either board to deny an application filed under this subsection involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address is subject to appeal under section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.

6. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district by ~~January~~ March 1 of the previous school year for permission to enroll the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect the court-ordered or voluntary desegregation plan of the district. A denial of a request to change district enrollment within the approved period is not subject to appeal. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

Sec. 96. Section 423E.4, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A school district with a certified enrollment of fewer than two hundred fifty pupils in the entire district or certified enrollment of fewer than one hundred pupils in high school 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:

Sec. 97. RETROACTIVE APPLICABILITY FOR NONPROFIT SCHOOL ORGANIZATIONS. The provisions of section 279.60, as enacted by this division of this Act, authorizing the board of directors of a school district to establish and authorize expenditures for the operational support of an entity or organization for the sole benefit of the school district and its students, apply to entities or organizations established by the board of directors of a school district before, on, or after July 1, 2005.

* Item veto; see message at end of the Act

DIVISION VII
LAND RECORD INFORMATION SYSTEM

Sec. 98. NEW SECTION. 12B.6 CERTAIN PUBLIC FUNDS OF POLITICAL SUBDIVISIONS.

All funds received, expended, or held by an association of elected county officers before, on, or after the effective date of this Act, to implement a state-authorized program, are subject to audit by the auditor of state at the request of the government oversight committees or the legislative council. All such funds received or held on and after July 1, 2005, shall be deposited in a fund in the office of the treasurer of state.

Sec. 99. Section 331.605C, subsection 4, Code 2005, is amended to read as follows:

4. The local 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 local government electronic transaction fund shall be credited to the fund. Moneys in the local 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. On a monthly basis, the county treasurer shall pay each fee collected pursuant to subsection 2 to the treasurer of state for deposit into the local government electronic transaction fund. Moneys credited to the local government electronic transaction fund are appropriated to the treasurer of state to be used for the purpose of paying the ongoing costs of integrating and maintaining the statewide internet website developed and implemented under subsection 1.

Sec. 100. COUNTY REAL ESTATE ELECTRONIC GOVERNMENT ADVISORY COMMITTEE.

1. A county real estate electronic government advisory committee is created. Staffing services for the advisory committee shall be provided by the auditor of state. The advisory committee membership shall consist of the following:

a. Two members selected by the Iowa state association of county auditors.
b. Two members selected by the Iowa state county treasurers association.
c. Two members selected by the Iowa county recorders association.
d. Two members selected by the Iowa state association of assessors.
e. One member selected by each of the following organizations:
(1) Iowa state association of counties.
(2) Iowa land title association.
(3) Iowa bankers association.
(4) Iowa credit union league.
(5) Iowa state bar association.
(6) Iowa association of realtors.

2. The county real estate electronic government advisory committee shall facilitate discussion to integrate the county land record information system created pursuant to section 331.605C with the electronic government internet applications of county treasurers, county recorders, county auditors, and county assessors. The advisory committee shall file an integration plan with the governor and the general assembly on or before November 1, 2005.

Sec. 101. COUNTY LAND RECORD INFORMATION SYSTEM — ADDITIONAL PROVISIONS.

1. The board of supervisors of each county, on behalf of each county recorder, shall execute a chapter 28E agreement with the Iowa county recorders association for the implementation of the county land record information system. Such agreement shall require the Iowa county recorders association to execute contracts necessary for implementation of the county land record information system. The Iowa county recorders association shall submit to the general assembly on or before November 1, 2005, a long-range business plan for implementing and

maintaining the county land record information system, including a plan for integrating the system with electronic government and internet applications of other governmental entities.

2. The auditor of state shall conduct an audit of the fees collected pursuant to section 331.605C for the purpose of determining the amount of fees collected and the uses for which such fees have been and are being expended. Audit results shall be filed with the general assembly on or before November 1, 2005. The cost of the audit, not to exceed five thousand dollars, shall be paid from the local government electronic transaction fund in the office of the treasurer of state.

3. County recorders shall collect only statutorily authorized fees for land records management. County recorders shall not collect fees for viewing, accessing, or printing documents in the county land record information system until authorized by the general assembly. However, county recorders may collect actual third-party fees associated with accepting and processing statutorily authorized fees including credit card fees, treasury management fees, and other transaction fees required to enable electronic payment. For the purposes of this subsection, the term "third-party" does not include the county land record information system, the Iowa state association of counties, or any of the association's affiliates.

4. The Iowa state association of counties shall provide information to the government oversight committees on or before July 1, 2005, defining all types of land management records, identifying each county or state office that holds such records, and specifying the fees associated with each of the different types of records.

5. The fees collected, including those previously collected and deposited locally, pursuant to section 331.605C, shall be transferred to the treasurer of state for deposit into the local government electronic transaction fund.

Sec. 102. DATA SECURITY AUDIT.

1. The Iowa county recorders association shall select a vendor to conduct a data security audit of the county land record information system created pursuant to section 331.605C. The review and assessment utilized in the audit shall include, but are not limited to, a review of the functional and system requirements, design documentation, software code developed to support the business requirements, operational procedures, financial flows including a financial forecast, requests for proposals, and all contracts.

2. The costs of the data security audit conducted pursuant to subsection 1 shall be paid from moneys appropriated to the treasurer of state pursuant to section 331.605C.

3. The Iowa county recorders association shall forward the complete results of the data security audit to the government oversight committees of the senate and the house of representatives and the general assembly on or before December 1, 2005, and the government oversight committees may request additional updates.

Sec. 103. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VIII
CORRECTIVE PROVISIONS

Sec. 104. Section 8A.502, subsection 5, paragraph c, Code 2005, is amended to read as follows:

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~~ association as ~~established~~ provided in chapter 185, and the Iowa corn promotion board as established in chapter 185C.

Sec. 105. Section 8A.502, subsection 10, Code 2005, is amended to read as follows:

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~~ association as provided in chapter 185, and the Iowa corn promotion board as provided in chapter 185C.

Sec. 106. Section 10A.104, subsections 12 and 13, Code 2005, are amended by striking the subsections.

Sec. 107. Section 12D.9, subsection 2, Code 2005, 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~~,~~ and 33~~, and 34, and section 422.35, subsection 14~~.

Sec. 108. Section 15.104, subsection 4, unnumbered paragraph 1, Code 2005, as amended by 2005 Iowa Acts, Senate File 205,[37] section 5, is amended to read as follows:

Review and approve or disapprove a life science enterprise plan or amendments to that plan as provided in chapter 10C ~~as that chapter exists on or before June 30, 2005,~~ and according to rules adopted by the board. A life science plan shall make a reasonable effort to provide for participation by persons who are individuals or family farm entities actively engaged in farming as defined in section 10.1. The persons may participate in the life science enterprise by holding an equity position in the life science enterprise or providing goods or service to the enterprise under contract. The plan must be filed with the board not later than June 30, 2005. The life science enterprise may file an amendment to a plan at any time. A life science enterprise is not eligible to file a plan, unless the life science enterprise files a notice with the board. The notice shall be a simple statement indicating that the life science enterprise may file a plan as provided in this section. The notice must be filed with the board not later than June 1, 2005. The notice, plan, or amendments shall be submitted by a life science enterprise as provided by the board. The board shall consult with the department of agriculture and land stewardship during its review of a life science plan or amendments to that plan. The plan shall include information regarding the life science enterprise as required by rules adopted by the board, including but not limited to all of the following:

Sec. 109. Section 28.3, subsection 6, paragraph b, Code 2005, as amended by 2005 Iowa Acts, House File 761,[38] section 5, if enacted, is amended to read as follows:

b. In addition, a community empowerment office is established as a division of the department of management to provide a center for facilitation, communication, and coordination for community empowerment activities and funding and for improvement of the early care, education, health, and human services systems. Staffing for the community empowerment office shall be provided by a facilitator or coordinator appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor. A deputy and support staff may be designated, subject to appropriation made for this purpose. The facilitator or coordinator shall submit reports to the governor, the Iowa board, and the general assembly. The facilitator or coordinator shall provide primary staffing to the board, coordinate state technical assistance activities and implementation of the technical assistance system, and other communication and coordination functions to move authority and decision-making responsibility from the state to communities and individuals.

Sec. 110. Section 28.4, subsection 14, if enacted by 2005 Iowa Acts, House File 761,[39] section 9, is amended to read as follows:

14. With the assistance of the state departments represented on the Iowa empowerment board and the community empowerment office, develop and implement requirements for community empowerment areas and the state administrators of programs providing early

* Item veto; see message at end of the Act

37 Chapter 16 herein

38 Chapter 148 herein

39 Chapter 148 herein

care or early care services to annually report to the public and the early care ~~coordinator~~ staff designated pursuant to section 28.3 regarding the results produced by the community empowerment initiative and by the programs. Source data shall also be made available to the early care ~~coordinator~~.[40]

Sec. 111. Section 97.51, subsections 4 and 6, Code 2005, are amended to read as follows:

4. Any public employee subject to coverage under the provisions of chapter 97, Code 1950, as amended, in public service as of June 30, 1953, and who has not applied for and qualified for benefit payments under the provisions of chapter 97, Code 1950, as amended, who had contributed to the Iowa old-age and survivors' insurance fund prior to the repeal of ~~said~~ chapter 97, Code 1950, as amended, shall be entitled to a refund of contributions paid into the Iowa old-age and survivors' insurance fund by such employee without interest, but there shall be deducted from the amount of any such refund any amount which has been or will be paid in the employee's behalf as the employee's contribution as an employee to obtain retroactive federal social security coverage. Any former public employee not in public service as of June 30, 1953, who has contributed to the Iowa old-age and survivors' insurance fund, the employee's beneficiaries or estate, when no benefit has been paid under chapter 97, Code 1950, based upon such employee's prior record, shall be entitled to a refund of seventy-five percent of all contributions paid by the employee into said fund, without interest. The department shall prescribe rules in regard to the granting of such refunds. In the event of such refund any individual receiving the same shall be deemed to have waived any and all rights in behalf of the individual or any beneficiary or the individual's estate to further benefits under the provisions of chapter 97, Code 1950, as amended.

6. In the payment of any benefits in the future, as a result of the provisions of chapter 97, Code 1950, as amended, the department shall follow the same procedure as provided by ~~said~~ chapter 97, Code 1950, as amended, as though said chapter had not been repealed, except the requirements of ~~section 97.21,~~ subsection 4, paragraph "a", and subsection 5 of section 97.21, ~~subsection 5~~ Code 1950, shall not be applicable, but no primary benefit, based upon employment prior to June 30, 1953, shall be paid to any individual for any month during which the individual receives compensation for work in any position which would have been subject to coverage under the provisions of ~~said~~ chapter 97, Code 1950, as amended, if the individual's earnings for such month exceed one hundred dollars, nor shall any benefit be paid to a wife or dependent of such employee for such months, except that after a retired member reaches the age of seventy-two years, the member, the member's wife and dependents shall be entitled to the benefits of this chapter regardless of the amount earned.

Sec. 112. Section 97B.1A, subsection 8, paragraph b, subparagraph (5), Code 2005, is amended to read as follows:

(5) Employees of the Iowa dairy industry commission established under chapter 179, the Iowa beef cattle producers association established under chapter 181, the Iowa pork producers council established under chapter 183A, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean ~~promotion board established under~~ association as provided in chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 184.

Sec. 113. Section 99D.13, subsection 2, Code 2005, is amended to read as follows:

2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer section 99D.22. The remainder shall be paid over to the commission to pay all or part of the cost of drug testing at the tracks. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness ~~racing meets~~ race meetings, the remainder shall be used as provided in subsection 3. To the extent the remainder paid to the commission, less the cost of drug testing, is from unclaimed winnings from licensed dog tracks, the commission shall remit annually five

[40] The phrase "~~coordinator~~ staff." probably intended

thousand dollars, or an equal portion of that amount, to each licensed dog track to carry out the racing dog adoption program pursuant to section 99D.27. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, on an annual basis, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.

Sec. 114. Section 99D.13, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

One hundred twenty thousand dollars of winnings from wagers placed at harness ~~racing meets~~ race meetings forfeited under subsection 1 in a calendar year that escheat to the state and are paid over to the commission are appropriated to the racing commission for the fiscal year beginning in that calendar year to be used as follows:

Sec. 115. Section 126.23A, subsection 1, paragraph a, subparagraph (1), as enacted by 2005 Iowa Acts, Senate File 169,[41] section 3, is amended to read as follows:

(1) Sell a product ~~that contains more than three hundred sixty milligrams of pseudoephedrine~~ in violation of section 124.212, subsection 4.

Sec. 116. Section 126.23A, subsection 1, paragraph b, subparagraph (3), as enacted by 2005 Iowa Acts, Senate File 169,[42] section 3, is amended to read as follows:

(3) Require the purchaser to ~~legibly~~ sign a logbook and to also require the purchaser to legibly print the purchaser's name and address in the logbook.

Sec. 117. Section 126.23A, subsection 3, as enacted by 2005 Iowa Acts, Senate File 169,[43] section 3, is amended to read as follows:

3. A purchaser shall ~~legibly~~ sign the logbook and also legibly print the purchaser's name and address in the logbook.

Sec. 118. Section 135.43, subsection 3, paragraph g, as enacted in 2005 Iowa Acts, House File 190,[44] section 2, is amended to read as follows:

g. In order to assist ~~another~~ a division of the department in performing the division's duties, if the division does not otherwise have access to the information, share information possessed by the review team. The division receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

Sec. 119. Section 135M.6, as enacted by 2005 Iowa Acts, House File 724,[45] section 6, is amended to read as follows:

135M.6 SAMPLE PRESCRIPTION DRUGS.

This chapter shall not be construed to restrict the use of samples by a physician or other person legally authorized to prescribe drugs ~~pursuant to section 147.107~~ under state and federal law during the course of the physician's or other person's duties at a medical facility or pharmacy.

Sec. 120. Section 147.105, subsection 2, as enacted by 2005 Iowa Acts, House File 418,[46] section 1, is amended to read as follows:

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician provid-

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41 Chapter 15 herein
42 Chapter 15 herein
43 Chapter 15 herein
44 Chapter 6 herein
45 Chapter 97 herein
46 Chapter 10 herein

ing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by ~~a~~ the clinical laboratory or the physician or under the direct supervision of ~~a~~ the clinical laboratory or the physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. § 263a.

Sec. 121. Section 231C.2, subsection 9, as amended by 2005 Iowa Acts, House File 585,[47] section 3, is amended to read as follows:

9. "Personal care" means assistance with the essential activities of daily living~~,~~ which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping~~,~~ that are essential to the health and welfare of the tenant.

Sec. 122. Section 249.1, subsection 4, Code 2005, is amended to read as follows:

4. "Previous categorical assistance programs" means the aid to the blind program authorized by chapter 241, the aid to the disabled program authorized by chapter 241A and the old-age assistance program authorized by chapter 249 ~~of the~~, Code ~~of~~ 1973.

Sec. 123. Section 249.10, Code 2005, is amended to read as follows:

249.10 PRIOR LIENS, CLAIMS AND ASSIGNMENTS.

Any lien or claim against the estate of a decedent existing on January 1, 1974, which lien was perfected or which claim was filed under the provisions of section 249.19, 249.20, or 249.21 ~~as they appeared in the~~, Code ~~of~~ 1973, and prior Codes, and which liens or claims have not been satisfied, are void. Any assignment of personal property which was made under the provisions of chapter 249 ~~as it appeared in the~~, Code ~~of~~ 1973, and prior Codes, is void. The director may in furtherance of this section release any lien or claim created or existing under that chapter. Each release made pursuant to this section shall be executed and acknowledged by the director or the director's authorized designee, and when recorded shall be conclusive in favor of any third person dealing with or concerning the property affected by the release in reliance upon such record.

Sec. 124. Section 257.28, Code 2005, is amended to read as follows:

257.28 ENRICHMENT LEVY.

If a school district has approved the use of the instructional support program for a budget year, the district shall not also collect moneys under the additional enrichment amount approved by the voters under chapter 442, ~~as it appeared in~~ Code 1991, for the budget year.

Sec. 125. Section 307.12, subsection 5, Code 2005, is amended to read as follows:

5. Prepare a budget for the department~~, subject to the approval of the commission,~~ and prepare reports required by law.

Sec. 126. Section 321.43, Code 2005, is amended to read as follows:

321.43 NEW IDENTIFYING NUMBERS.

The department may assign a distinguishing number to a vehicle when the ~~serial~~ vehicle identification number on the vehicle is destroyed or obliterated and issue to the owner a special plate bearing the distinguishing number which shall be affixed to the vehicle in a position to be determined by the director. The vehicle shall be registered and titled under the distinguishing number in lieu of the former ~~serial~~ vehicle identification number.

Sec. 127. Section 321.65, Code 2005, is amended to read as follows:

321.65 GARAGE RECORD.

Every person or corporation operating a public garage shall keep for public inspection a record of the registration number and engine ~~or factory~~ serial number or manufacturer's vehicle identification number of every motor vehicle offered for sale or taken in for repairs in said garage.

[47] Chapter 60 herein

Sec. 128. Section 321.90, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The application shall set out the name and address of the applicant, and the year, make, model, and ~~serial~~ vehicle identification number of the motor vehicle, if ascertainable, together with any other identifying features, and shall contain a concise statement of the facts surrounding the abandonment, or a statement that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. An order for disposal obtained pursuant to section 555B.8, subsection 3, satisfies the application requirements of this paragraph.

Sec. 129. Section 327B.1, subsection 6, as enacted by 2005 Iowa Acts, House File 591,[48] section 10, is amended to read as follows:

6. A motor carrier ~~owner or driver~~ shall ~~carry~~ keep proper evidence of interstate authority in the motor ~~carrier~~ vehicle being operated by the motor carrier and the motor carrier owner or driver shall make such evidence available to a peace officer upon request.

Sec. 130. Section 331.606, subsection 3, Code 2005, is amended to read as follows:

3. The county recorder may give the county sheriff the records filed under this chapter or chapter 695 ~~of prior Codes~~, Code 1977, pertaining to the sale and registration of weapons or may dispose of those records if the sheriff does not wish to receive the records.

Sec. 131. Section 453A.47A, subsection 4, and subsection 9, unnumbered paragraph 1, as enacted by 2005 Iowa Acts, House File 339,[49] section 4, are amended to read as follows:

4. RETAILER — CIGARETTES AND TOBACCO PRODUCTS. A retailer, as defined in section 453A.1, who holds a permit under division I of this chapter is not required to also obtain a ~~retailer~~ retail permit under this division. However, if a retailer, as defined in section 453A.1, only holds a permit under division I of this chapter and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during the time which the permit is suspended, revoked, or expired.

~~Retailer~~ Retail permits shall be issued only upon applications, accompanied by the fee indicated above, made upon forms furnished by the department upon written request. The failure to furnish such forms shall be no excuse for the failure to file the form unless absolute refusal is shown. The forms shall specify:

Sec. 132. Section 483A.8, subsection 5, Code 2005, is amended to read as follows:

5. A nonresident owning land in this state may apply for ~~one of the first six thousand~~ a nonresident antlered or any sex deer ~~licenses not limited to antlerless deer~~ hunting license, and the provisions of subsection 3 shall apply. However, if a nonresident owning land in this state is unsuccessful in obtaining one of the ~~first six thousand~~ nonresident antlered or any sex deer hunting licenses, the landowner shall be given preference for one of the ~~two thousand five hundred~~ antlerless deer only nonresident deer hunting licenses available pursuant to subsection 3. A nonresident owning land in this state shall pay the fee for a nonresident antlerless only deer license and the license shall be valid to hunt on the nonresident's land only. ~~A nonresident owning land in this state is eligible for only one nonresident deer license annually.~~ If one or more parcels of land have multiple nonresident owners, only one of the nonresident owners is eligible for a nonresident antlerless only deer license. If a nonresident jointly owns land in this state with a resident, the nonresident shall not be given preference for a nonresident antlerless only deer license. The department may require proof of land ownership from a nonresident landowner applying for a nonresident antlerless only deer license.

Sec. 133. Section 501A.231, subsection 5, if enacted by 2005 Iowa Acts, House File 859,[50] section 17, is amended to read as follows:

5. The secretary of state may provide for the change of registered office or registered agent

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[48] Chapter 20 herein

[49] Chapter 93 herein

[50] Chapter 135 herein

on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required by section 501A.402. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section ~~501.402~~ 501A.402 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 501A.203, before returning the biennial report to the cooperative as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

Sec. 134. Section 501A.1001, subsection 4, if enacted by 2005 Iowa Acts, House File 859,[51] section 73, is amended to read as follows:

4. The determinations of the board as to the amount or fair value or the fairness to the cooperative of the contribution accepted or to be accepted by the cooperative or the terms of payment or performance, including under a contribution ~~rights~~ agreement in section 501A.1003, and a contribution rights agreement in section 501A.1004, are presumed to be proper if they are made in good faith and on the basis of accounting methods, or a fair valuation or other method, reasonable in the circumstances. Directors who are present and entitled to vote, and who, intentionally or without reasonable investigation, fail to vote against approving a consideration that is unfair to the cooperative, or overvalue property or services received or to be received by the cooperative as a contribution, are jointly and severally liable to the cooperative for the benefit of the then members who did not consent to and are damaged by the action to the extent of the damages of those members. A director against whom a claim is asserted under this subsection, except in case of knowing participation in a deliberate fraud, is entitled to contribution on an equitable basis from other directors who are liable under this subsection.

Sec. 135. Section 10B.4, subsection 1, Code 2005, as amended by 2005 Iowa Acts, House File 859,[52] section 102, if enacted, is amended to read as follows:

1. A biennial report shall be filed by a reporting entity with the secretary of state on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to chapter 17A. However, a reporting entity required to file a biennial report pursuant to chapter 490, 490A, 496C, 497, 498, ~~490A,~~ 499, 501, 501A, or 504A shall file the report required by this section in the same year as required by that chapter. The reporting entity may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this subsection. The reports shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

Sec. 136. 2005 Iowa Acts, House File 859,[53] section 104, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 104. Section 15.385, subsection 4, paragraph a, Code 2005, is amended to read as follows:

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 or 501A 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 or 501A and filing as a partnership for federal tax purposes, or estate or trust. The percentage shall be equal to the amount provided in

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[51] Chapter 135 herein

[52] Chapter 135 herein

[53] Chapter 135 herein

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, 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, S corporation, limited liability company, cooperative organized under chapter 501 or 501A 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 or 501A and filing as a partnership for federal tax purposes, or estate or trust.

Sec. 137. Section 602.1304, subsection 2, paragraph b, Code 2005, as amended by 2005 Iowa Acts, House File 826,[54] section 3, is amended to read as follows:

b. For each fiscal year, a judicial collection estimate for that fiscal year shall be equally and proportionally divided into a quarterly amount. The judicial collection estimate shall be calculated by using the state revenue estimating conference estimate made by December 15 pursuant to section 8.22A, subsection 3, of the total amount of fines, fees, civil penalties, costs, surcharges, and other revenues collected by judicial officers and court employees for deposit into the general fund of the state. The revenue estimating conference estimate shall be reduced by the maximum amounts allocated to the Iowa prison infrastructure fund pursuant to section 602.8108A, the court technology and modernization fund pursuant to section 602.8108, subsection 7, the judicial branch pursuant to section 602.8108, subsection 7A, and the road use tax fund pursuant to section 602.8108, subsection 8, ~~and amounts allocated to the department of public safety's vehicle depreciation account pursuant to section 602.8108, subsection 9,~~ and the remainder shall be the judicial collection estimate. In each quarter of a fiscal year, after revenues collected by judicial officers and court employees equal to that quarterly amount are deposited into the general fund of the state, after the required amount is deposited during the quarter into the Iowa prison infrastructure fund pursuant to section 602.8108A and into the court technology and modernization fund pursuant to section 602.8108, subsection 7, and after the required amount is allocated to the judicial branch pursuant to section 602.8108, subsection 7A, ~~and to the department of public safety's vehicle depreciation account pursuant to section 602.8108, subsection 9,~~ the director of the department of administrative services shall deposit the remaining revenues for that quarter into the enhanced court collections fund in lieu of the general fund. However, after total deposits into the collections fund for the fiscal year are equal to the maximum deposit amount established for the collections fund, remaining revenues for that fiscal year shall be deposited into the general fund. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of the department of administrative services shall recalculate the judicial collection estimate accordingly. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of the department of administrative services shall recalculate the judicial collection estimate accordingly but only to the extent that the greater amount is due to an increase in the fines, fees, civil penalties, costs, surcharges, or other revenues allowed by law to be collected by judicial officers and court employees.

Sec. 138. Section 602.8108, subsection 2, Code 2005, as amended by 2005 Iowa Acts, House File 826,[55] section 5, is amended to read as follows:

2. Except as otherwise provided, the clerk of the district court shall report and submit to the

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[54] Chapter 165 herein

[55] Chapter 165 herein

state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in subsections 3, 4, 5, 7, 7A, and 8, ~~and 9,~~ the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative services agency within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

Sec. 139. Section 633.10, subsection 5, Code 2005, is amended to read as follows:

5. ACTIONS FOR ACCOUNTING.

An action for an accounting against a beneficiary of a transfer on death security registration, pursuant to ~~this~~ chapter 633D.

Sec. 140. Section 805.8C, subsection 6, as amended by 2005 Iowa Acts, Senate File 169,[56] section 9, is amended to read as follows:

6. PSEUDOEPHEDRINE SALES VIOLATIONS. For violations of section 126.23A, subsection 1, by an employee of a retailer, or for violations of section 126.23A, subsection 2, paragraph "a", by a purchaser, the scheduled fine is as follows:

a. If the violation is a first offense, the scheduled fine is one hundred dollars.

b. If the violation is a second offense, the scheduled fine is two hundred fifty dollars.

c. If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

Sec. 141. 2005 Iowa Acts, House File 739,[57] section 7, if enacted, is amended to read as follows:

SEC. 7. CONTINGENT EFFECTIVENESS. The sections of this Act ~~creating~~ amending Code chapter 280A or enacting new sections in Code chapter 280A take effect only if the general assembly appropriates funds for the fiscal year beginning July 1, 2005, in an amount sufficient to implement the provisions of Code chapter 280A, if enacted.

Sec. 142. 2005 Iowa Acts, House File 839,[58] is amended by adding the following new section:

SEC. _. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment of 2005 Iowa Acts, House File 882.[59]

Sec. 143. CONTINGENT EFFECTIVE DATE. The section of this division of this Act amending section 10A.104 is contingent upon the enactment of 2005 Iowa Acts, House File 770.

DIVISION IX
STATE LIQUOR ACTIVITIES

Sec. 144. Section 123.53, subsection 3, Code 2005, is amended to read as follows:

3. The treasurer of state shall transfer into a special revenue account in the general fund of the state, a sum of money at least equal to seven percent of the gross amount of sales made by the division from the beer and liquor control fund on a monthly basis but not less than nine million dollars annually~~, and any amounts so~~. Of the amounts transferred, two million dollars, plus an additional amount determined by the general assembly, shall be ~~used by~~ appropriated to the substance abuse division of the Iowa department of public health to be used for substance abuse treatment and prevention programs ~~in an amount determined by the general assembly and any~~. Any amounts received in excess of the amounts appropriated to the substance abuse division of the Iowa department of public health shall be considered part of the general fund balance.

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[56] Chapter 15 herein

[57] Chapter 144 herein

[58] Chapter 90 herein

[59] This chapter

* Item veto; see message at end of the Act

Sec. 145. ALCOHOLIC BEVERAGES DIVISION — STATE LIQUOR WAREHOUSE AND TRUCKING FUNCTIONS. The department of administrative services shall issue a request for proposals developed with the alcoholic beverages division of the department of commerce or otherwise utilize a competitive process not inconsistent with the division's current charter agency agreement to select a provider to perform the state liquor warehouse and trucking functions. The request for proposals or competitive process shall be issued or commenced as soon as is reasonably possible and a provider shall be selected no later than December 31, 2005. The division may submit a bid in response to a request for proposals issued or competitive process conducted pursuant to this section. If the division submits a bid, the division shall include in the bid the cost of labor to perform the contract which shall be calculated by using the cost of hiring full-time equivalent positions to perform the contract pursuant to state pay grade classifications and benefits as outlined in the most recent collective bargaining agreement applicable to other employees of the division. Notwithstanding any provision of chapter 22 to the contrary, the division's bid and any documents the division uses in developing its bid shall be considered a confidential record until the department of administrative services announces the results of the request for proposals or competitive process.

Sec. 146. EFFECTIVE DATE. The section of this division of this Act amending section 123.53 takes effect July 1, 2006.

DIVISION X
BOARD OF REGENTS

Sec. 147. Section 12B.10C, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 10. The state board of regents governed by chapter 262.

Sec. 148. Section 73A.1, subsection 2, Code 2005, is amended to read as follows:
2. "Municipality" as used in this chapter means township, school corporation, and state fair board~~, and state board of regents~~.

Sec. 149. Section 262.9, subsection 7, Code 2005, is amended to read as follows:
7. ~~With the approval of the executive council, acquire~~ Acquire real estate for the proper uses of ~~said~~ institutions under its control, and dispose of real estate belonging to ~~said~~ the institutions when not necessary for their purposes. ~~A~~ The disposal of ~~such~~ real estate shall be made upon such terms, conditions, and consideration as the board may recommend ~~and subject to the approval of the executive council~~. If real estate subject to sale ~~hereunder~~ has been purchased or acquired from appropriated funds, the proceeds of such sale shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the state board of regents, which~~, with the prior approval of the executive council,~~ may be used to purchase other real estate and buildings~~,~~ and for the construction and alteration of buildings and other capital improvements. All transfers shall be by state patent in the manner provided by law. The board is also authorized to grant easements for rights-of-way over, across, and under the surface of public lands under its jurisdiction when in the board's judgment such easements are desirable and will benefit the state of Iowa.

Sec. 150. Section 262.9, subsection 15, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 151. Section 262.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:
No sale or purchase of real estate shall be made save upon the order of the board, made at a regular meeting, or one called for that purpose, and then in such manner and under such terms as the board may prescribe ~~and only with the approval of the executive council~~. No

member of the board or any of its committees, offices or agencies nor any officer of any institution, shall be directly or indirectly interested in such purchase or sale.

Sec. 152. Section 262.33A, Code 2005, is amended to read as follows:

262.33A FIRE AND ENVIRONMENTAL SAFETY — REPORT — EXPENDITURES.

It is the intent of the general assembly that each institution of higher education under the control of the state board of regents shall, in consultation with the state fire marshal, identify and correct all critical fire and environmental safety deficiencies. ~~The state fire marshal shall report annually to the joint subcommittee on education appropriations. The report shall include, but is not limited to, the identified deficiencies in fire and environmental safety at the institutions, and plans for correction of the deficiencies and for compliance with this section.~~ Commencing July 1, 1993, each institution under the control of the state board of regents shall expend annually for fire safety and deferred maintenance at least the amount budgeted for these purposes for the fiscal year beginning July 1, 1992, in addition to any moneys appropriated from the general fund for these purposes in succeeding years.

Sec. 153. Section 262.34, Code 2005, is amended to read as follows:

262.34 IMPROVEMENTS — ADVERTISEMENT FOR BIDS — DISCLOSURES — PAYMENTS.

1. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents exceeds ~~twenty-five~~ one hundred thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by a method as the board may determine. All plans and specifications for repairs or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as the board may prescribe.

2. A bidder awarded a 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 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.

3. Payments made by the board for the construction of public improvements shall be made in accordance with the provisions of chapter 573 except that:

a. Payments may be made without retention until ninety-five percent of the contract amount has been paid. The remaining five percent of the contract amount shall be paid as provided in section 573.14, except that:

(1) At any time after all or any part of the work is substantially completed in accordance with paragraph "c", the contractor may request the release of all or part of the retainage owed. Such request shall be accompanied by a waiver of claim rights under the provisions of chapter 573 from any person, firm, or corporation who has, under contract with the principal contractor or with subcontractors performed labor, or furnished materials, service, or transportation in the construction of that portion of the work for which release of the retainage is requested.

(2) Upon receipt of the request, the board shall release all or part of the unpaid funds. Retainage that is approved as payable shall be paid at the time of the next monthly payment or within thirty days, whichever is sooner. If partial retainage is released pursuant to a contractor's request, no retainage shall be subsequently held based on that portion of the work. If within thirty days of when payment becomes due the board does not release the retainage due, interest shall accrue on the retainage amount due as provided in section 573.14 until that amount is paid.

(3) If at the time of the request for the retainage there are remaining or incomplete minor items, an amount equal to two hundred percent of the value of each remaining or incomplete

item, as determined by the board's authorized contract representative, may be withheld until such item or items are completed.

(4) An itemization of the remaining or incomplete items, or the reason that the request for release of the retainage was denied, shall be provided to the contractor in writing within thirty calendar days of the receipt of the request for release of retainage.

b. For purposes of this section, "authorized contract representative" means the architect or engineer who is in charge of the project and chosen by the board to represent its interests, or if there is no architect or engineer, then such other contract representative or officer as designated in the contract documents as the party representing the board's interest regarding administration and oversight of the project.

c. For purposes of this section, "substantially completed" means the first date on which any of the following occurs:

(1) Completion of the project or when the work has been substantially completed in general accordance with the terms and provisions of the contract.

(2) The work or the portion designated is sufficiently complete in accordance with the requirements of the contract so the board can occupy or utilize the work for its intended purpose.

(3) The project is certified as having been substantially completed by either of the following:

(a) The architect or engineer authorized to make such certification.

(b) The contracting authority representing the board.

4. Each contractor or subcontractor shall withhold retainage, if at all, in the same manner as retainage is withheld from the contractor or subcontractor; and each subcontractor shall pass through all retainage payments to lower tier subcontractors in accordance with the provisions of chapter 573.

Sec. 154. Section 262.57, unnumbered paragraph 1, Code 2005, is amended to read as follows:

To pay all or any part of the cost of carrying out any project at any institution the board is authorized to borrow money and to issue and sell negotiable bonds or notes and to refund and refinance bonds or notes heretofore issued or as may be hereafter issued for any project or for refunding purposes at a lower rate, the same rate or a higher rate or rates of interest and from time to time as often as the board shall find it to be advisable and necessary so to do. Such bonds or notes may be sold by said board at public sale in the manner prescribed by chapter 75 but if the board shall find it to be advantageous and in the public interest to do so, such bonds or notes may be sold by the board at private sale without published notice of any kind and without regard to the requirements of chapter 75 in such manner and upon such terms as may be prescribed by the resolution authorizing the same~~, but such bonds or notes shall in any event be sold upon terms of not less than par plus accrued interest~~. Bonds or notes issued to refund other bonds or notes heretofore or hereafter issued by the board for residence hall or dormitory purposes at any institution, including dining or other facilities and additions, or heretofore or hereafter issued for refunding purposes, may either be sold in the manner hereinbefore specified and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded, and a finding by the board in the resolution authorizing the issuance of such refunding bonds or notes that the bonds or notes being refunded were issued for a purpose specified in this division and constitute binding obligations of the board shall be conclusive and may be relied upon by any holder of any refunding bond or note issued under the provisions of this division. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be re-

funded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded or to fund interest in arrears or about to become due.

Sec. 155. Section 262.78, subsection 6, Code 2005, is amended by striking the subsection.

Sec. 156. Section 262A.5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board is authorized to borrow money under this chapter, and the board may issue and sell negotiable bonds to pay all or any part of the cost of carrying out any project at any institution and may refund and refinance bonds issued for any project or for refunding purposes at the same rate or at a higher or lower rate or rates of interest. Bonds issued under the provisions of this chapter shall be sold by said board at public sale on the basis of sealed proposals received pursuant to a notice specifying the time and place of sale and the amount of bonds to be sold which shall be published at least once not less than seven days prior to the date of sale in a newspaper published in the state of Iowa and having a general circulation in said state. The provisions of chapter 75 shall ~~not~~ apply to bonds issued under authority contained in this chapter~~, but such bonds shall be sold upon terms of not less than par plus accrued interest~~ to the extent not in conflict with this chapter. Bonds issued to refund other bonds issued under the provisions of this chapter may either be sold in the manner hereinbefore specified and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds, except that the principal amount of the refunding bonds may exceed the principal amount of the bonds to be refunded to the extent necessary to pay any premium due on the call of the bonds to be refunded or to fund interest in arrears or which is to become due.

Sec. 157. Section 266.39F, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The provisions of section 262.9, subsection 7, ~~and section 262.10,~~ shall not apply to the sale of any portion of land to be sold in accordance with this section or to the use of the proceeds from the sale of the land.

Sec. 158. Section 573.12, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Payments made under contracts for the construction of public improvements, unless provided otherwise by law, shall be made on the basis of monthly estimates of labor performed and material delivered, as determined by the project architect or engineer. The public corporation shall retain from each monthly payment not more than five percent of that amount which is determined to be due according to the estimate of the architect or engineer. ~~However, institutions governed pursuant to chapter 262 may, on contracts where a bond is required under section 573.2, make payments under this section without retention until ninety-five percent of the contract amount has been paid and the remaining five percent of the contract amount shall be paid as provided under section 573.14.~~

Sec. 159. Section 573.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The public corporation shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Except as provided in section 573.12 for progress payments, failure to make payment pursuant to this section, of any amount due the contractor,

within forty days, unless a greater time period not to exceed fifty days is specified in the contract documents, after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding public corporation by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this paragraph and ending on the date of payment. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 12C.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. However, for institutions governed pursuant to chapter 262, the rate of interest shall be determined by the period of time during which interest accrues, and shall be calculated as the prime rate plus one percent per year as of the day interest begins to accrue. This paragraph does not abridge any of the rights set forth in section 573.16. Except as provided in sections 573.12 and 573.16, interest shall not accrue on funds retained by the public corporation to satisfy the provisions of this section regarding claims on file. This chapter does not apply if the public corporation has entered into a contract with the federal government or accepted a federal grant which is governed by federal law or rules that are contrary to the provisions of this chapter. For purposes of this unnumbered paragraph, "prime rate" means the prime rate charged by banks on short-term business loans, as determined by the board of governors of the federal reserve system and published in the federal reserve bulletin.

Sec. 160. Sections 262.64A, 262.67, 262A.3, 262A.6A, 263A.11, 265.6, and 473.12, Code 2005, are repealed.

DIVISION XI
ENTREPRENEURS WITH DISABILITIES

Sec. 161. ENTREPRENEURS WITH DISABILITIES PROGRAM — TRANSFER OF ADMINISTRATION. The department of economic development shall transfer the administrative duties of the entrepreneurs with disabilities program to the Iowa finance authority. The authority shall adopt rules pursuant to chapter 17A for purposes of administering the program. Any contract entered into under the program by the department of economic development remains valid. The transfer of administrative duties to the authority shall not constitute grounds for recision or modification of a contract under the program entered into with the department.

Sec. 162. ENTREPRENEURS WITH DISABILITIES PROGRAM — APPROPRIATION. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, there is appropriated from the general fund of the state to the Iowa finance authority two hundred thousand dollars for purposes of the entrepreneurs with disabilities program.

DIVISION XII
WIND ENERGY PRODUCTION TAX CREDIT

Sec. 163. Section 476B.1, subsection 4, paragraph c, Code 2005, is amended to read as follows:

c. Was originally placed in service on or after July 1, ~~2004~~ 2005, but before July 1, ~~2007~~ 2008.

Sec. 164. Section 476B.3, Code 2005, is amended to read as follows:

476B.3 CREDIT AMOUNT.

~~1. Except as limited by subsection 2, the~~ The wind energy production tax credit allowed under this chapter equals the product of one cent multiplied by the number of kilowatt-hours of qualified electricity sold by the owner during the taxable year.

~~2. a. The maximum amount of tax credit which a group of qualified facilities operating as one unit may receive for a taxable year equals the rate of credit times thirty-two percent of the total number of kilowatts of nameplate generating capacity.~~

~~b. However, if for the previous taxable year the amount of the tax credit for the group of qualified facilities operating as one unit is less than the maximum amount available as provided in paragraph "a", the maximum amount for the next taxable year shall be increased by the amount of the previous year's unused maximum credit.~~

Sec. 165. Section 476B.4, subsection 1, paragraph b, Code 2005, is amended by striking the paragraph.

Sec. 166. Section 476B.5, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

476B.5 DETERMINATION OF ELIGIBILITY.

1. An owner may apply to the board for a written determination regarding whether a facility is a qualified facility by submitting to the board a written application containing all of the following:

a. Information regarding the ownership of the facility including the percentage of equity interest held by each owner.

b. The nameplate generating capacity of the facility.

c. Information regarding the facility's initial placement in service.

d. Information regarding the type of facility.

e. A copy of an executed power purchase agreement or other agreement to purchase electricity upon completion of the project.

f. Any other information the board may require.

2. The board shall review the application and supporting information and shall make a preliminary determination regarding whether the facility is a qualified facility. The board shall notify the applicant of the approval or denial of the application within thirty days of receipt of the application and information required. If the board fails to notify the applicant of the approval or denial within thirty days, the application shall be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within thirty days from the date of the denial pursuant to the provisions of chapter 17A. In the absence of a timely appeal, the preliminary determination shall be final. If the application is incomplete, the board may grant an extension of time for the provision of additional information.

3. A facility that is not operational within eighteen months after issuance of an approval for the facility by the board shall cease to be a qualified facility. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

4. The maximum amount of nameplate generating capacity of all qualified facilities the board may find eligible under this chapter shall not exceed four hundred fifty megawatts of nameplate generating capacity.

5. An owner shall not be an owner of more than two qualified facilities.

Sec. 167. Section 476B.6, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

476B.6 TAX CREDIT CERTIFICATE PROCEDURE.

1. a. To be eligible to receive the wind energy production tax credit, the owner must first receive approval of the board of supervisors of the county in which the qualified facility is located. The application for approval may be submitted prior to commencement of the construction of the qualified facility but shall be submitted no later than the close of the owner's first taxable year for which the credit is to be applied for. The application must contain the owner's name and address, the address of the qualified facility, and the dates of the owner's first and last taxable years for which the credit will be applied for. Within forty-five days of the receipt of the application for approval, the board of supervisors shall either approve or disapprove the application. After the forty-five-day limit, the application is deemed to be approved.

b. Upon approval of the application, the owner may apply for the tax credit as provided in subsection 2. In addition, approval of the application is acceptance by the applicant for the assessment of the qualified facility for property tax purposes for a period of twelve years and approval by the board of supervisors for the payment of the property taxes levied on the qualified property to the state. For purposes of property taxation, the qualified facility shall be centrally assessed and shall be exempt from any replacement tax under section 437A.6 for the period during which the facility is subject to property taxation. The property taxes to be paid to the state are those property taxes which make up the consolidated tax levied on the qualified facility and which are due and payable in the twelve-year period beginning with the first fiscal year beginning on or after the end of the owner's first taxable year for which the credit is applied for. Upon approval of the application, the board of supervisors shall notify the county treasurer to state on the tax statement which lists the taxes on the qualified facility that the amount of the property taxes shall be paid to the department. Payment of the designated property taxes to the department shall be in the same manner as required for the payment of regular property taxes and failure to pay designated property taxes to the department shall be treated the same as failure to pay property taxes to the county treasurer.

c. Once the owner of the qualified facility receives approval under paragraph "a", subsequent approval under paragraph "a" is not required for the same qualified facility for subsequent taxable years.

2. An owner of a qualified facility may apply to the board for the wind energy production tax credit by submitting to the board all of the following:

a. A completed application in a form prescribed by the board.

b. A copy of the determination granting approval of the facility as a qualified facility by the board.

c. A copy of a signed power purchase agreement or other agreement to purchase electricity.

d. Sufficient documentation that the electricity has been generated by the qualified facility and sold to a purchaser.

e. Any other information the board deems necessary.

3. The board shall notify the department of the amount of kilowatt-hours generated and purchased from a qualified facility. The department shall calculate the amount of the tax credit for which the applicant is eligible and shall issue the tax credit certificate for that amount or notify the applicant in writing of its refusal to do so. An applicant whose application is denied may file an appeal with the department within sixty days from the date of the denial pursuant to the provisions of chapter 17A.

4. Each tax credit certificate shall contain the owner's name, address, and tax identification number, the amount of tax credits, the first taxable year the certificate may be used, the type of tax to which the tax credits shall be applied, and any other information required by the department. The tax credit certificate shall only list one type of tax to which the amount of the tax credit may be applied. Once issued by the department, the tax credit certificate shall not be terminated or rescinded.

5. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity all of the income of which is taxed directly to its equity holders or beneficiaries, for the taxes imposed under chapter 422, division II or III, the tax credit certificate shall be issued directly to equity holders or beneficiaries of the applicant in proportion to their pro rata share of the income of such entity. The applicant shall, in the application made under this section, identify its equity holders or beneficiaries, and the percentage of such entity's income that is allocable to each equity holder or beneficiary. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for the taxes imposed under chapter 422, division V, or under chapter 432, the tax credit certificate shall be issued directly to the partnership, limited liability company, S corporation, estate, trust, or other reporting entity.

6. The department shall not issue a tax credit certificate if the facility approved by the board as a qualified facility is not operational within eighteen months after the approval is issued.

7. Once a tax credit certificate is issued pursuant to this section, the tax credit may only be claimed against the type of tax reflected on the certificate.

8. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2006.

Sec. 168. Section 476B.7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Wind energy production tax credit certificates issued under this chapter may be transferred to any person or entity. Within thirty days of transfer, the transferee must submit the transferred tax credit certificate to the ~~board~~ department 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. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the ~~board~~ department shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under section 476B.6 and must have the same effective taxable year and 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 board 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.

Sec. 169. Section 476B.8, Code 2005, is amended to read as follows:

476B.8 USE OF TAX CREDIT CERTIFICATES.

To claim a wind energy production tax credit under this chapter, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, ~~2005~~ 2006. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return. Any tax credit in excess of the taxpayer's tax liability for the taxable year may be credited to the taxpayer's tax liability for the following seven taxable years or until depleted, whichever is the earlier.

Sec. 170. Section 476B.9, Code 2005, is amended to read as follows:

476B.9 REGISTRATION OF TAX CREDIT CERTIFICATES.

The ~~board shall, in conjunction with the~~ department~~,~~ shall develop a system for the registration of the wind energy production tax credit certificates issued or transferred under this chapter and a system that permits verification that any tax credit claimed on a tax return is valid and that transfers of the tax credit certificates are made in accordance with the requirements of this chapter. The tax credit certificates issued under this chapter shall not be classified as a security pursuant to chapter 502.

Sec. 171. NEW SECTION. 476B.10 RULES.

The department and the board may adopt rules pursuant to chapter 17A for the administration and enforcement of this chapter.

DIVISION XIII
PROVISIONS RELATING TO THE PRACTICE OF PHARMACY

Sec. 172. Section 155A.3, subsection 11, Code 2005, is amended to read as follows:

11. "Dispense" means to deliver a prescription drug, device, or controlled substance to an ultimate user or research subject by or pursuant to the lawful prescription drug order or medication order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

Sec. 173. Section 155A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 22A. "Logistics provider" means an entity that provides or coordinates warehousing, distribution, or other services on behalf of a manufacturer or other owner of a drug, but does not take title to the drug or have general responsibility to direct its sale or other disposition.

Sec. 174. Section 155A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 23A. "Pedigree" means a recording of each distribution of any given drug or device, from the sale by the manufacturer through acquisition and sale by any wholesaler, pursuant to rules adopted by the board.

Sec. 175. Section 155A.3, subsection 33, paragraph b, Code 2005, is amended to read as follows:

b. A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with ~~either~~ one of the following statements:

(1) Caution: Federal law prohibits dispensing without a prescription.

(2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(3) Caution: Federal law restricts this device to sale by, or on the order of, a physician.

(4) Rx only.

Sec. 176. Section 155A.3, subsection 35, Code 2005, is amended to read as follows:

35. "Proprietary medicine" or "over-the-counter medicine" means a nonnarcotic drug or device that may be sold without a prescription and that is labeled and packaged in compliance with applicable state or federal law.

Sec. 177. Section 155A.3, subsection 38, Code 2005, is amended to read as follows:

38. "Wholesaler" means a person operating or maintaining, either within or outside this state, a manufacturing plant, wholesale distribution center, wholesale business, or any other business in which prescription drugs or devices, medicinal chemicals, medicines, or poisons are sold, manufactured, compounded, dispensed, stocked, exposed, distributed from, or offered for sale at wholesale in this state. "Wholesaler" does not include those wholesalers who sell only proprietary or over-the-counter medicines. "Wholesaler" also does not include a commercial carrier that temporarily stores prescription drugs or devices, medicinal chemicals, medicines, or poisons while in transit.

Sec. 178. Section 155A.4, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. A ~~manufacturer or~~ wholesaler to distribute prescription drugs or devices as provided by state or federal law.

Sec. 179. Section 155A.13, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

To qualify for a pharmacy license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board ~~that shall include the following information and~~. The application shall include the following and such other information as required by rules of the board and shall be given under oath:

Sec. 180. Section 155A.17, subsection 2, Code 2005, is amended to read as follows:

2. The board shall establish standards for drug wholesaler licensure and may define specific types of wholesaler licenses. The board may deny, suspend, or revoke a drug wholesale license for failure to meet the applicable standards or for a violation of the laws of this state, another state, or the United States relating to prescription drugs, devices, or controlled substances, or for a violation of this chapter, chapter 124, 124A, 124B, 126, or 205, or a rule of the board.

Sec. 181. Section 155A.17, subsection 3, Code 2005, is amended to read as follows:

3. The board shall adopt rules pursuant to chapter 17A on matters pertaining to the issuance of a wholesale drug license. The rules shall provide for conditions of licensure, compliance standards, licensure fees, disciplinary action, and other relevant matters. Additionally, the rules shall establish provisions or exceptions for pharmacies, chain pharmacy distribution centers, logistics providers, and other types of wholesalers relating to pedigree requirements, drug or device returns, and other related matters, so as not to prevent or interfere with usual, customary, and necessary business activities.

Sec. 182. Section 155A.19, subsection 1, paragraph f, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

f. Change of legal name or doing-business-as name.

Sec. 183. Section 155A.19, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A wholesaler shall report in writing to the board, pursuant to its rules, the following:

a. Permanent closing or discontinuation of wholesale distributions into this state.

b. Change of ownership.

c. Change of location.

d. Change of the wholesaler's responsible individual.

e. Change of legal name or doing-business-as name.

f. Theft or significant loss of any controlled substance on discovery of the theft or loss.

g. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.

h. Other information or activities as required by rule.

Sec. 184. Section 155A.20, subsection 1, Code 2005, is amended to read as follows:

1. A person, other than a pharmacy or wholesaler licensed under this chapter, shall not display in or on any store, internet site, or place of business, nor use in any advertising or promotional literature, communication, or representation, the word or words: "apothecary", "drug", "drug store", or "pharmacy", either in English or any other language, any other word or combination of words of the same or similar meaning, or any graphic representation in a manner that would mislead the public ~~unless it is a pharmacy or drug wholesaler licensed under this chapter~~.

Sec. 185. Section 155A.21, Code 2005, is amended to read as follows:

155A.21 UNLAWFUL POSSESSION OF PRESCRIPTION DRUG OR DEVICE — PENALTY.

1. A person found in possession of a drug or device limited to dispensation by prescription, unless the drug or device was so lawfully dispensed, commits a serious misdemeanor.

2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatric physician, therapeutically certified optometrist, advanced registered nurse practitioner, physician assistant, a nurse acting under the direction of a physician, or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier, manufacturer's representative, or messenger when transporting the drug or device in the same unbroken package in which the drug or device was delivered to that person for transportation.

Sec. 186. Section 155A.23, Code 2005, is amended to read as follows:

155A.23 PROHIBITED ACTS.

A person shall not perform or cause the performance of or aid and abet any of the following acts:

1. ~~Obtain or attempt~~ Obtaining or attempting to obtain a prescription drug or device or ~~pro-~~

~~cure or attempt~~ procuring or attempting to procure the administration of a prescription drug or device by:

a. ~~Fraud~~ Engaging in fraud, deceit, misrepresentation, or subterfuge.

b. ~~Forgery or alteration of~~ Forging or altering a written, electronic, or facsimile prescription or ~~of~~ any written, electronic, or facsimile order.

c. ~~Concealment of~~ Concealing a material fact.

d. ~~Use of~~ Using a false name or ~~the~~ giving ~~of~~ a false address.

2. Willfully ~~make~~ making a false statement in any prescription, report, or record required by this chapter.

3. For the purpose of obtaining a prescription drug or device, falsely ~~assume~~ assuming the title of or ~~claim~~ claiming to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatric physician, veterinarian, or other authorized person.

4. ~~Make or utter~~ Making or uttering any false or forged oral, written, electronic, or facsimile prescription or oral, written, electronic, or facsimile order.

5. ~~Affix any false or forged label to a package or receptacle containing prescription drugs~~ Forging, counterfeiting, simulating, or falsely representing any drug or device without the authority of the manufacturer, or using any mark, stamp, tag, label, or other identification device without the authorization of the manufacturer.

6. Manufacturing, repackaging, selling, delivering, or holding or offering for sale any drug or device that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or that has otherwise been rendered unfit for distribution.

7. Adulterating, misbranding, or counterfeiting any drug or device.

8. Receiving any drug or device that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, and delivering or proffering delivery of such drug or device for pay or otherwise.

9. Adulterating, mutilating, destroying, obliterating, or removing the whole or any part of the labeling of a drug or device or committing any other act with respect to a drug or device that results in the drug or device being misbranded.

10. Purchasing or receiving a drug or device from a person who is not licensed to distribute the drug or device to that purchaser or recipient.

11. Selling or transferring a drug or device to a person who is not authorized under the law of the jurisdiction in which the person receives the drug or device to purchase or possess the drug or device from the person selling or transferring the drug or device.

12. Failing to maintain or provide records as required by this chapter, chapter 124, or rules of the board.

13. Providing the board or any of its representatives or any state or federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the scope of this chapter, chapter 124, or rules of the board.

14. Distributing at wholesale any drug or device that meets any of the following conditions:

a. The drug or device was purchased by a public or private hospital or other health care entity.

b. The drug or device was donated or supplied at a reduced price to a charitable organization.

c. The drug or device was purchased from a person not licensed to distribute the drug or device.

d. The drug or device was stolen or obtained by fraud or deceit.

15. Failing to obtain a license or operating without a valid license when a license is required pursuant to this chapter or chapter 147.

16. Engaging in misrepresentation or fraud in the distribution of a drug or device.

17. Distributing a drug or device to a patient without a prescription drug order or medication order from a practitioner licensed by law to use or prescribe the drug or device.

18. Distributing a drug or device that was previously dispensed by a pharmacy or distributed by a practitioner except as provided by rules of the board.

19. Failing to report any prohibited act.

Information communicated to a physician in an unlawful effort to procure a prescription drug or device or to procure the administration of a prescription drug shall not be deemed a privileged communication.

Subsections 6 and 7 shall not apply to the wholesale distribution by a manufacturer of a prescription drug or device that has been delivered into commerce pursuant to an application approved by the federal food and drug administration.

Sec. 187. Section 155A.24, Code 2005, is amended to read as follows:

155A.24 PENALTIES.

1. ~~A~~ Except as otherwise provided in this section, a person who violates a provision of section 155A.23 or who sells or offers for sale, gives away, or administers to another person any prescription drug or device in violation of this chapter commits a public offense and shall be punished as follows:

a. If the prescription drug is a controlled substance, the person shall be punished pursuant to ~~section 124.401, subsection 1, and section 124.411~~ chapter 124, division IV.

b. If the prescription drug is not a controlled substance, the person, upon conviction of a first offense, is guilty of a serious misdemeanor. For a second offense, or if in case of a first offense the offender previously has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs or devices, the offender is guilty of an aggravated misdemeanor. For a third or subsequent offense or if in the case of a second offense the offender previously has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs or devices, the offender is guilty of a class "D" felony.

2. A person who violates any provision of this chapter by selling, giving away, or administering any prescription drug or device to a minor is guilty of a class "C" felony.

3. A wholesaler who, with intent to defraud or deceive, fails to deliver to another person, when required by rules of the board, complete and accurate pedigree concerning a drug prior to transferring the drug to another person is guilty of a class "C" felony.

4. A wholesaler who, with intent to defraud or deceive, fails to acquire, when required by rules of the board, complete and accurate pedigree concerning a drug prior to obtaining the drug from another person is guilty of a class "C" felony.

5. A wholesaler who knowingly destroys, alters, conceals, or fails to maintain, as required by rules of the board, complete and accurate pedigree concerning any drug in the person's possession is guilty of a class "C" felony.

6. A wholesaler who is in possession of pedigree documents required by rules of the board, and who knowingly fails to authenticate the matters contained in the documents as required, and who nevertheless distributes or attempts to further distribute drugs is guilty of a class "C" felony.

7. A wholesaler who, with intent to defraud or deceive, falsely swears or certifies that the person has authenticated any documents related to the wholesale distribution of drugs or devices is guilty of a class "C" felony.

8. A wholesaler who knowingly forges, counterfeits, or falsely creates any pedigree, who falsely represents any factual matter contained in any pedigree, or who knowingly omits to record material information required to be recorded in a pedigree is guilty of a class "C" felony.

9. A wholesaler who knowingly purchases or receives drugs or devices from a person not authorized to distribute drugs or devices in wholesale distribution is guilty of a class "C" felony.

10. A wholesaler who knowingly sells, barters, brokers, or transfers a drug or device to a person not authorized to purchase the drug or device under the jurisdiction in which the person receives the drug or device in a wholesale distribution is guilty of a class "C" felony.

11. A person who knowingly manufacturers, sells, or delivers, or who possesses with intent to sell or deliver, a counterfeit, misbranded, or adulterated drug or device is guilty of the following:

a. If the person manufactures or produces a counterfeit, misbranded, or adulterated drug

or device; or if the quantity of a counterfeit, misbranded, or adulterated drug or device being sold, delivered, or possessed with intent to sell or deliver exceeds one thousand units or dosages; or if the violation is a third or subsequent violation of this subsection, the person is guilty of a class "C" felony.

b. If the quantity of a counterfeit, misbranded, or adulterated drug or device being sold, delivered, or possessed with intent to sell or deliver exceeds one hundred units or dosages but does not exceed one thousand units or dosages; or if the violation is a second or subsequent violation of this subsection, the person is guilty of a class "D" felony.

c. All other violations of this subsection shall constitute an aggravated misdemeanor.

12. A person who knowingly forges, counterfeits, or falsely creates any label for a drug or device or who falsely represents any factual matter contained on any label of a drug or device is guilty of a class "C" felony.

13. A person who knowingly possesses, purchases, or brings into the state a counterfeit, misbranded, or adulterated drug or device is guilty of the following:

a. If the quantity of a counterfeit, misbranded, or adulterated drug or device being possessed, purchased, or brought into the state exceeds one hundred units or dosages; or if the violation is a second or subsequent violation of this subsection, the person is guilty of a class "D" felony.

b. All other violations of this subsection shall constitute an aggravated misdemeanor.

14. This section does not prevent a licensed practitioner of medicine, dentistry, podiatry, nursing, veterinary medicine, optometry, or pharmacy from acts necessary in the ethical and legal performance of the practitioner's profession.

15. Subsections 1 and 2 shall not apply to a parent or legal guardian administering, in good faith, a prescription drug or device to a child of the parent or a child for whom the individual is designated a legal guardian.

Sec. 188. NEW SECTION. 155A.40 CRIMINAL HISTORY RECORD CHECKS.

1. The board may request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial or renewal license or registration issued pursuant to this chapter or chapter 147, any applicant for reinstatement of a license or registration issued pursuant to this chapter or chapter 147, or any licensee or registrant who is being monitored as a result of a board order or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's, licensee's, or registrant's eligibility for licensure, registration, or suitability for continued practice of the profession. Criminal history data may be requested for all owners, managers, and principal employees of a pharmacy or drug wholesaler licensed pursuant to this chapter. The board shall adopt rules pursuant to chapter 17A to implement this section. The board shall inform the applicant, licensee, or registrant of the criminal history requirement and obtain a signed waiver from the applicant, licensee, or registrant prior to submitting a criminal history data request.

2. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation and bureau of identification, pursuant to section 692.2, subsection 1. The board may also require such applicants, licensees, and registrants to provide a full set of fingerprints, in a form and manner prescribed by the board. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The board may authorize alternate methods or sources for obtaining criminal history record information. The board may, in addition to any other fees, charge and collect such amounts as may be incurred by the board, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

3. Criminal history information relating to an applicant, licensee, or registrant obtained by the board pursuant to this section is confidential. The board may, however, use such information in a license or registration denial proceeding. In a disciplinary proceeding, such information shall constitute investigative information under section 272C.6, subsection 4, and may be used only for purposes consistent with that section.

4. This section shall not apply to a manufacturer of a prescription drug or device that has been delivered into commerce pursuant to an application approved by the federal food and drug administration.

Sec. 189. NEW SECTION. 155A.41 CONTINUOUS QUALITY IMPROVEMENT PROGRAM.

1. Each licensed pharmacy shall implement or participate in a continuous quality improvement program to review pharmacy procedures in order to identify methods for addressing pharmacy medication errors and for improving patient use of medications and patient care services. Under the program, each pharmacy shall assess its practices and identify areas for quality improvement.

2. The board shall adopt rules for the administration of a continuous quality improvement program. The rules shall address all of the following:

a. Program requirements and procedures.

b. Program record and reporting requirements.

c. Any other provisions necessary for the administration of a program.

Approved June 16, 2005, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 882, an Act relating to state and local finances by providing for tax exemptions, credits, tax credit transfers, and other tax-related matters and by making, reducing, and transferring appropriations, providing for fees, providing for wind energy production tax credits, and providing for properly related matters and penalties and including effective and retroactive applicability date provisions.

House File 882 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 65 in its entirety. This section provides a sales tax exemption for construction of residential treatment facilities and is expected to impact two facilities currently under development. Both facilities are receiving a $250,000 direct state appropriation through House File 875, and I support and approved the state appropriation for construction of both facilities. However, I do not support providing special tax status to two specific projects. This represents bad tax policy and creates a fairness issue with the thousands of other non-profit organizations with equally worthy missions throughout Iowa.

I am unable to approve the item designated as Section 81 in its entirety. This section provides the effective date for the sales tax exemption contained in Section 65, which is vetoed. Therefore, this section is unnecessary.

I am unable to approve the item designated as Section 94, paragraph b, in its entirety. The expansion of the good cause definition for late open enrollment applications was intended to accompany a change to move the authority for determining good cause to the resident district. This bill does not make the change back to the resident district, thereby creating a situation that open enrollment decisions may not be based on the best interest of the student. My administration is committed to working with legislators and stakeholders during the next legislative session to ensure changes to this policy will positively impact all constituents.

I am unable to approve the item designated as Section 106 in its entirety. This section is contingent upon enactment of House File 770, which was vetoed. Therefore, this section is unnecessary.

I am unable to approve the item designated as Section 143 in its entirety. This section makes the effective date of Section 106 contingent upon enactment of House File 770, which was vetoed. Therefore, this section is unnecessary.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 882 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 180

WORLD FOOD PRIZE AWARDS CEREMONY

S.J.R. 6

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

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 11 IAC 100.4(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 11 IAC 100.4(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 13, 2005, 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 19, 2005

CHAPTER 181

ANNUAL MEETING OF NATIONAL GOVERNORS ASSOCIATION

S.J.R. 7

A JOINT RESOLUTION authorizing the temporary use and consumption of wine and beer in the State Capitol in conjunction with the 2005 National Governors Association annual meeting.

WHEREAS, the National Governors Association is a prestigious group representing every state in the United States; and

WHEREAS, the annual meeting of the National Governors Association brings together a bipartisan group of leaders to discuss and find solutions to problems faced by the states; and

WHEREAS, wine and beer are customarily served as an accompaniment to food and entertainment at social events for participants attending the annual meeting; and

WHEREAS, under 11 IAC 100.4(8), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine and beer at social events in the State Capitol; NOW THEREFORE,

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

Section 1. Notwithstanding 11 IAC 100.4(8) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, wine and beer may be used and consumed within the state capitol at a social event, to be held on or around July 15, 2005, hosted by Governor Vilsack in conjunction with the 2005 annual meeting of the National Governors Association, if the person providing the food and wine and beer at the social event possesses an appropriate valid liquor control license. For the purposes of this section and section 123.95, the state capitol is a private place.

Approved April 19, 2005

ANALYSIS OF TABLES

2005 REGULAR SESSION

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

2005 REGULAR SESSION

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
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[1] Iowa Code chapter 523I, Code 2005, repealed by 2005 Iowa Acts, chapter 128, §74; new Iowa Code chapter enacted at chapter 523I placement

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